

Planning Proposal

Glen Innes Severn Council

5th General Review of
Glen Innes Severn
Local Environmental Plan 2012

PP-2021-5562

Version 2:
Post-Gateway Determination
(Exhibition Version)

October 2021



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Contents

1.0	Introduction.....	3
1.1	Background	3
1.2	Purpose	4
2.0	Planning Proposal	5
2.1	Intended Outcomes.....	5
2.2	Explanation of Provisions.....	8
3.0	Justification.....	18
3.1	Section A: Need for the Planning Proposal	18
3.2	Relationship to Strategic Planning Framework.....	18
3.3	State and Commonwealth Interests	27
3.4	Mapping.....	28
3.5	Community Consultation.....	29
4.0	Project Time Line.....	30
4.1	Indicative Project Timeline	30
4.2	Recommendation.....	30

Appendices

A CONSISTENCY WITH SEPPs

B CONSISTENCY WITH S9.1 MINISTERIAL DIRECTIONS

C NATURAL DISASTERS CLAUSE GUIDELINE

1.0 Introduction

1.1 Background

The *Glen Innes Severn Council Local Strategic Planning Statement (LSPS)*, *A Strategic Land Use Vision to 2040* plans for the Glen Innes Severn community's economic, social and environmental land use needs over the next 20 years. Regular amendments to the GIS LEP 2012 are necessary to deliver the Planning Priorities of the LSPS.

The *Glen Innes Severn Local Environmental Plan (GISLEP) 2012* commenced on 14 September 2012, as the primary environmental planning instrument for the Glen Innes Severn Local Government Area (LGA). Since the commencement of the LEP, Council has undertaken four (4) previous LEP reviews/amendments, following the identification of administrative and minor errors/anomalies within the current LEP.

At its meeting of 22 July 2021, Council resolved to endorse the initial Planning Proposal (Version 1 – Pre-Gateway Determination), and forward the planning proposal to the NSW Department of Planning, Industry and Environment (DPIE) requesting the issue of a Gateway Determination.

On October 2021, the DPIE issued a Gateway Determination which gives conditional endorsement to the Planning Proposal being placed on exhibition. The Planning Proposal has been amended to reflect the conditional terms of the Gateway Determination and the progress of the planning proposal to the community consultation stage.

Reviewing and amending the GISLEP meets the recommendations of the Glen Innes Severn Land Use Strategy *to monitor and conduct a regular review of the new LEP* and is the most appropriate means of ensuring that the LEP is accurate, reliable and meets current environmental planning requirements.

The LSPS Planning Priority 8 aims to protect areas of high environmental value and significance. The following LSPS actions were considered in this review:

Action 4.2: Promote the prosperity of our urban areas by directing future residential and large lot housing to existing areas of R1, R2 and R5 land within Glen Innes and RU5 zoned land in Deepwater, Emmaville, Glencoe and Red Range, whilst protecting their unique character.

A review of the Glen Innes Severn Land Use Strategy is presently underway. The outcomes of the review will be reported to Council under a separate Planning Proposal.

Action 8.2: Review native vegetation mapping for the LGA to identify areas of High Environmental value, including biodiversity, at a local scale.

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.

Action 8.2 will be implemented in this proposal by including a “**Riparian land and watercourses**” clause and map overlay in the GISLEP. The map overlay has been prepared by the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment (DPIE). Action 8.8 has been considered in this review. Additional Local Provision 7.2 Drinking Water Catchments is already included in the GISLEP and does not require amendment.

1.2 Purpose

This Planning Proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979; a guide to preparing planning proposals* (NSW Department of Planning and Environment 2018); and *A guide to preparing local environmental plans* (NSW Department of Planning and Environment 2018).

The purpose of this Planning Proposal (PP) is to outline the fifth general review of *Glen Innes Severn Local Environmental Plan* (GISLEP) 2012.

The PP incorporates the following six (6) amendments to the GISLEP that have arisen from strategic and development matters occurring over the preceding two years.

1. Include a “**Riparian land and watercourses**” clause provision in the GISLEP.
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 direction from the Department of Planning, Industry and Environment (DPIE) to all Councils to include the clause in their respective Local Environmental Plans.
4. Allocate Special Purpose (SP2) zones for Council owned **infrastructure**.
5. Rezone land used for industrial purposes in Deepwater from RU5 Village to IN1 Industrial.
6. Delete two **Urban Release Areas (URA)** from the LEP, as neither URA requires state infrastructure provision or upgrading.

2.0 Planning Proposal

2.1 Intended Outcomes

The objective of this PP is to provide a mechanism to review and amend the *Glen Innes Severn Local Environmental Plan (GIS LEP) 2012* where necessary to ensure that it provides the most up to date and accurate information as it applies to development in the Glen Innes Severn Local Government Area (LGA).

It is intended to amend GIS LEP 2012 as follows:

- 1) Insert a **“Riparian land and watercourses”** clause into GIS LEP 2012, with the objectives being 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. This item is consistent with Action 8.8 of the Glen Innes Severn Local Strategic Planning Statement.
- 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”.

The term “existing holding” means land that—

4.2A(5):

(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 person.

Dwelling Opportunity Maps were introduced into the GISLEP in 2012. The Dwelling Opportunity Maps identify unused (vacant land) dwelling entitlements that are captured by the existing holding definition above. Identification of unused dwelling entitlement involved a review of Council’s rates records of land holdings as at the ‘appointed day’ (*31 October 1975). Another source of unused dwelling entitlements arises from land held in rural subdivisions created prior to the gazettal of the former Severn LEP in 1991. Although these lots are below the current minimum rural lot size, the original subdivision was permissible at the time of consent, therefore the lot retains a dwelling entitlement.

The identification of vacant rural land with a dwelling entitlement on the Dwelling Opportunity Maps is an efficient way of identifying such land holdings, however, it is imperfect and from time to time unmapped entitlements are identified by landowners. The Dwelling Opportunity Map can be amended to include additional unmapped entitlements once they are verified. On this basis, there is no planning need to retain subclause 4.2A(3)(d) or 4.2A(5) referring to existing holdings in the GISLEP.

- 3) Insert the draft Standard Instrument LEP **Natural Disaster Clause**, consistent with a direction from the Department of Planning, Industry and Environment (DPIE) to all Councils to include the clause in their respective Local Environmental Plans. The guideline, *Natural Disasters Clause Guidance for Implementation*, NSW DPIE, November 2020 is provided at **Appendix C**.
- 4) Allocate Special Purpose (SP2) Infrastructure land use zones to the following properties and locations:

	Name	Address	Lot / DP	Rezone from/to
1	Glen Innes Water Treatment Plant	59 Watsons Drive Glen Innes 2370	Part of Lot 515 DP 753282	RE1 to SP2
2	Glen Innes Sewage Treatment Plant	299 New England Highway Glen Innes 2370	Lot 221 DP 1174923	RU1 to SP2
3	Deepwater Landfill Facility	46 Deepwater Tip Road Deepwater 2371	Lot 306 DP 753323	RU1 to SP2
4	Deepwater Water Treatment Plant	25 Carl Baer Circuit Deepwater 2371	Lot 3 DP 1176546 Lot 2 DP 542366	RU1 and RU5 to SP2
5	Deepwater Sewage Treatment Plant	7 Carl Baer Circuit Deepwater 2371	Lot 1 DP 937297	RU1 to SP2
6	Red Range Waste Transfer Facility	75 Red Range Tip Road Red Range 2370	Lot 280 DP 861283	RU1 to SP2

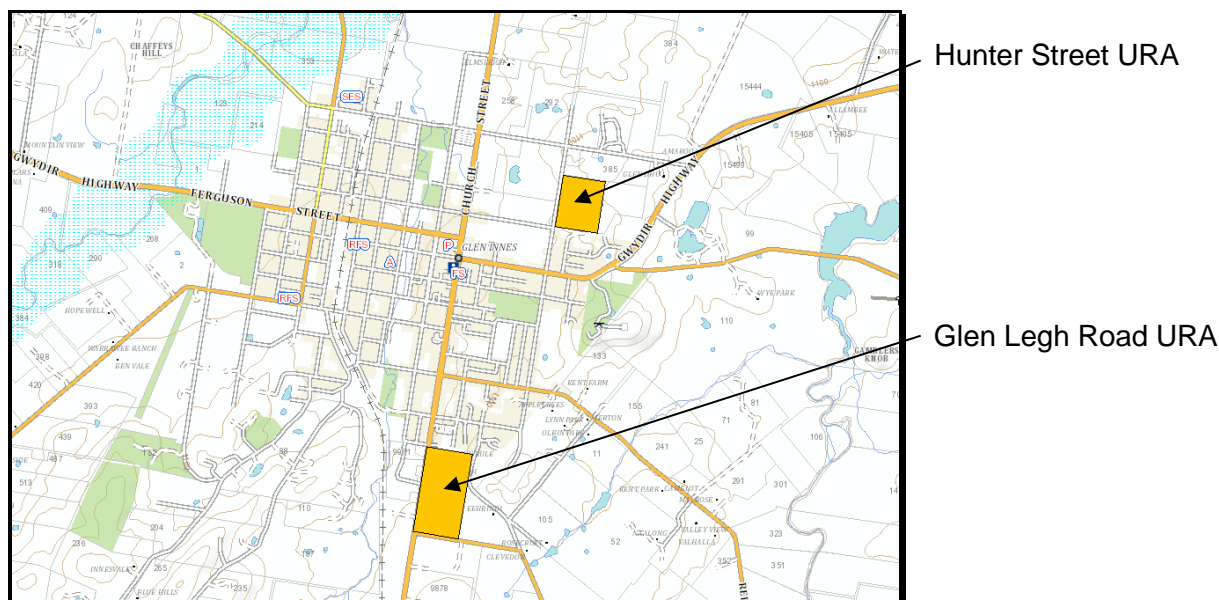
- 5) Rezone land used for industrial purposes in Deepwater from RU5 Village to IN1 Industrial. The intention of this rezoning is to differentiate between the mix of uses permissible in the RU5 Village zone and the existing industrial uses within the industrial precinct described below.

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 affect on the permissible land uses in the RU5 zone.

Name	Address	Lot / DP	Rezone from/to
Deepwater Industrial Area	29 Carl Baer Circuit Deepwater 2371	Lots 1 & 2 DP 1176546 Lots 1 to 10 DP 1077598 Lot 13 DP 1077598 Lot 11 DP 1172142	RU5 to IN1

6) Delete two **Urban Release Areas** (URAs) from the LEP. There are two URAs identified in the Glen Innes residential area:

- Hunter Street R2 Low Density Residential Area
- Glen Legh Road R5 Large Lot Residential Area



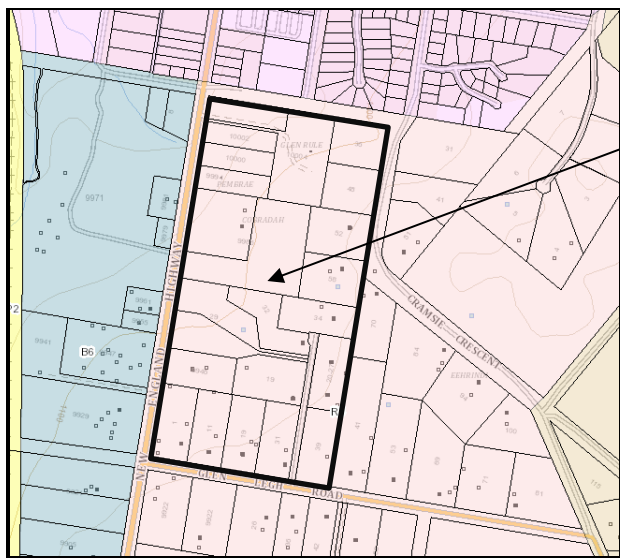
Source: NSW ePlanning Spatial Viewer

Part 6, *Urban release areas*, of the GISLEP requires, among other things, the preparation of a Development Control Plan before subdivision can occur in a URA. A DCP has been prepared for the Hunter Street URA at Chapter 10 of the Glen Innes Development Control Plan (DCP) 2014. 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. Council understands that the Hunter Street URA is likely to be developed for low density residential purposes in accordance with the DCP the foreseeable future. There is no further need for this area to be identified as a URA.

The Glen Legh Road URA is zoned R5 Large Lot Residential with a minimum subdivision lot size of 2,000 m². The existing lots within the URA range in size from approximately 8,000 m² to 1.2 ha. Reticulated water and sewer would be necessary to support residential development of lots of 2,000 m² or greater. Since the Glen Legh Road URA was created in 2012, there has been no demonstrated landowner interest in preparing a DCP or Concept Master Plan for the URA. The Glen Legh Road URA is considered 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. As shown in the image below, there are multiple properties involved and an 'ad hoc' settlement pattern within the URA reduces the scope for subdivision within separate landholdings.

Landowners within the URA will be notified in writing of this Planning Proposal.

Glen Legh Road URA



Glen Legh Road URA
R5 Large Lot Residential
Minimum subdivision lot size
2,000 m²

Source: NSW ePlanning Spatial Viewer

The means to make the above amendments are contained within Section 2.2 – Explanation of Provisions.

2.2 Explanation of Provisions

Note: The final drafting for all proposed clauses and maps will be subject to legal opinion, to recognise the clauses as proposed may not be reflected within the final LEP.

The intended outcomes of this Planning Proposal will be achieved by amending GIS LEP 2012 as follows:

Item 1:

Include a “**Riparian land and watercourses**” clause into GIS LEP 2012, by inserting the following after **Clause 7.2 Drinking water catchments**:

7.2A 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.
- By virtue of proposed Clause 7.2A (2) (a), this item includes a new LGA-wide LEP mapping layer, **Riparian Lands and Watercourses**.

Item 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”. Amendments shown in red.

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~~
 - (d) is within a lot identified as “Dwelling Opportunity” on the Dwelling Opportunity Map, or
 - (e) would have been a lot or a holding referred to in paragraphs (a)–(d) (c), 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.
- (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.

Item 3: Natural Disaster Clause

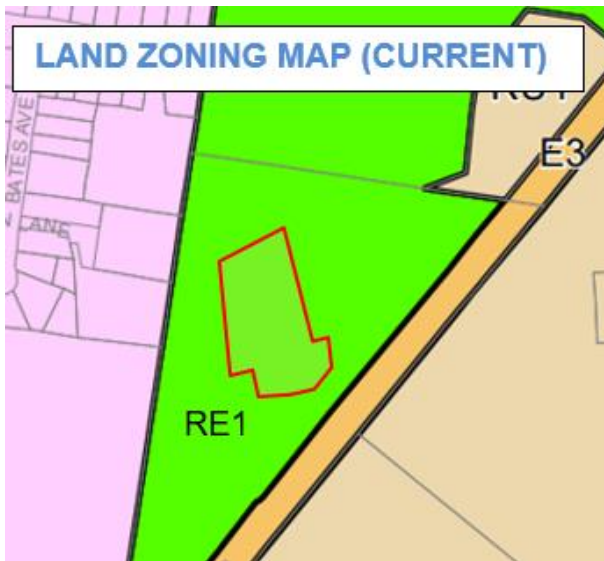
Insert the following draft Standard Instrument LEP Natural Disaster Clause:

Clause 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 dwelling 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.

Item 4: SP 2 Infrastructure Zone amendments:

1. Glen Innes Water Treatment Plant



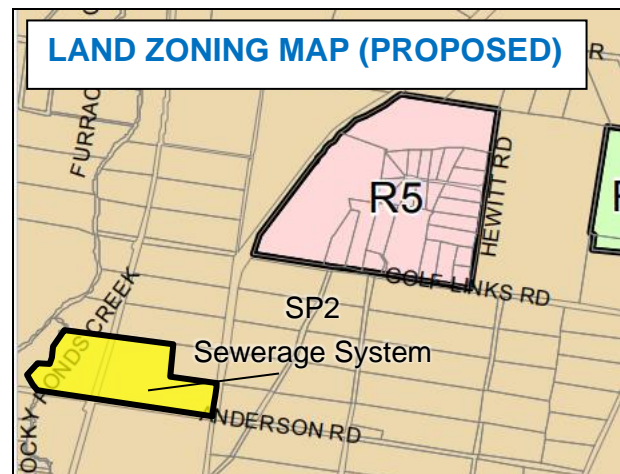
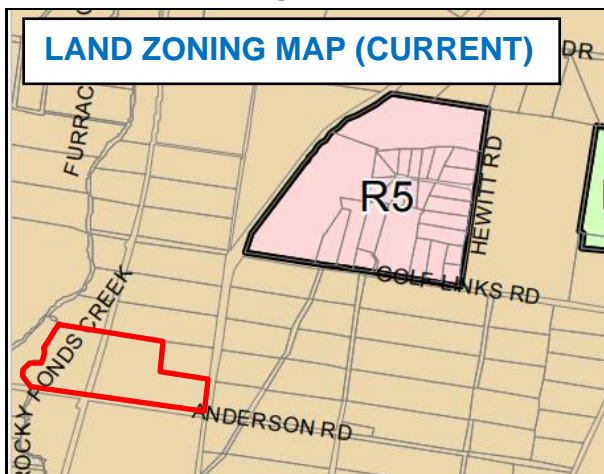
Land Zoning Map LZN_003



Land Zoning Map LZN_003

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

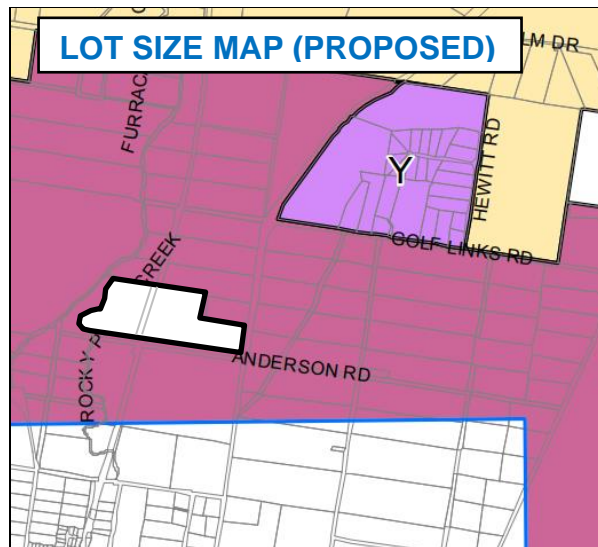
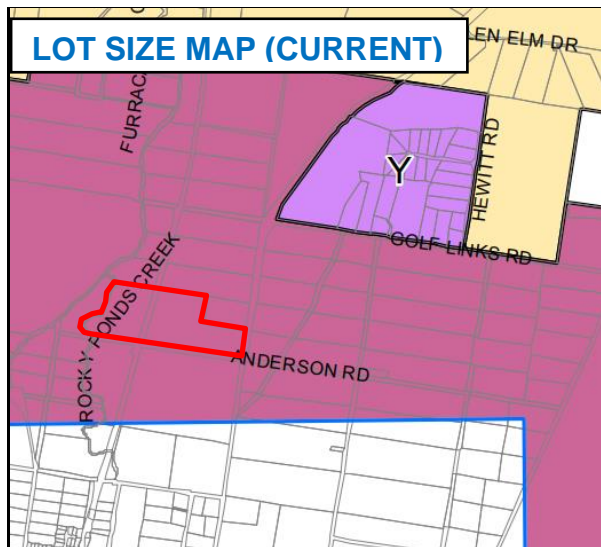
2. Glen Innes Sewage Treatment Plant



Land Zoning Map LZN_003

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

Land Zoning Map LZN_003

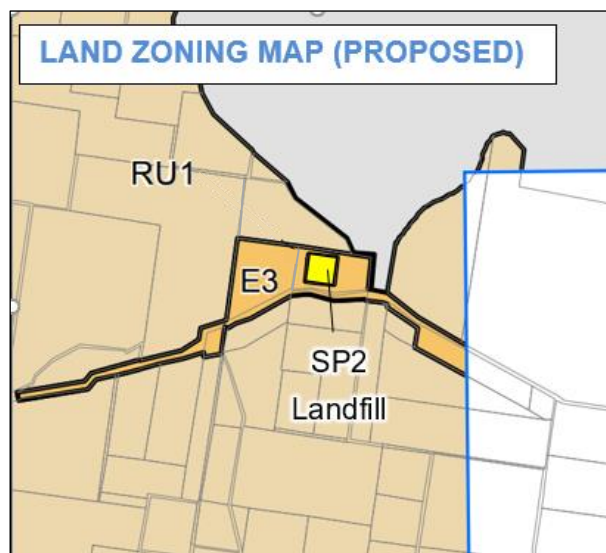
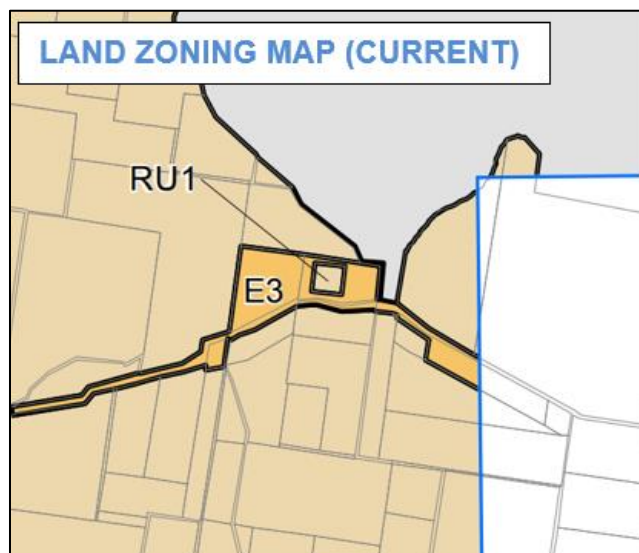


Lot Size Map LSZ_003

Lot Size Map LSZ_003

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

3. Deepwater Landfill Facility

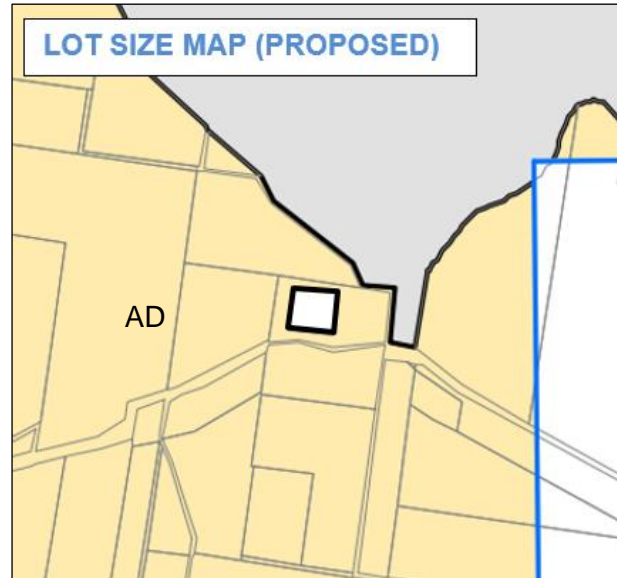
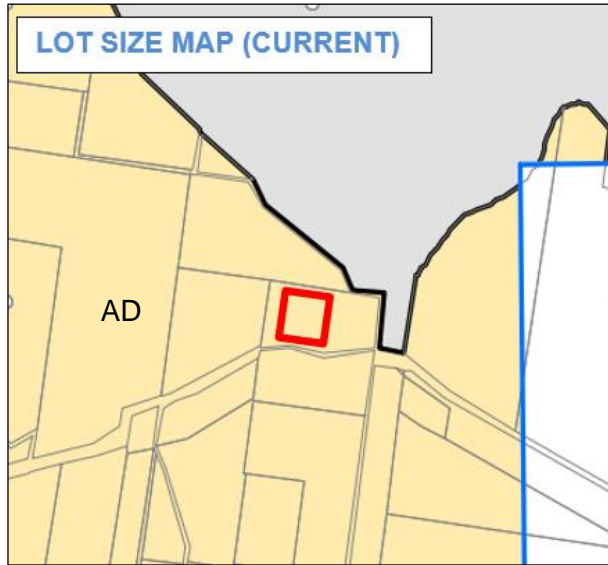


Land Zone Map LSZ_002

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'.

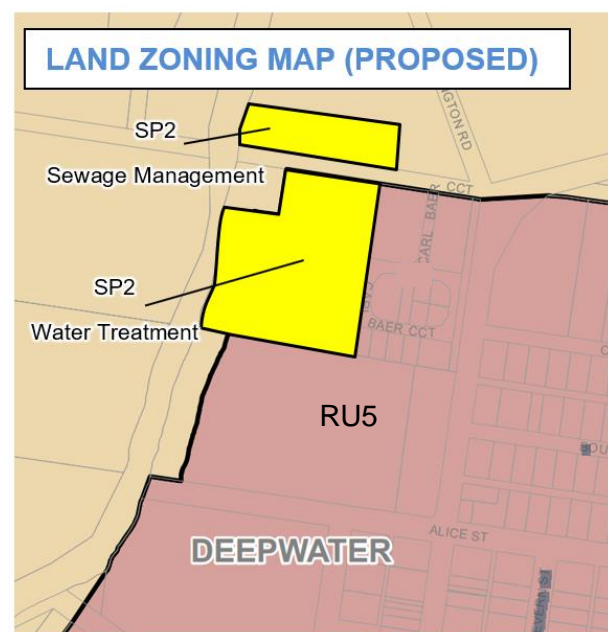
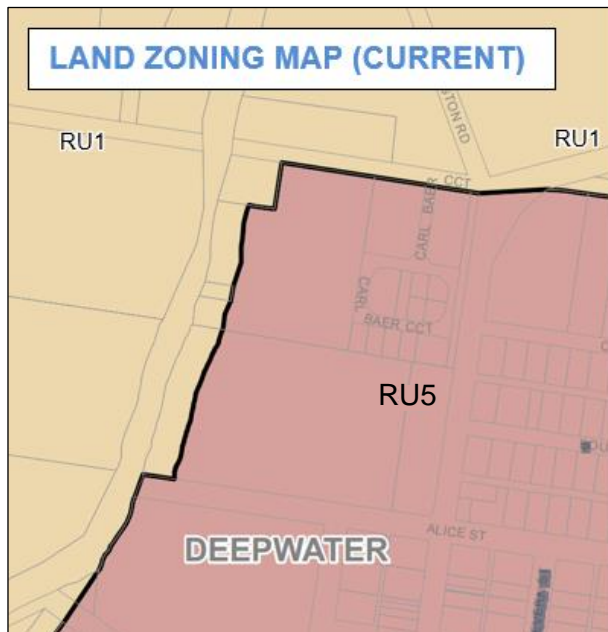


Lot Size Map LSZ_002

Lot Size Map LSZ_002

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

4. Deepwater Water Treatment Facility and Deepwater Sewage Treatment Facility,

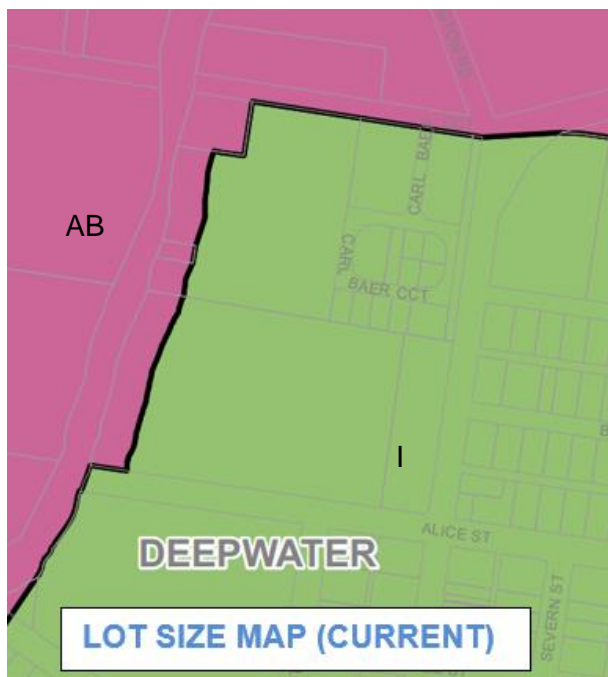


Land Zone Map LZN_002D

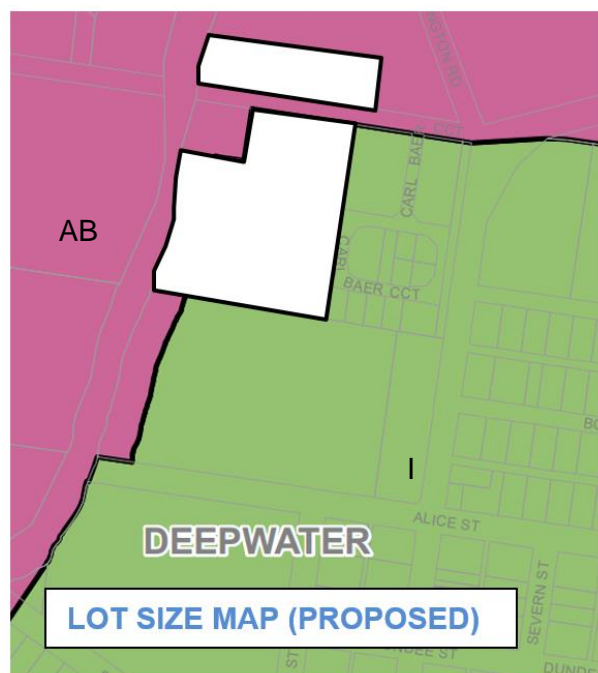
Land Zone Map LZN_002D

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

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



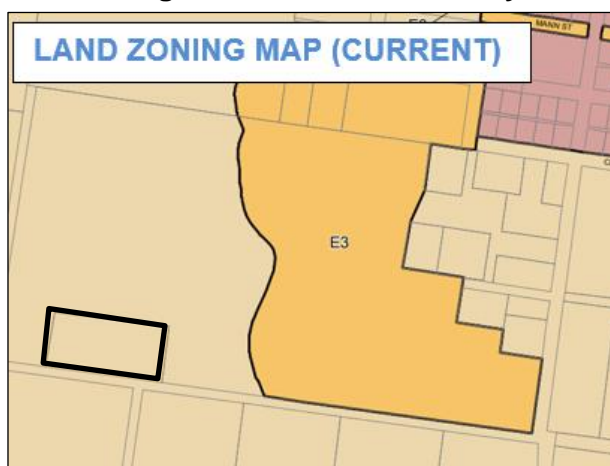
Lot Size Map LSZ_002D



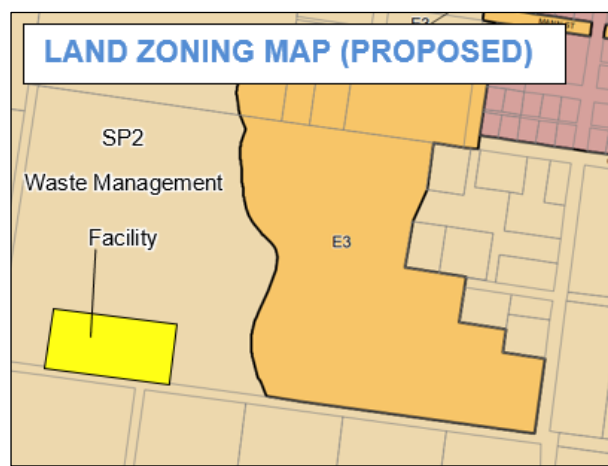
Lot Size Map LSZ_002D

Amend the lands proposed to be rezoned from the Category AB 40 ha and Category I 500m² to No Category.

5. Red Range Waste Transfer Facility

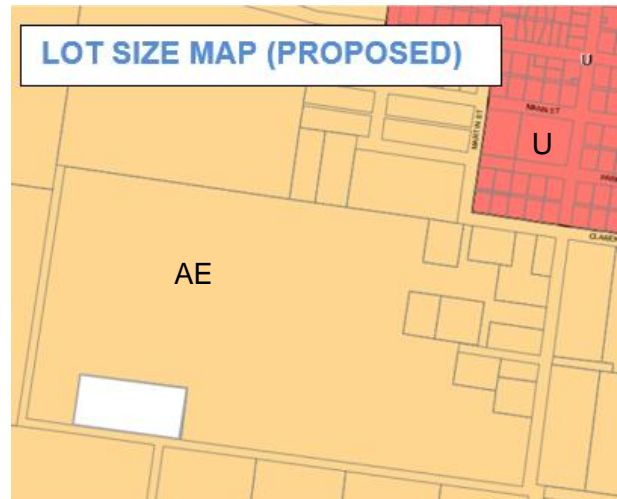
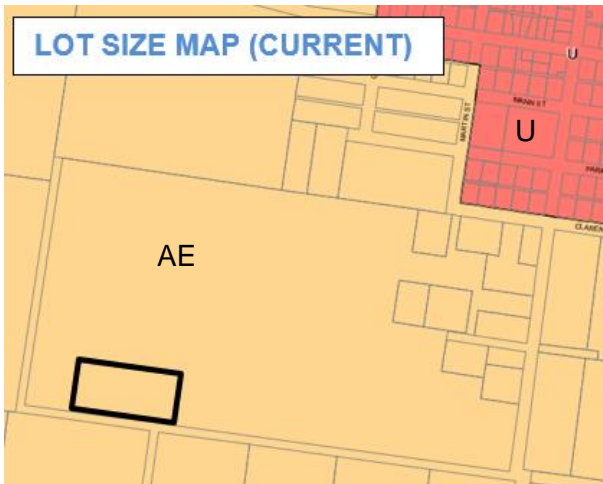


Lot Zone Map LZN_003C



Lot Zone Map LZN_003C

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

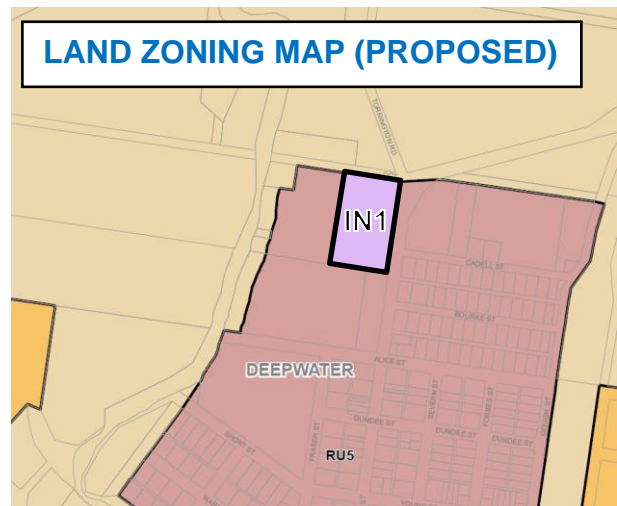
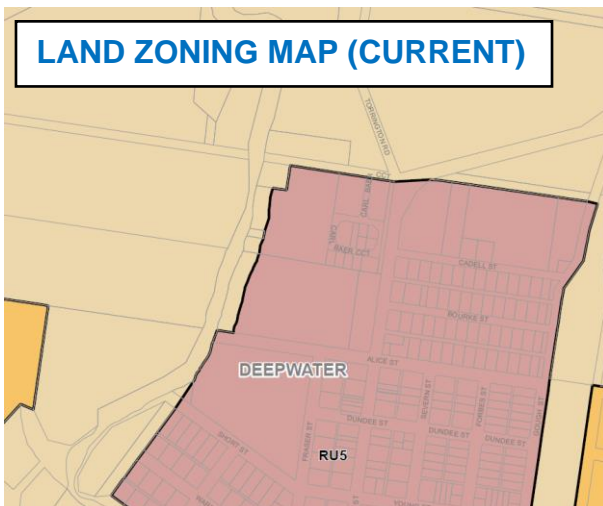


Lot Size Map LSZ_003C

Lot Size Map LSZ_003C

Amend from the Category AE 300 ha to No Category.

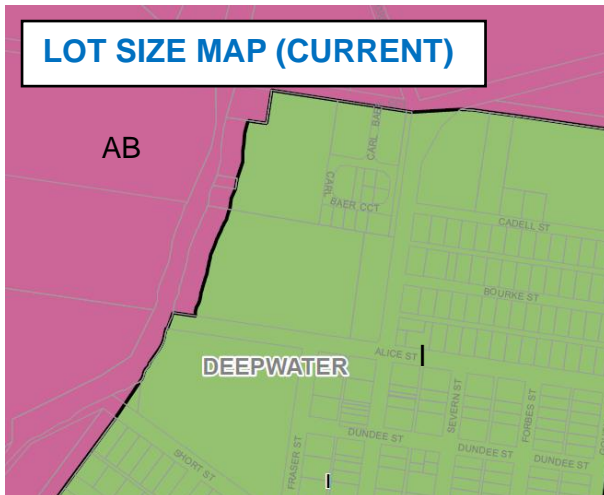
Item 5: Deepwater Industrial Estate



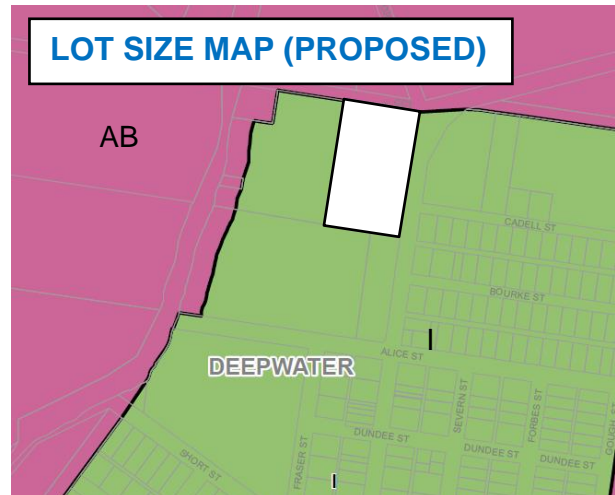
Lot Zone Map LZN_002D

Lot Zone Map LZN_002D

Rezone from RU5 Village to IN1 General Industrial.



Lot Size Map LSZ_002D



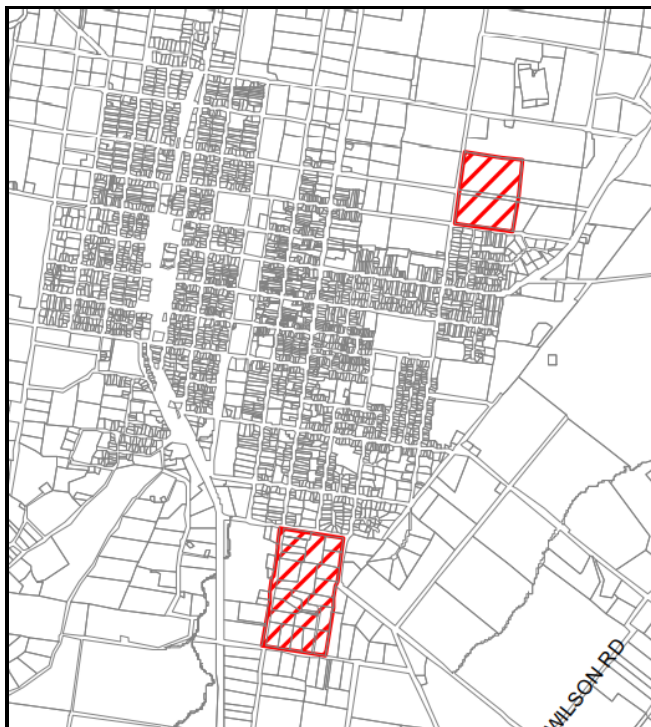
Lot Size Map LSZ_002D

Amend from Category I 500 m² to No Category.

Item 6:

Remove two Urban Release Areas from Urban Release Area Map Sheet URA_003.

There are no other Urban Release Areas within the Glen Innes Severn LGA, therefore the URA map and the corresponding clauses at Part 6 of the GISLEP can be deleted rather than amended.



Urban Release Area Map URA_003

3.0 Justification

This part provides a response to the following matters in accordance with “A guide to preparing planning proposals” (NSW Department of Planning and Environment 2018):

- Section A: Need for the Planning Proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic impact

3.1 Section A: Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

Yes. GIS LEP 2012 was made by the Minister for Planning on 14 September 2012. GIS LEP 2012 replaced Glen Innes Local Environmental Plan 1991 and Severn Local Environmental Plan 2002 as the primary planning instrument to guide local development in the LGA.

The *Glen Innes Severn Land Use Strategy 2010* was prepared to inform the transition to the present LEP. One of the recommendations of the strategy was to monitor and conduct a regular review of the new LEP (Page 54 Section 9.6). *The Glen Innes Severn Local Strategic Planning Statement* was adopted in June 2020. These strategies are further discussed in this section of the Planning Proposal.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the Planning Proposal is the best and most appropriate way to achieve the intended outcomes and make amendments to GIS LEP 2012. A planning proposal is the most effective method of ensuring that the accuracy and reliability of GIS LEP 2012 is maintained and regularly administered, and is the most feasible means of ensuring that the proposed amendments are administered expeditiously in accordance with current statutory requirements.

Is there a net community benefit?

The Net Community Benefit Criteria is identified in the NSW Government’s publication *The Right Place for Business and Services*. This policy document has a focus on ensuring growth within existing centres and minimising dispersed trip generating development. It applies most appropriately to Planning Proposals that promote significant increased residential areas or densities, or significant increased employment areas or the like.

3.2 Relationship to Strategic Planning Framework

Will the Planning Proposal give effect to the objectives and actions contained within the New England North West Regional Plan 2036?

The *New England North West Regional Plan 2036* applies to the Glen Innes Severn LGA. That plan provides for the following regionally focused goals:

- A strong and dynamic regional economy
- A healthy environment with pristine waterways
- Strong infrastructure and transport networks for a connected future

- Attractive and thriving communities

Conducting housekeeping reviews of the GIS LEP 2012 will assist in maintaining consistency with the regional strategy.

This Planning Proposal is considered to be consistent with the relevant goals, directions and actions within the *New England North West Regional Plan 2036*, as follows:

GOAL	DIRECTION	ACTION
1. A strong and dynamic regional economy	3. Protect and enhance productive agricultural lands	<p>3.3 Manage the interface between important agricultural lands and other land uses by incorporating controls in local plans that manage compatibility between land uses, and undertaking land use conflict risk assessments where potential conflicts are identified through rezoning processes.</p> <p><u>Comment:</u> The proposed rezoning of certain lands (Item 4) from RU1 Primary Production to SP2 Infrastructure are logical based on their current use as Council facilities. The lands are not used for any type of Agriculture, and have no potential to be used for agricultural purposes. There are no perceived land use conflicts, the objective of Item 4 is to rezone the relevant lands to reflect their current and long term uses and functions.</p>
	6. Deliver new industries of the future	<p>6.1 Encourage green industries by reviewing local plans to ensure land use zonings reflect industry requirements.</p> <p><u>Comment:</u> The land at Deepwater which is proposed to be zoned IN1 General Industrial will provide a clear location for industry in Deepwater, which minimises land use conflict with the residential village.</p>
	7. Build strong economic centres	7.5 Promote an appropriate mix of land uses and prevent the

		<p>encroachment of sensitive uses on employment land through local planning controls.</p> <p><u>Comment:</u></p> <p>Addressing this action by rezoning the land at Deepwater to IN1 General Industrial may contribute to further industrial activities in Deepwater which are beneficial to local employment and the local economy.</p>
2. A healthy environment with pristine waterways	11. Protect areas of potential high environmental value	<p>11.2 Ensure local plans consider areas of high environmental value to avoid potential development impacts.</p> <p>11.3 Encourage the identification of vegetated areas adjacent to aquatic habitats and riparian corridors in local plans.</p> <p><u>Comment:</u></p> <p>This part of the Planning Proposal will provide a mechanism for the enhancement and preservation/protection of watercourses and riparian lands.</p>
3. Strong infrastructure and transport networks for a connected future	13. Expand emerging industries through freight and logistics connectivity	<p>13.1 Implement local planning controls to protect freight and logistics facilities from encroachment of sensitive land uses.</p> <p><u>Comment:</u></p> <p>The proposed Industrial land at Deepwater is already used for industrial purposes, however it is inappropriately zoned as R5 Village. Amendment of the zone to IN1 General Industrial will clearly define the current and future use of the land, including the retention of any approved freight/logistics facilities.</p>
	14. Enhance transport and infrastructure networks	<p>14.1 Protect freight and utility infrastructure and corridors through local plans and strategies to protect network opportunities and distribution from incompatible land uses or land fragmentation.</p> <p><u>Comment:</u></p> <p>Amendment of the subject land's zone at Deepwater to IN1</p>

		General Industrial will not allow the encroachment of inappropriate land uses.
	16. Coordinate infrastructure delivery	<p>16.1 Undertake detailed infrastructure service planning to establish that land can be feasibly and economically serviced prior to rezoning.</p> <p><u>Comment:</u> The relevant items described by this Planning Proposal allow infrastructure provision to be determined under SEPP (Infrastructure) 2007. It is expected that this will be a positive influence on infrastructure delivery.</p>
4. Attractive and thriving communities	23. Collaborate with Aboriginal communities to respect and protect Aboriginal culture and heritage	<p>23.1 Ensure Aboriginal communities are engaged throughout the preparation of local planning strategies and local plans.</p> <p>23.3 Develop partnerships with Aboriginal communities to facilitate engagement during the planning process, including the development of engagement protocols.</p> <p>23.4 Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are avoided and appropriate heritage management mechanisms are identified.</p> <p><u>Comment:</u> Noted. Further actions can be undertaken if required, in respect to these actions. It is expected that consultation with the Aboriginal community will be undertaken under the terms of the DPIE Gateway Determination.</p>

Is the Planning Proposal consistent with the council's local strategy or local strategic plan?

One of the strategic objectives listed under the *Glen Innes Severn Land Use and Economic Development Community Strategic Plan 2013-2023* is:

“to engage the Community in integrated planning incorporating land use, economic development infrastructure and social policy that reflect and retain the character of our natural and built environment.”

The ongoing maintenance of the GIS LEP 2012 enforces this strategy.

The PP is consistent with the Community Strategic Plan 2013-2023, the *Glen Innes Severn Economic Development Strategy 2012 – 2017* and the *Glen Innes Severn Land Use Strategy 2010*.

Is the Planning Proposal consistent with Council’s Local Growth Management Strategy?

The Glen Innes Severn Land Use Strategy was adopted in May 2010. The rezoning of the proposed IN1 General Industrial zone in Deepwater is consistent with Clause 5.1.1 of that strategy, as follows:

Section 5.1.1 Economic Activity in Glen Innes Severn LGA

The Glen Innes Severn LGA benefits from a broad economy principally based on primary industry, retail, manufacturing, government activity and tourism. Geographically there are a number of differences between the more urban centres and the rural areas. The rural areas are dominated by primary industries, processing of produce and associated service industries. Employment in the urban centres is spread across retail, government activity, community services and manufacturing. The diversity in employment is reflected its proximity to major service centres such as Armidale.

The settlements of Glen Innes, Emmaville and Deepwater form the major centres of economic activity. They provide the majority of goods and services for the population; they are the centres for industrial, retail, commercial and government services; and are the location of many jobs. Tourism is a significant and growing component of the Glen Innes Severn economy. The LGA has a significant number of tourist destinations and is geographically well placed for people touring the state.

Continued economic development is essential for the growth and prosperity of the Glen Innes Severn. The new LEP must provide opportunities for appropriate economic growth and must recognise the need for local employment in order to sustain settlement populations and ensure their economic wellbeing. Council’s capacity to promote development opportunities and diversification of activities can be inhibited by a lack of available and appropriately located land, and overly restrictive controls. A scarcity of land available to economic development could deter investment in local areas, stifling economic growth and employment.

The new LEP should ensure that land is available for development and is adequately served by infrastructure, and should be responsive to economic trends. It should provide for different land uses to cater for different needs, encourage competition and provide the flexibility required by industries to develop in appropriate locations.

Will the Planning Proposal give effect to Council's endorsed Local Strategic Planning Statement, or another endorsed local strategy or strategic plan?

Glen Innes Severn City Council adopted its Local Strategic Planning Statement (LSPS) on 25 June 2020. The LSPS was prepared in accordance with the *Environmental Planning and Assessment Act 1979 and Regulations*, and provides a land use planning vision for the Glen Innes Severn LGA to 2040. The LSPS identifies ten Planning Priorities to be delivered within four themes:

- A renewed economy & authentic place;
- A thriving & vibrant community;
- Strong & connected infrastructure; and
- Sustainable environment & protected heritage.

The planning priorities will be delivered through strategies to guide actions and land use directions to be undertaken by Glen Innes Severn Council. The actions have each been allocated a time frame for completion, in line with Council's Operational Plan (short term 1 to 5 years), Delivery program (medium term 5 to 10 years) and Community Strategic Plan (long term 10 to 20 years). This Planning Proposal is consistent with the following relevant priorities and associated actions of the LSPS:

Theme	Planning Priority	Action
A RENEWED ECONOMY & AUTHENTIC PLACE	1. Council will develop a new Economic Development Strategy to deliver a well-positioned place-based approach to economic development and sustainable land use planning.	1.2 Council will contribute to the outcomes agreed to be implemented in the EDS by incorporating them into the relevant plans such as the LEP, DCP and Developer Contributions Plan.
	2. Encourage diversification in agriculture, horticulture and agribusiness to grow these sectors and respond to domestic and international opportunities.	2.4 Review rural land use provisions in the LEP and DCP to ensure protection of biophysical strategic agricultural land and intensive agricultural cluster to avoid land use conflicts, particularly with rural residential expansion, in alignment with the Right to Farm Policy;
STRONG & CONNECTED INFRASTRUCTURE	6. Continue to develop service and logistics infrastructure on appropriate sites and encourage new industry opportunities.	6.5 Review LEP zoning of land where Council's Infrastructure assets are located eg Water Treatment Plant, to ensure they are appropriately identified for 'special purpose' activities.
	8. Protect areas of high environmental value and significance.	8.8 Review the LEP and associated map overlays to

SUSTAINABLE ENVIRONMENT & PROTECTED HERITAGE		include Additional Local Provisions to ensure the LEP managed riparian areas, water catchment areas and ground water sources to avoid potential development impacts.
	9. Adapt to natural hazard and climate change	9.5 Consider and implement a range of urban design guidelines and land use planning controls through the LEP and DCP to reduce the risks of known environmental hazards such as bushfire, flooding, drought, heat, and storms. These may include but are not limited to Minimising the Impacts of Extreme Heat, Water Sensitive Urban Design Guidelines and the NSW Government's Flood Prone Land Policy.

One of the strategic objectives listed under the *Glen Innes Severn Land Use and Economic Development Community Strategic Plan 2013-2023* is to engage the Community in integrated planning incorporating land use, economic development infrastructure and social policy that reflect and retain the character of our natural and built environment. The ongoing maintenance of the GIS LEP 2012 enforces this strategy.

This Planning Proposal is considered to be consistent with the Community Strategic Plan 2013-2023, the *Glen Innes Severn Economic Development Strategy 2012 – 2017* and the *Glen Innes Severn Land Use Strategy 2010*.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Yes. An assessment of consistency with the State Environmental Planning Policies (SEPPs) considered relevant to the proposal is at **Appendix A**. In instances when an inconsistency has been identified, appropriate justification and how the Planning Proposal addresses the inconsistency has been provided. Minor inconsistencies to the following SEPPs have been identified, and these inconsistencies have been justified in the assessment of those SEPPs.

- *SEPP No. 70 Affordable Housing (Revised Schemes)*
- *SEPP (Housing for Seniors or People with a Disability) 2004*
- *SEPP (Primary Production and Rural Development) 2019*

Is the PP consistent with applicable Ministerial Directions (section 9.1 Directions)?

Yes. An assessment of consistency with the applicable s9.1 Ministerial Directions as shown in the table provided at **Appendix B**. In instances when an inconsistency has been identified, appropriate justification and how the Planning Proposal addresses the inconsistency has been provided.

The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that minor inconsistencies relating to section 9.1 Directions **1.3 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** have been appropriately addressed and that no further approvals are required in relation to those section 9.1 directions.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. This Planning Proposal and subsequent LEP Amendment will not alter any zones or development controls in a manner such that there could be adverse impacts on threatened species, populations, or ecological communities. The addition of Item 1 (insertion of a “Riparian land and watercourses: clause) will strengthen environmental protection and enhancement within the affected buffered riparian areas. In these cases, appropriate environmental investigations will be required at the Development Application stage.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No. There are no other likely environmental effects which may result from this planning proposal which have not been previously discussed.

Has the PP adequately addressed any social and economic effects?

Social and economic effects of this Planning Proposal are summarised below:

Item 1	<p>Insert a “Riparian land and watercourses” clause into GIS LEP 2012, with the objectives being 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.</p>	<p>Social</p> <p>Social benefits include greater social wellbeing and a more sustainable community benefitting from increased water quality and responsible watercourse management. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>Healthier riparian areas are beneficial to the overall long-term sustainability of all lands, including farmland, residential and recreational areas, and a positive flow-on economic effect. There are no detrimental</p>
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		economic effects foreseen from this part of the Planning Proposal.
Item 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”.	<p>Social</p> <p>This amendment does not change any development standard for the affected zones. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>This proposed amendment does not change any development standard for the affected zones. There are no detrimental economic effects foreseen from this part of the Planning Proposal.</p>
Item 3	Insert the Standard Instrument LEP Natural Disaster Clause , consistent with a direction from the Department of Planning, Industry and Environment (DPIE) to all Councils to include the clause in their respective Local Environmental Plans.	<p>Social</p> <p>Insertion of this Clause will be of social benefit in that residents who have lost their dwellings due to natural disaster events can be rehoused in their own homes in a shorter period of time. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>There are no detrimental economic effects resulting from this part of the Planning Proposal.</p>
Item 4	<p>Allocate appropriate land use zones and other LEP provisions to the following properties and locations:</p> <p>Glen Innes Water Treatment Plant Glen Innes Sewage Treatment Plant Deepwater Landfill Facility Deepwater Water Treatment Plant Red Range Waste Transfer Facility</p>	<p>Social</p> <p>The allocation of the SP2 Infrastructure zones is the most appropriate for those lands, and are reflective of the current and future land uses. This clarifies which uses are permissible or otherwise on those lands. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>The allocation of the SP2 Infrastructure zones is the most appropriate for those lands, and are reflective of the current and future land uses. Clarity of the SP2 zone will encourage appropriate public investment for that purpose. There are no detrimental economic effects foreseen from this part of the Planning Proposal.</p>

Item 5	Deepwater Industrial Area (Carl Baer Circuit – various lots)	<p>Social</p> <p>The allocation of the IN1 General Industrial zone is the most appropriate for these lands, and are reflective of the current and future land uses. This clarifies which uses are permissible or otherwise on those lands. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>The allocation of the IN1 General Industrial zone is the most appropriate for those lands, and will increase the range of permissible industrial land uses that can be carried out in the Deepwater Industrial Area. There are therefore clear potential economic benefits foreseen from this part of the Planning Proposal.</p>
Item 6	Delete two “Urban Release Areas” from the LEP, as the lands in question have been given consent for urban development with appropriate infrastructure being provided.	<p>Social</p> <p>The Urban Release Areas in question will add to the ‘greenfield’ residential housing stock of Glen Innes. This will allow the township to grow and provide new housing options for the existing and future community. There are no detrimental social effects foreseen from this part of the Planning Proposal.</p> <p>Economic</p> <p>Opportunities for new housing will contribute positively to the economic wellbeing of Glen Innes in terms of employment, construction and economic flow-on benefits. There are no detrimental economic effects foreseen from this part of the Planning Proposal.</p>

3.3 State and Commonwealth Interests

Is there adequate public infrastructure for the PP?

This Planning Proposal will not create significant additional demand on existing public infrastructure. The proposed amendments to not create additional residential areas or increase the density of any residential areas.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The Gateway Determination has requested that this Planning Proposal be referred to:

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

Comments received from those agencies will be considered and assessed appropriately in the determination of this planning proposal.

3.4 Mapping

Existing mapping and proposed mapping amendments to Glen Innes Severn LEP 2012 are described and illustrated in Part 2 of this Planning Proposal. Amendments to the GIS LEP 2012 mapping are required for the subject Planning Proposal.

The following maps will require amendment in respect to this Planning Proposal:

Land Zoning Map LZN_002
Land Zoning Map LZN_002D
Land Zoning Map LZN_003
Land Zoning Map LZN_003C

Lot Size Map LSZ_002
Lot Size Map LSZ_002D
Lot Size Map LSZ_003
Lot Size Map LSZ_003C

Additional Maps

In respect to Item 1 of this Planning Proposal, the watercourses identified as riparian area (consisting of watercourses Strahler's Stream Order 3 and above) are to be shown on a new category of maps, labelled as the **CL2 Drinking Water Catchment Map and Riparian Lands and Watercourses Map**. All map tiles are proposed to be amended as such.

The following Drinking Water Catchment Maps are proposed to be incorporated in the new mapping category. Therefore, the existing (DWC) maps are to be deleted from the current suite of LEP maps:

Drinking Water Catchment Map DWC_002
Drinking Water Catchment Map DWC_002D
Drinking Water Catchment Map DWC_003
Drinking Water Catchment Map DWC_003A
Drinking Water Catchment Map DWC_003B
Drinking Water Catchment Map DWC_004

The following map sheet is proposed to be deleted from the suite of LEP maps:

Urban Release Area Map URA_003

3.5 Community Consultation

The Gateway Determination dated 13 October 2021 recommended that Council place the Planning Proposal (PP_2021-5562) on public exhibition, consistent with section 3.34(2) of the *Environmental Planning and Assessment Act 1979*, and the conditions/terms of the Gateway Determination, as follows:

“2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

*(a) the planning proposal must be made publicly available for a minimum of **28 days**; and*

(b) the planning proposal 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 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2018).

3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

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

*Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least **21 days** to comment on the proposal.”*

The exhibition of the Planning Proposal will also be advertised in the local newspaper, and be available for viewing on Glen Innes Severn Council’s website, and the NSW Planning Portal. The outcome of the exhibition will be reported to Council following the exhibition, and upon assessment of any submissions received from the community and government agencies during the course of the public exhibition period.

4.0 Project Time Line

4.1 Indicative Project Timeline

Table 4.1 Indicative Project Timeline

STAGE	VERSION / DATE (estimated in <i>italics</i>)
Preparation and submission of PP to Council	June 2021
Council adoption & Gateway Determination request	22 July 2021
Commencement (date of Gateway determination)	13 October 2021
Timeframe for completion of required additional information	<i>October 2021</i>
Timeframe for government agency consultation as required by Gateway determination.	<i>November 2021</i>
Commencement and completion dates for public exhibition period.	<i>November 2021</i>
Timeframe for consideration of submissions	<i>December 2021</i>
Timeframe for consideration of proposal post exhibition	<i>December 2021</i>
Adopted by Council for final submission to Department of Planning	<i>January 2022</i>
Date of submission to the department to finalise the LEP (projected)	<i>January 2022</i>
Making of the LEP Amendment by Council under delegation (projected)	<i>March 2022</i>
Notification of the LEP Amendment by Council (projected)	<i>March 2022</i>

4.2 Recommendation

This Planning Proposal, which describes a ‘housekeeping’ annual review of *Glen Innes Severn Local Environmental Plan 2012*, has been prepared in accordance with the NSW Department of Planning document ‘*A guide to preparing planning proposals*’.

The Planning Proposal is consistent with the *New England North West Regional Plan 2036* and is consistent with all relevant SEPPs. The Planning Proposal is consistent with the applicable section 9.1 Ministerial Directions other than where indicated in this Planning Proposal. Any inconsistencies are supported and appropriately justified by the provisions of the *New England North West Regional Plan 2036*, and Glen Innes Severn Council’s adopted *Glen Innes Severn Land Use Strategy 2010*.

The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that inconsistencies relating to section 9.1 Directions **1.3 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** have been appropriately addressed and that no further approvals are required in relation to those section 9.1 directions.

It is therefore recommended that Council place the Planning Proposal (PP_2021-5562) on public exhibition, consistent with section 3.34(2) of the *Environmental Planning and Assessment Act 1979*, and the conditions/terms of the Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021.

The exhibition will (as a minimum) include referral to:

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

consistent with Condition 3 of the Gateway Determination.

The outcome of the exhibition will be subsequently reported to Council for determination.

A

CONSISTENCY WITH SEPPs

SEPPS and Key issues relevant to the PP	Consistent / Inconsistent
SEPP No. 21 – Caravan Parks	
APPLIES	<p>CONSISTENT</p> <p>Caravan Parks are permitted with development consent in lands zoned RU1 Primary Production. While this Planning Proposal seeks to reduce the RU1 zone, the intent is to appropriately zone numerous Council facilities to their appropriate zone of SP2 Infrastructure. The lands in question are Council-owned and have no potential to be used as Caravan Parks.</p>
SEPP No. 36 – Manufactured Home Estates	
APPLIES	<p>CONSISTENT</p> <p>This SEPP is not directly relevant to this Planning Proposal, however it is consistent in that the Planning Proposal will not compromise the efficient application of this SEPP to any future development.</p>
SEPP No. 64 – Advertising and Signage	
APPLIES	<p>CONSISTENT</p> <p>This SEPP is not directly relevant to this Planning Proposal, however it is consistent in that the Planning Proposal will not compromise the efficient application of this SEPP to any future development.</p>
SEPP No. 70 Affordable Housing (Revised Schemes)	
APPLIES	<p>INCONSISTENT</p> <p><u>Justification of Inconsistency</u></p> <p>This SEPP applies as a small portion of land in Deepwater is proposed to be rezoned from RU5 Village to IN1 Industrial. The inconsistency is justified as the land is developed for industrial purposes, is separated from Deepwater village and is being rezoned to reflect the land use. It is a preferred planning outcome that any potential affordable housing development is confined to the established residential areas of Deepwater Village.</p>
SEPP (Affordable Rental Housing) 2009	
APPLIES	<p>CONSISTENT</p> <p>Items 1-5 of the Planning Proposal do not create or reduce any land use zones which permit Affordable Rental Housing. The SEPP nominates these zones as R1, R2, R3, R4 and</p>

SEPPs and Key issues relevant to the PP	Consistent / Inconsistent
	R5. The removal of the two URAs (Item 5) does not compromise the application of this SEPP.
SEPP (Building Sustainability Index – BASIX) 2004	
APPLIES	CONSISTENT The Planning Proposal is consistent in that any development that requires a BASIX assessment must consider this SEPP. This SEPP is mainly applied at the Development Application Stage.
SEPP (Concurrences and Consents) 2018	
APPLIES	CONSISTENT The Planning Proposal is consistent in that any future development requiring concurrence will be subject to the provisions of this SEPP.
SEPP (Educational Establishments and Child Care Facilities) 2017	
APPLIES	CONSISTENT The Planning Proposal is consistent in that any future development including such establishments will be subject to the provisions of this SEPP (in zones where the land use is permissible)
SEPP (Exempt and Complying Development Codes) 2008	
APPLIES	CONSISTENT The Planning Proposal is consistent with the aims and provisions of this SEPP, however the SEPP is not specifically relevant to the context of this Planning Proposal.
SEPP (Housing for Seniors or People with a Disability) 2004	
APPLIES	INCONSISTENT <u>Justification of Inconsistency</u> These types of land uses are permissible with consent in the RU1 Primary Production and RU5 Village zones. This SEPP applies in that a small portion of land in Deepwater is proposed to be rezoned from RU5 Village to IN1 Industrial. The inconsistency is justified as the land is developed for industrial purposes, is separated from Deepwater village and is being rezoned to the most appropriate land use. It is a more preferable planning outcome that any potential housing developments that are described by this SEPP are confined to the established residential areas of Deepwater

SEPPS and Key issues relevant to the PP	Consistent / Inconsistent
	Village.
SEPP (Infrastructure) 2007	
APPLIES	<p>CONSISTENT</p> <p>The Planning Proposal is consistent in that it contains no provisions that contradict or hinder the application of the SEPP.</p>
SEPP – (Koala Habitat Protection) 2020	
NOT APPLICABLE	<p>CONSISTENT</p> <p>The Planning Proposal do not propose a Koala Plan of Management, however the proposed inclusion of Riparian land and watercourses mapping and the relevant clause will improve Koala habitat protection.</p>
SEPP – (Koala Habitat Protection) 2021	
APPLIES	<p>CONSISTENT</p> <p>S.17 Preparation of local environmental studies.</p> <p>The Planning Proposal intends to Insert a “Riparian land and watercourses” clause into GIS LEP 2012, with the objectives being 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.</p> <p>The Planning Proposal will increase protection of Koala habitat therefore a Local Environmental Study is not required.</p>
SEPP (Mining, Petroleum and Extractive Industries) 2007	
APPLIES	<p>CONSISTENT</p> <p>The Planning Proposal is consistent in that it contains no provisions that contradict or hinder the application of the SEPP.</p>
SEPP (Primary Production and Rural Development) 2019	
APPLIES	<p>INCONSISTENT</p> <p><u>Justification of Inconsistency</u></p> <p>This Planning Proposal will rezone RU1 zone land to SP2 Infrastructure to reflect the infrastructure use of the land. None of the land is used for agriculture. .</p>

SEPPS and Key issues relevant to the PP	Consistent / Inconsistent
SEPP (State and Regional Development) 2019	
APPLIES	The Planning Proposal is consistent in that it contains no provisions that contradict or hinder the application of the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	
APPLIES	CONSISTENT The Planning Proposal is consistent in that it contains no provisions that contradict or hinder the application of the SEPP.

B

CONSISTENCY WITH S9.1 MINISTERIAL DIRECTIONS

SECTION 9.1 DIRECTION	CONSISTENCY OF THE PP
1. EMPLOYMENT AND RESOURCES	
Direction 1.1 Business and Industrial Zones	
<p><i>Applies when a relevant planning authority prepares a PP that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</i></p> <p><i>A planning proposal must:</i></p> <ul style="list-style-type: none"> <i>(a) give effect to the objectives of this direction,</i> <i>(b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones,</i> <i>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</i> <i>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.</i> 	<p>CONSISTENT</p> <p>The Glen Innes Severn Land Use Strategy was adopted in May 2010. The rezoning of the proposed IN1 General Industrial zone in Deepwater is consistent with Clause 5.1.1 of the strategy.</p>
Direction 1.2 Rural Zones	
<p><i>The objective of this direction is to protect the agricultural production value of rural land. A draft LEP shall:</i></p> <ul style="list-style-type: none"> <i>a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i> <i>b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</i> 	<p>NOT APPLICABLE</p> <p>This Planning Proposal does not affect either matter (a) or (b).</p>
Direction 1.3 Mining, Petroleum Production and Extractive Industries	
<p><i>Applies when a relevant planning authority prepares a planning proposal that would have the effect of:</i></p> <ul style="list-style-type: none"> <i>(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or</i> 	<p>INCONSISTENT</p> <p>This planning proposal is inconsistent with part (b) of 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. However, it is recommended that consultation is undertaken</p>

(b) *restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

with Mining, Exploration and Geoscience to confirm the suitability of the proposal.

Justification of Inconsistency

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.

Note: The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that this inconsistency is justified.

The Gateway Determination recommended that consultation is undertaken with NSW Mining, Exploration and Geoscience to confirm the suitability of the proposal.

Direction 1.4 Oyster Aquaculture

Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:

NOT APPLICABLE

- (a) *adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”, or*
- (b) *incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate” and other land uses.*

Direction 1.5 Rural Lands

This direction applies when a relevant planning authority prepares a PP that:

INCONSISTENT

Justification of Inconsistency

- (a) *will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or*
- (b) *changes the existing minimum lot size on land within a rural or environment protection zone.*

Points (a) and (b) both apply.

Item 4 is a proposal to rezone lands which are currently zoned RU1 Primary Production to SP2 Infrastructure.

The relevant lands are Council-owned and used for Water Treatment, Sewage Treatment, and Waste Management purposes at Glen Innes and Deepwater. They are not used for Primary Production/Agriculture and will not be used for those purposes in the future.

SP2 Infrastructure is the most appropriate zone for those lands in this case.

Note: The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that this inconsistency is justified. No further approval is required in relation to this Direction.

2. ENVIRONMENT AND HERITAGE

Direction 2.1 Environment Protection Zones

The direction requires that a draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.

A draft LEP that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

CONSISTENT

The implementation of Item 3 (Natural Disaster clause) applies to land zoned E3 Environmental Management, however does not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

Direction 2.2 Coastal Management

NOT APPLICABLE

This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by the State Environmental Planning Policy (Coastal Management) 2018.

The land is not within the coastal zone.

Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

A PP shall contain provisions that facilitate the conservation of:

- a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical,*

CONSISTENT

European Heritage

The Planning Proposal does not impact any items currently listed in Schedule 5 Environmental Heritage of Glen Innes Severn LEP 2012.

Aboriginal Cultural Heritage

scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,

- b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and*
- c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the council, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.*

This Planning Proposal does not contain any provisions that compromise the requirements to undertake appropriate consultation with the Aboriginal community to identify any potential impacts upon Aboriginal Cultural Heritage.

It is expected that consultation with the Aboriginal community will be undertaken under the terms of the DPIE Gateway Determination.

Direction 2.4 Recreation Vehicle Areas

A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):

(4)

(a) where the land is within an environmental protection zone,

(b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:

(i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and

(ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.

CONSISTENT

This Planning Proposal does not enable land to be developed for the purpose of a recreational vehicle area.

Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs

NOT APPLICABLE

Direction 2.6 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

This direction applies to:

- (a) ...*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out.*

CONSISTENT

The lands proposed to be rezoned are fully developed for the purposes to which they are proposed to be rezoned, being established infrastructure (water treatment works, sewer treatment works, waste transfer facility, and developed industrial land).

This Planning Proposal does not intend to zone land for residential, public recreation or any such purpose in which issues of contamination/remediation of land presents a risk of harm to human health.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

Direction 3.1 Residential Zones

A PP must include provisions that encourage the provision of housing that will:

- a) broaden the choice of building types and locations available in the housing market, and*
- b) make more efficient use of existing infrastructure and services, and*
- c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- d) be of good design.*

A PP must, in relation to land to which this direction applies:

- a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and*
- b) not contain provisions which will reduce the permissible residential density of land.*

CONSISTENT

This Planning Proposal is consistent with this direction in relation to Item 5. The lands shown on the Urban Release Area Map (proposed to be deleted) comply with the direction in that:

- The subject lands are adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- This Planning Proposal does not contain provisions which will reduce the permissible residential density of those lands.

Direction 3.2 Caravan Parks and Manufactured Home Estates

The objectives of this direction are:

INCONSISTENT

Justification of Inconsistency

Caravan Parks are permitted with development

- to provide for a variety of housing types, and
- to provide opportunities for caravan parks and manufactured home estates.

consent in lands zoned RU1 Primary Production. The lands proposed to be rezoned from RU1 to SP2 Infrastructure are Council owned and have no potential to be used as Caravan Parks. This Planning Proposal does not seek to facilitate the permissibility of either land use on land used for infrastructure.

Note: The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that this inconsistency is justified. No further approval is required in relation to this Direction.

Direction 3.3 Home Occupations

The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.

- PPs shall permit home occupations to be carried out in dwelling houses without the need for development consent.

CONSISTENT

Home occupations are permitted without consent in the RU5 Village zone. This Planning Proposal does not seek to alter that provision.

Direction 3.4 Integrating Land Use and Transport

NOT APPLICABLE

Direction 3.5 Development Near Regulated Airports and Defence Airfields

NOT APPLICABLE

Direction 3.6 Shooting Ranges

NOT APPLICABLE

Direction 3.7 Reduction in non-hosted short term rental accommodation period

NOT APPLICABLE

4. HAZARD AND RISK

Direction 4.1 Acid Sulfate Soils

NOT APPLICABLE

Direction 4.2 Mine Subsidence and Unstable Land

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

CONSISTENT

The Planning Proposal is consistent with the Direction. There are no known areas of mine subsidence or unstable land on the land subject to this PP.

Direction 4.3 Flood Prone Land

The objectives of this direction are:

- a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy

CONSISTENT

The rezoning of any of the subject lands will have no effect on the 1% AEP flood level, or any identified flood prone land. The built infrastructure located on all Council facilities are

and the principles of the Floodplain Development Manual 2005, and

- b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

This direction applies when a council prepares a draft LEP that creates, removes or alters a zone or a provision that affects flood prone land.

not located in the 1% AEP flood extent, and any future infrastructure on those lands will not be located within the 1% AEP flood extent, so as to mitigate any potential future flooding impacts.

Direction 4.4 Planning for Bushfire Protection

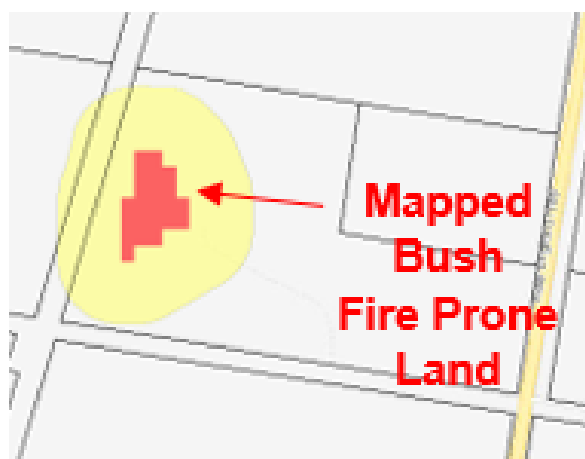
This direction applies when a council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.

A draft LEP shall:

- a) *have regard to Planning for Bushfire Protection 2019,*
- b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and ensure that bushfire hazard reduction is not prohibited within the APZ.*

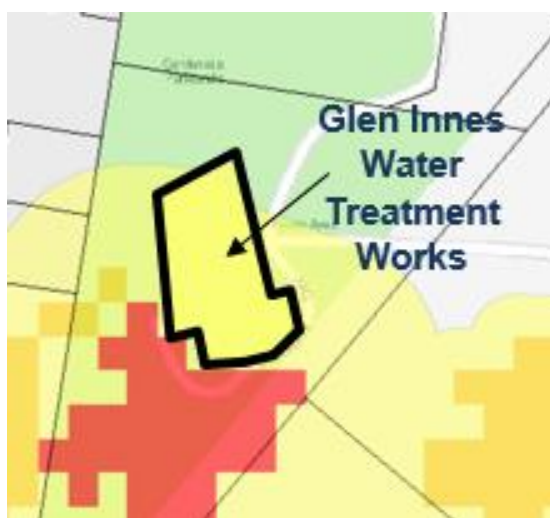
CONSISTENT

Part of the land which accommodates the Glen Innes Sewage Treatment Works is **incorrectly** mapped by the NSW Planning Portal as buffer to Bush Fire Prone Land. A large treatment pond is located within the area mapped as bushfire prone land buffer. (see the relevant maps below).





The land which accommodates the Glen Innes Water Treatment Works (proposed to be zoned as SP2 Infrastructure) is located within a 100m buffer to bush fire prone land, as shown on the map below:



The land (Lot 306 DP 753323) which accommodates the Deepwater Landfill facility (proposed to be zoned as SP2 Infrastructure) is located within a 100m buffer to bush fire prone land, as shown on the map below:



Future development within bushfire prone land will be referred (if required) to the NSW Rural Fire Service as required under s100B of the *Rural Fires Act 1997* and s79BA of the *EP&A Act 1979*, and to ensure compliance with *Planning for Bushfire Protection 2019*.

Any specific Bushfire Protection criteria should be addressed appropriately in a Development Application if required under *Planning for Bushfire Protection 2019*.

Note: The Gateway Determination (issued on 13 October 2021) includes a condition requiring consultation with the NSW Rural Fire Service with respect to compliance with this Direction.

5. REGIONAL PLANNING

Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast

NOT APPLICABLE

Direction 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

PPs must be consistent with a Regional Plan released by the Minister for Planning.

INCONSISTENT

The provisions of the *North Coast Regional Plan 2036* have been addressed in Section 3.2 of this Planning Proposal.

The planning proposal is inconsistent with this Direction as it is rezoning RU1 Primary Production lots to SP2 Infrastructure.

Justification of Inconsistency

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.

Note: The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that any inconsistencies with the *North Coast Regional Plan 2036* have been are minor.

	No further approval is required in relation to this Direction.
Direction 5.11 Development of Aboriginal Land Council Land	NOT APPLICABLE
6. LOCAL PLAN MAKING	
Direction 6.1 Approval and Referral Requirements	
<i>This direction aims to minimise concurrence and referral application to Ministers and public authorities and not classify designated development unless significant impact is likely.</i>	<p>CONSISTENT</p> <p>The Planning Proposal does not include any additional referral requirements.</p>
Direction 6.2 Reserving Land for Public Purposes	
<i>This direction requires land to be reserved for public purposes in accordance with the latest directions of the relevant authority.</i>	<p>INCONSISTENT</p> <p><u>Justification of Inconsistency</u></p> <p>The Planning Proposal seeks to reduce part of land zoned RE1 Public Recreation, which incorporates the Glen Innes Water Treatment Works site. It is more appropriate to zone this site as SP2 Infrastructure as its current and future uses are not consistent with the aims and objectives of the RE1 Public Recreation zone, but are consistent with the aims and objectives of the SP2 Infrastructure zone.</p> <p>Note: The Gateway Determination issued by the Department of Planning, Industry and Environment dated 13 October 2021 has determined that this inconsistency is justified.</p> <p>No further approval is required in relation to this Direction.</p>
Direction 6.3 Site Specific Provisions	
<i>This direction discourages unnecessarily restrictive site controls.</i>	<p>CONSISTENT</p> <p>The Planning Proposal does not recommend any changes to existing provisions of the LEP, that would lead to restrictive site controls outside of current LEP/DCP provisions.</p>
7. METROPOLITAN PLANNING	NO DIRECTIONS APPLICABLE

C

NATURAL DISASTERS CLAUSE GUIDELINE

November 2020

Natural Disasters Local Environmental Plan Clause

Introduction

Clause 5.9 of the Standard Instrument Order (the clause) was introduced to support homeowners whose homes have been damaged or destroyed by natural disasters. The clause applies to development applications (DAs) where development consent is sought to repair or replace a dwelling house or secondary dwelling that was damaged or destroyed by a natural disaster.

The clause was prepared in response to regulatory challenges faced by homeowners seeking to rebuild homes following natural disasters where planning controls in Local Environmental Plans (LEP) have changed over time.

The clause will ensure that development consent can be granted for the repair or replacement of a dwelling that was damaged or destroyed by a natural disaster despite any provisions in the relevant LEP which would otherwise prevent the consent authority from doing so.

The clause intends to eliminate the need for applicants to:

- Prepare formal requests to vary a development standard; or
- Demonstrate the continuance of an existing use in circumstances where dwelling houses or secondary dwellings are no longer permitted with consent in the relevant zone (applicants will need to demonstrate that the existing dwelling was lawfully erected).

Natural Disasters

Natural disasters are naturally occurring, rapid onset events that cause serious disruption to life or property in a community or region, such as floods, bushfires, earthquakes, storms, cyclones, storm surges, landslides and tsunamis. A natural disaster can include a state of emergency declared under section 33 of the *State Emergency and Rescue Management Act 1989*.

The rebuilding or repair of damage or destruction caused by or because of any of these events is development to which the clause applies.

Varying Development Standards

The clause states that consent can be granted to the specified development in a zone where the clause applies despite any other provision of the relevant LEP. For this reason, it is not necessary for applicants to submit a request to vary a development standard where a development standard is contravened. DAs will still undergo a merit assessment to ensure that dwelling houses and secondary dwellings are of an appropriate size, location and design in the context of the site.

In situations where key planning controls or development standards have changed over time, removing the need to formally request a variation under clause 4.6 of the relevant LEP will save time and resources for applicants and consent authorities.

Merit Assessment

For DAs where the clause applies, the consent authority cannot refuse a DA on the basis it does not comply with a development standard or other provision in the applicable LEP.

The proposed development will be assessed on its merits against the relevant considerations under section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and any other applicable legislation.

Any standards or provisions outlined in a State Environmental Planning Policy (SEPP) that are relevant to the DA continue to apply (including any concurrence or referral requirements). Development Control Plan (DCP) provisions also continue to apply.

Evaluation under section 4.15 of the *Environmental Planning and Assessment Act 1979* where the clause applies

For DAs where the clause applies, LEP provisions themselves must not be used as a reason for refusal. However, if the consent authority considers that the risk, or other environmental impact associated with the proposed development is inconsistent with the relevant considerations of section 4.15, the consent authority can refuse the application on that basis.

Example

Due to a period of local severe rains, a river floods and destroys two homes. Although this natural event is not subject to an emergency declaration under section 33 of the *State Emergency and Rescue Management Act 1989*, it is still considered to be a natural disaster and accordingly, the natural disasters clause could potentially be applied to rebuild the destroyed dwelling houses.

Council is unable to refuse the DA to rebuild the destroyed dwelling on the basis that it does not comply with a development standard in the applicable LEP – however, council will be able to undertake a merit assessment under section 4.15 of the EP&A Act. If council considers the site is unsuitable for redevelopment under section 4.15(1)(c) due to flooding concerns, then the DA may be rejected on this basis.

Other Applicable Legislation

The requirements of other applicable legislation referred to in a SEPP, or in the EP&A Act continue to apply to DAs where the clause applies. For example, section 4.14 of the EP&A Act continues to apply for development of bushfire prone land and all relevant requirements of *Planning for Bushfire Protection 2019* must be satisfied.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the *Biodiversity Conservation Act 2016* will also continue to apply to development involving clearing of vegetation and development of land with high biodiversity values. Any relevant assessment and offsetting requirements under that Act must also be met.

Replace and Repair

The clause refers to the *repair* or *replacement* of a lawfully erected dwelling house or secondary dwelling that was damaged in a natural disaster. There is no requirement for the *replacement* or *repair* subject of a DA to be identical to the original dwelling which was destroyed or damaged.

Development consent can be granted for dwelling houses and secondary dwellings that are of a different size, location or design to the original dwelling under the clause. Changes to the design and location of a proposed dwelling may be required to meet the relevant provisions of a DCP, other environmental planning instruments, associated legislation or the requirements of the National Construction Code.

Lawfully Erected

To be a lawfully erected dwelling house or secondary dwelling, it must have been constructed under a valid development consent, building approval or another lawful planning pathway under the EP&A Act or equivalent historical planning legislation.

Further Information

For more information:

Web: www.planningportal.nsw.gov.au/natural-disasters-clause

Phone: 1300 73 44 66

Email: disaster.recovery@planning.nsw.gov.au