

Planning Proposal

Amendment to Lismore LEP 2012 land use tables to allow certain light industries in E1, E2 and RU1 zones

10 February 2025



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EXECUTIVE SUMMARY

This Council-led planning proposal applies to all land zoned E1 Local Centre, E2 Commercial Centre and RU1 Primary Production covered by the Lismore Local Environmental Plan 2012.

The aim of the planning proposal is to include additional light industrial uses as permissible with consent, namely 'creative industries' in the E1 and E2 zones, and 'home industry', 'artisan food and drink industry' and 'creative industry' in the RU1 zone.

In regards to the RU1 zone, the planning proposal initially only sought to include 'artisan food and drink industries' as permissible as consent in the RU1 zone, however Council resolved to expand the planning proposal to encompass all light industries, with the exception of 'high technology industries'. A gateway request for this was made. In accordance with the Gateway alteration received 20 January 2024, the child terms of home industry, artisan food and drink industry and creative industry are now proposed, rather than the parent term of light industries.

The planning proposal also makes minor amendments to the LEP to improve legibility of zone objectives and the functioning of Clause 6.11 *Rural and Nature-based Tourism Development*.

Currently 'creative industries', a type of 'light industry' introduced as part of the NSW Government's employment zones reform, are prohibited in the E1 and E2 zones. Applications for uses such as artist's studios are unable to be assessed unless they can be defined as 'community facilities', which require the building or place to be owned or controlled by a public authority or non-profit community organisation.

While the State Government's agritourism reforms added the new definition farm gate premises, some industries using off-site produce, such as breweries, do not fit the definition and are therefore prohibited. Some rural landowners, including those along the Lismore to Casino rail trail, have indicated a desire to pursue artisan food and drink uses.

Under the State Government's agritourism reforms, up to 100 visitors at a time can now attend a farm gate premises as either exempt or complying development. Currently Lismore LEP 2012 Clause 6.11 *Rural and Nature-based Tourism Development* includes a definition of small scale that requires development to be at a scale that could be generally managed and operated by a principal owner living on the property. If this definition of 'small scale' were to be strictly applied, there may be situations where Council could not approve a development application (DA) that could otherwise be pursued through exempt or complying pathways. The definition is thus considered outdated, and it is also considered that other provisions of Clause 6.11 can allow for a merit assessment in controlling for scale, including an objective that states that the Clause's purpose is to ensure tourism development is small scale, and a section of the Clause that

indicates that development consent must not be granted unless the consent authority is satisfied that the development is small scale and low impact.

The planning proposal also aims to correct an error resulting from the NSW Government's employment zones reform, which led to the inclusion of an E1 zone objective that incorrectly insinuates that the E1 zone is the LGA's primary retail, commercial and entertainment zone.

The planning proposal is consistent with the North Coast Regional Plan 2041 and relevant State Environmental Planning Policies. The proposal is also consistent or justifiably inconsistent with the relevant section 9.1 Ministerial Directions.

This report assesses the merits of the planning proposal in accordance with the Department of Planning & Environment's *Local Environmental Plan Making Guideline* (August 2023). A Gateway determination is sought pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

Objective

The objective of the planning proposal is to:

- amend the Lismore LEP 2012 to allow creative industries to be pursued in the E1 and E2 business zones with development consent,
- amend the Lismore LEP 2012 to allow 'home industry', 'artisan food and drink industry' and 'creative industry' to be pursued in the RU1 Primary Production zone with development consent,
- amend the Lismore LEP 2012 to improve the functioning of Council's Rural and Nature-Based Tourism clause,
- rectify an error in the E1 Local Centre zone objectives resulting from the State Government's employment zones reform.

Intended outcomes

- To provide for the growth of cultural industries in the Lismore CBD and local centres
- To encourage the revitalisation of the Lismore urban area post-flood
- To allow rural landowners to pursue appropriate diversification of rural land
- To strengthen the visitor economy
- To improve clarity of the LEP

PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome of the planning proposal will be achieved by:

- Removing the objective 'To ensure that development is of an appropriate scale to service the needs of the local community and does not detract from the role of the zone as the primary retail, commercial and entertainment centre of Lismore' from the E1 Local Centre zone;
- Adding 'creative industries' as permissible with consent to the E1 and E2 zone land use tables;
- Adding 'home industry', 'artisan food and drink industry' and 'creative industry' as permissible with consent to the RU1 zone land use table;
- Adding 'high technology industries' as prohibited to the RU1 zone land use table;
- Removing the definition of 'small scale' from part (6) of *Clause 6.11 'Rural and nature-based tourism development'*; and
- Adding 'artisan food and drink industries' to part (6)(a) of *Clause 6.11 'Rural and nature-based tourism development'*.

PART 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Section A – Need for the planning proposal

1. *Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

No. The planning proposal has been pursued due to multiple landowner enquiries and recommendations from internal staff. However, the planning proposal is consistent with Council's endorsed LSPS.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

A planning proposal is the best and only way for the additional uses to be pursued.

Section B – Relationship to the strategic planning framework

3. *Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

The planning proposal gives effect to the objectives of the North Coast Regional Plan 2041. See **Appendix 1** for detail on how the proposal gives effect to the Plan.

4. *Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

The planning proposal is consistent with Council's LSPS – Inspire Lismore 2040. The relevant

planning priorities are addressed in **Table 1**.

Table 1: Consistency with Council's LSPS

#	Planning Priority	Consistency
4	Recognise, embrace and protect our cultural heritage.	Arts and creative industries play a vital role in the recognition, embrace and protection of cultural heritage. Allowing for creative industries to be pursued in our CBD and local centres will help to strengthen cultural heritage.
5	Identify & support the expansion of emerging industries	Council has received enquiries relating to both expansion of creative industries and agricultural diversification in the form of artisan food and drink industries. The planning proposal will support the expansion of these industries.
6	Expand agriculture & agribusiness while protecting productive agricultural land.	Action A6.2 is 'Amend the LEP to identify opportunities for diversification and value adding, while protecting the village lifestyle from excessive traffic and noise pollution.' Council will be able to manage noise pollution and traffic from any artisan food and drink industries through the DA process, and by adding 'artisan food and drink industries' to the list of uses covered by LEP Clause 6.11 Rural and nature-based tourism development. Subsequent changes to DCP Chapter 4 (Rural and Nature-Based Tourism Development) will also be undertaken. The change to the LEP will also support additional activities along the Lismore to Casino rail trail and the future Lismore to Eltham rail trail.
7	Revitalise the City Heart and create linkages to a reactivated River Precinct.	Creative industries are key to revitalisation of the Lismore CBD post-flood.

5. *Is the planning proposal consistent with any other applicable State and regional studies or strategies?*

The planning proposal is not inconsistent with any State and regional study or strategy.

6. *Is the planning proposal consistent with applicable SEPPs?*

The planning proposal only makes minor amendments to clauses and does not include any specific land parcels. As such, the planning proposal does not preclude the application of, and is consistent with, relevant State Environmental Planning Policies.

7. *Is the Planning Proposal consistent with applicable s9.1 Ministerial Directions?*

The planning proposal is consistent, or justifiably inconsistent, with the applicable section 9.1 Ministerial Directions. Refer to **Appendix 2** for s9.1 compliance table.

Section C – Environmental, social and economic impact

8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?*

The planning proposal does not apply to any specific parcel of land. There is the potential that some of the light industry child terms could potentially impact upon biodiversity on rural land, as some rural land includes biodiversity value, however it is considered that other provisions of the LEP, DCP and SEPPs would appropriately manage any impacts as part of any development application assessment. Any potential impacts would also need to satisfactorily address any relevant sections of the Biodiversity Conservation Act 2016 at the DA stage.

9. *Are there any other likely environmental effects of the Planning Proposal and how are they proposed to be managed?*

There are no other likely environmental effects that cannot be managed appropriately through existing provisions of the LEP, DCP and relevant SEPPs as part of any development application assessment.

10. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal does not apply to any specific parcel of land. The planning proposal will allow for creative industry uses in the E1 and E2 zone, which are likely to improve economic use of land, and improve social outcomes through assisting in revitalisation of the Lismore CBD and local centres.

Regarding the addition of light industry child terms to the RU1 zone, providing additional pathways for diversification of rural industries is likely to have a positive economic outcome. Potential detrimental economic and social impacts can be managed through the DA process. For artisan food and drink premises, this includes compliance with LEP Clause 6.11 'Rural and nature-based tourism development', which requires development to be small-scale in nature and consider and address impacts including compatibility with agricultural production and the natural environment, noise, traffic, parking, light spill and sewage management. Additionally, scale of artisan food and drink, home industry and creative industries in rural zones is controlled through LEP Clause 5.4 'Controls relating to miscellaneous permissible uses' and subsequent amendments will be made to Council's relevant DCP chapter to manage impacts on surrounding lands.

Section D – Infrastructure (Local, State and Commonwealth)

11. *Is there adequate public infrastructure for the planning proposal?*

Council's existing E1 and E2 zones are well-serviced and will not require additional public infrastructure.

Light industry child terms in RU1 areas may, depending on estimated traffic volumes, require upgrade of public roads. For artisan food and drink industries, this would be conditioned in line with Council's Rural and Nature-based Tourism DCP during the DA process, and development would also be subject to s7.11 local contributions. Other permissible light industry uses would

also, where connection to reticulated water supply is not available, need to satisfy Council regarding provision of water.

Section E – State and Commonwealth Interests

12. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

No consultation has been conducted pre-Gateway. Relevant state and federal public authorities and government agencies will be consulted in line with any Gateway condition.

PART 4 – MAPPING

The planning proposal does not include changes to any mapping. It only involves changes to land use tables, objectives and the list of uses captured under Clause 6.11. Suggested amendments are detailed at **Appendix 3**; however, the amending instrument will be drafted by the Parliamentary Counsel's Office (PCO).

PART 5 – COMMUNITY CONSULTATION

Council will commence community consultation in accordance with any Gateway determination. Public exhibition will be undertaken in accordance with the DPE *Local Environmental Plan Making Guideline* – August 2023 and Council's Community Participation Plan.

PART 6 – PROJECT TIMELINE

The proposed timeline for the completion of the planning proposal is as follows:

Estimated Completion	Plan Making Steps
November 2024	Report planning proposal to Council
February 2025	Gateway determination issued by Department of Planning, Housing and Infrastructure (DPHI)
February-March 2025	Amend planning proposal report in accordance with Gateway
March 2025	Commence agency consultation
March 2025	Commence public exhibition
April-May 2025	Consideration of submissions
June 2025	Report to Council – consultation and submissions analysis
June 2025	Submission to Department for finalisation (where applicable)
July 2025	Gazettal of LEP amendment

APPENDIX 1

NORTH COAST REGIONAL PLAN 2041 - COMPLIANCE TABLE

Objective	Compliance
Goal 1: Liveable, sustainable and resilient	
1. Provide well located homes to meet demand	N/A
2. Provide for more affordable and low cost housing	N/A
3. Protect regional biodiversity and areas of high environmental value	N/A
4. Understand, celebrate and integrate Aboriginal culture	N/A
5. Manage and improve resilience to shocks and stresses, natural hazards and climate change	N/A
6. Create a circular economy	N/A
7. Promote renewable energy opportunities	N/A
8. Support the productivity of agricultural land	The North Coast Regional plan notes that encouraging greater diversity in the agricultural sector can make the sector more sustainable and resilient, and that local plans should aim to permit a range of compatible non-agricultural land uses in rural zones to support the diversification of agricultural producers. This planning proposal adds an additional land use that allows for greater diversification.
9. Sustainably manage and conserve water resources	N/A
10. Sustainably manage the productivity of our natural resources	N/A
Goal 2: Productive and connected	
11. Support cities and centres and coordinate the supply of well-located employment land	N/A
12. Create a diverse visitor economy	The addition of creative industries to the E1 and E2 zones will support the arts sector, which is an important part of Lismore's visitor economy. The addition of certain light industries to the RU1 zone will support the visitor economy, particularly artisan food and drink uses at sites around the rail trail from Lismore to Casino and future connection between Lismore and Eltham. Most land around the rail trail is zoned RU1.
13. Champion Aboriginal self-determination	N/A
14. Deliver new industries of the future	Lismore is a creative hub, and creative industries are key to Lismore's future and recovery. Providing a pathway for creative industries in the E1 and E2 zones will help ensure a strong future for Lismore's creative sector. Similarly, tourist and visitor experiences are considered a key element of Lismore's future visitor economy, particularly around infrastructure such as the rail trail. Providing for certain light industries such as artisan food and drink, home industry and creative industries in the RU1 zone will encourage diversification of rural lands and support a thriving visitor economy.

Objective	Compliance
15. Improve state and regional connectivity	N/A
16. Increase active and public transport usage	N/A
17. Utilise new transport technology	N/A
Goal 3: Growth Change and Opportunity	
18. Plan for sustainable communities	N/A
19. Public spaces and green infrastructure support connected and healthy communities	N/A
20. Celebrate local character	Arts and creative endeavours are a key part of Lismore's local character and identity. Providing for creative industries in our key centres will reinforce Lismore's role as a creative hub.

APPENDIX 2

SECTION 9.1 MINISTERIAL DIRECTIONS COMPLIANCE TABLE

Ministerial Directions	Requirements	Compliance
1. Planning Systems		
1.1 Implementation of Regional Plans	(1) Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	See Appendix 1
1.2 Development of Aboriginal Land Council land	(1) When preparing a planning proposal to which this direction applies, the planning proposal authority must take into account: (a) any applicable development delivery plan made under the chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021; or (b) if no applicable development delivery plan has been published, the interim development delivery plan published on the Department's website on the making of this direction.	N/A
1.3 Approval and Referral Requirements	(1) A planning proposal to which this direction applies must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and (c) not identify development as designated development unless the relevant planning authority: i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.	Consistent

Ministerial Directions	Requirements	Compliance
1.4 Site Specific Provisions	<p>(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:</p> <ul style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.</p>	N/A
3. Biodiversity and Conservation		
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".</p>	N/A
3.2 Heritage Conservation	<p>(1) A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, 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 	N/A

Ministerial Directions	Requirements	Compliance
	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 relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	(1) A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations.	N/A
3.5 Recreation Vehicle Areas	<p>(1) 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):</p> <ul style="list-style-type: none"> (a) where the land is within a conservation 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 (a) or (b) unless the relevant planning authority has taken into consideration: <ul style="list-style-type: none"> 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 	N/A
3.6 Strategic Conservation Planning	<p>(1) A planning proposal authority must be satisfied that a planning proposal that applies to avoided land identified under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 demonstrates that it is consistent with:</p> <ul style="list-style-type: none"> (a) the protection or enhancement of native vegetation, (b) the protection or enhancement of riparian corridors, including native vegetation and water quality, (c) the protection of threatened ecological communities, threatened species and their habitats, 	N/A

Ministerial Directions	Requirements	Compliance
	<p>(d) the protection or enhancement of koala habitat and corridors, and</p> <p>(e) the protection of matters of national environmental significance.</p> <p>(2) A planning proposal authority must be satisfied that a planning proposal that applies to a strategic conservation area identified under the State Environmental Planning Policy (Biodiversity and Conservation) 2021 demonstrates that it is consistent with:</p> <p>(a) the protection or enhancement of native vegetation,</p> <p>(b) the minimisation of impacts on areas of regionally significant biodiversity, including threatened ecological communities, threatened species and their habitats,</p> <p>(c) the protection or enhancement of koala habitat and corridors, including habitat connectivity and fauna movement, and links to ecological restoration areas, and</p> <p>(d) the maintenance or enhancement of ecological function.</p> <p>(3) A planning proposal must not rezone land identified as avoided land in the State Environmental Planning Policy (Biodiversity and Conservation) 2021 to:</p> <p>(a) a rural, residential, business, industrial, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE2 Private Recreation, or equivalent zone.</p> <p>(4) A planning proposal must not rezone land identified as a strategic conservation area in the State Environmental Planning Policy (Biodiversity and Conservation) 2021 to:</p> <p>(a) RU4, RU5, RU6, residential, business, industrial, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE2 Private Recreation, or equivalent zone.</p>	
3.10 Water Catchment Protection	<p>(1) When preparing a planning proposal, the planning proposal authority must be satisfied that the planning proposal achieves the following:</p> <p>(a) is consistent with the objectives of this direction,</p> <p>(b) is consistent with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality, as published by Water Quality Australia, and any water quality management plan prepared in accordance with those guidelines,</p> <p>(c) includes documentation, prepared by a suitably qualified person(s),</p>	N/A

Ministerial Directions	Requirements	Compliance
	<p>indicating whether the planning proposal:</p> <ul style="list-style-type: none"> i. is likely to have an adverse direct, indirect or cumulative impact on terrestrial, aquatic or migratory animals or vegetation, and any steps taken to minimise such impacts ii. is likely to have an impact on periodic flooding that may affect wetlands and other riverine ecosystems iii. is likely to have an adverse impact on recreational land uses within the regulated catchment <p>(d) identifies and considers the cumulative impact of the planning proposal on water quality (including groundwater) and flows of natural waterbodies and on the environment more generally, including on land adjacent to or downstream of the area to which this direction applies,</p> <p>(e) identifies how the planning proposal will:</p> <ul style="list-style-type: none"> i. protect and improve environmental values, having regard to maintaining biodiversity, and protecting native vegetation, cultural heritage and water resources (including groundwater), ii. impact the scenic quality of the natural waterbodies and the social, economic and environmental interests of the community, iii. protect and rehabilitate land from current and future urban salinity, and prevent or restore land degradation, <p>(f) considers any feasible alternatives to the planning proposal.</p> <p>(2) When preparing a planning proposal, the planning proposal authority must:</p> <ul style="list-style-type: none"> (a) consult with the councils of adjacent or downstream local government areas where the planning proposal is likely to have an adverse environmental impact on land in that local government area, and (b) as far as is practicable, give effect to any requests of the adjacent or downstream council. 	
4. Resilience and Hazards		
4.1 Flooding	(1) A planning proposal must include provisions that give effect to and are consistent with:	N/A

Ministerial Directions	Requirements	Compliance
	<ul style="list-style-type: none"> (a) the NSW Flood Prone Land Policy, (b) the principles of the Floodplain Development Manual 2005, (c) the Considering flooding in land use planning guideline 2021, and (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council. <p>(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.</p> <p>(3) A planning proposal must not contain provisions that apply to the flood planning area which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit development for the purposes of residential accommodation in high hazard areas, (d) permit a significant increase in the development and/or dwelling density of that land, (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent, (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event. 	

Ministerial Directions	Requirements	Compliance
	<p>(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the dwelling density of that land, (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities. <p>(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.</p>	
4.2 Coastal Management	<p>(1) A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land. <p>(2) A planning proposal must not rezone land which would enable increased</p>	N/A

Ministerial Directions	Requirements	Compliance
	<p>development or more intensive land-use on land:</p> <ul style="list-style-type: none"> (a) within a coastal vulnerability area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021; or (b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: <ul style="list-style-type: none"> i. by or on behalf of the relevant planning authority and the planning proposal authority, or ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority. <p>(3) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>(4) A planning proposal for a local environmental plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021:</p> <ul style="list-style-type: none"> (a) Coastal wetlands and littoral rainforests area map; (b) Coastal vulnerability area map; (c) Coastal environment area map; and (d) Coastal use area map. <p>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.</p>	
4.3 Planning for Bushfire Protection	<p>(1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>(2) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to Planning for Bushfire Protection 2019, 	<p>Consultation with RFS will be conducted post-Gateway</p>

Ministerial Directions	Requirements	Compliance
	<p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</p> <p>(3) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <p>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <ul style="list-style-type: none"> i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area</p>	
4.4 Remediation of Contaminated Land	<p>(1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <p>(a) the planning proposal authority has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its</p>	N/A

Ministerial Directions	Requirements	Compliance
	<p>contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p> <p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>(2) Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p>	
4.5 Acid Sulfate Soils	<p>(1) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(2) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <p>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or</p> <p>(b) other such provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</p> <p>(3) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</p>	N/A

Ministerial Directions	Requirements	Compliance
	(4) Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).	
4.5 Mine Subsidence and Unstable Land	<p>(1) When preparing a planning proposal that would permit development on land that is within a declared mine subsidence district, a relevant planning authority must:</p> <p>(a) consult Subsidence Advisory NSW to ascertain:</p> <p>i. if Subsidence Advisory NSW has any objection to the draft local environmental plan, and the reason for such an objection, and</p> <p>ii. the scale, density and type of development that is appropriate for the potential level of subsidence, and</p> <p>(b) incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under 1(a)(ii), and</p> <p>(c) include a copy of any information received from Subsidence Advisory NSW with the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary prior to undertaking community consultation in satisfaction of Schedule 1 to the Act.</p> <p>(2) A planning proposal must not permit development on land that has been identified as unstable as referred to in the application section of this direction.</p>	N/A
5. Transport and Infrastructure		
5.1 Integrating Land Use and Transport	<p>(1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	N/A
5.2 Reserving Land for Public Purposes	(1) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority	N/A

Ministerial Directions	Requirements	Compliance
	<p>and the Planning Secretary (or an officer of the Department nominated by the Secretary).</p> <p>(2) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) reserve the land in accordance with the request, and (b) include the land in a zone appropriate to its intended future use or a zone advised by the Planning Secretary (or an officer of the Department nominated by the Secretary), and (c) identify the relevant acquiring authority for the land. <p>(3) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) include the requested provisions, or (b) take such other action as advised by the Planning Secretary (or an officer of the Department nominated by the Secretary) with respect to the use of the land before it is acquired. <p>(4) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</p>	
5.3 Development Near Regulated Airports and Defence Airfields	<p>(1) In the preparation of a planning proposal that sets controls for development of land near a regulated airport, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) consult with the lessee/operator of that airport; (b) take into consideration the operational airspace and any advice from the lessee/operator of that airport; (c) for land affected by the operational airspace, prepare appropriate development standards, such as height controls. 	N/A

Ministerial Directions	Requirements	Compliance
	<p>(d) not allow development types that are incompatible with the current and future operation of that airport.</p> <p>(2) In the preparation of a planning proposal that sets controls for development of land near a core regulated airport, the relevant planning authority must:</p> <p>(a) consult with the Department of the Commonwealth responsible for airports and the lessee/operator of that airport;</p> <p>(b) for land affected by the prescribed airspace (as defined in clause 6(1) of the Airports (Protection of Airspace) Regulation 1996, prepare appropriate development standards, such as height controls.</p> <p>(c) not allow development types that are incompatible with the current and future operation of that airport.</p> <p>(d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal seeks to allow, as permissible with consent, development that would constitute a controlled activity as defined in section 182 of the Airports Act 1996. This permission must be obtained prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.</p> <p>(3) In the preparation of a planning proposal that sets controls for the development of land near a defence airfield, the relevant planning authority must:</p> <p>(a) consult with the Department of Defence if:</p> <p>i. the planning proposal seeks to exceed the height provisions contained in the Defence Regulations 2016 – Defence Aviation Areas for that airfield; or</p> <p>ii. no height provisions exist in the Defence Regulations 2016 – Defence Aviation Areas for the airfield and the proposal is within 15km of the airfield.</p> <p>(b) for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</p> <p>(c) not allow development types that are incompatible with the current and future operation of that airfield.</p> <p>(4) A planning proposal must include a provision to ensure that development meets Australian Standard 2021 – 2015, Acoustic- Aircraft Noise Intrusion – Building siting and construction with</p>	

Ministerial Directions	Requirements	Compliance
	<p>respect to interior noise levels, if the proposal seeks to rezone land:</p> <p>(a) for residential purposes or to increase residential densities in areas where the Australian Noise Exposure Forecast (ANEF) is between 20 and 25; or</p> <p>(b) for hotels, motels, offices or public buildings where the ANEF is between 25 and 30; or</p> <p>(c) for commercial or industrial purposes where the ANEF is above 30.</p> <p>(5) A planning proposal must not contain provisions for residential development or to increase residential densities within the 20 Australian Noise Exposure Concept (ANEC)/ANEF contour for Western Sydney Airport.</p>	
5.4 Shooting Ranges	<p>(1) A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of:</p> <p>(a) permitting more intensive land uses than those which are permitted under the existing zone; or</p> <p>(b) permitting land uses that are incompatible with the noise emitted by the existing shooting range</p>	N/A
6. Housing		
6.1 Residential Zones	<p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <p>(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</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	N/A
6.2 Caravan Parks and Manufactured Home Estates	<p>(1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p>	N/A

Ministerial Directions	Requirements	Compliance
	<p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p> <p>(2) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 6 of State Environmental Planning Policy (Housing) 2021 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 125 of State Environmental Planning Policy (Housing) 2021 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</p>	
7: Industry and Employment		
7.1 Employment Zones	<p>(1) A planning proposal must:</p> <p>(a) give effect to the objectives of this direction,</p> <p>(b) retain the areas and locations of Employment zones,</p> <p>(c) not reduce the total potential floor space area for employment uses and related public services in Employment Zones,</p> <p>(d) not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</p> <p>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary.</p>	Consistent. The planning proposal encourages employment growth in suitable locations and supports the viability of identified centres.
8: Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	<p>(1) In the preparation of a planning proposal affected by this direction, the relevant planning authority must:</p>	N/A

Ministerial Directions	Requirements	Compliance
	<p>(a) consult the Secretary of the Department of Primary Industries (DPI) to identify any:</p> <ul style="list-style-type: none"> i. resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and ii. existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal, and <p>(b) seek advice from the Secretary of DPI on the development potential of resources identified under (1)(a)(i), and</p> <p>(c) identify and take into consideration issues likely to lead to land use conflict between other land uses and:</p> <ul style="list-style-type: none"> i. development of resources identified under (1)(a)(i), or ii. existing development identified under (1)(a)(ii). <p>(2) Where a planning proposal prohibits or restricts development of resources identified under (1)(a)(i), or proposes land uses that may create land use conflicts identified under (1)(c), the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions, (b) allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and (c) include a copy of any objection and supporting information received from the Secretary of DPI with the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary before undertaking community consultation in satisfaction of Schedule 1 to the Act. 	
9: Primary Production		
9.1 Rural Zones	<p>(1) A planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. 	N/A
9.2 Rural Lands	<p>(1) A planning proposal must:</p> <ul style="list-style-type: none"> (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any 	Consistent. The planning proposal promotes opportunities for investment in productive, diversified, innovation and sustainable rural economic activities. The planning proposal is consistent with the North Coast Regional Plan and LSPS, while

Ministerial Directions	Requirements	Compliance
	<p>applicable local strategic planning statement</p> <p>(b) consider the significance of agriculture and primary production to the State and rural communities</p> <p>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</p> <p>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>(f) support farmers in exercising their right to farm</p> <p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</p>	<p>Council's LEP Clause 6.11 includes controls to protect agricultural productivity, and the social and environmental interests of the community.</p>

Ministerial Directions	Requirements	Compliance
	<p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p> <p>Note: where a planning authority seeks to vary an existing minimum lot size within a rural or conservation zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16 of the relevant Local Environmental Plan.</p>	
9.3 Oyster Aquaculture	<p>(1) In the preparation of a planning proposal the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) identify any 'Priority Oyster Aquaculture Areas' and oyster aquaculture leases outside such an area, as shown the maps to the Strategy, to which the planning proposal would apply, (b) identify any proposed land uses which could result in any adverse impact on a 'Priority Oyster Aquaculture Area' or oyster aquaculture leases outside such an area, (c) identify and take into consideration any issues likely to lead to an incompatible use of land between oyster aquaculture and other land uses and identify and evaluate measures to avoid or minimise such land use in compatibility, (d) consult with the Secretary of the Department of Primary Industries (DPI) of the proposed changes in the preparation of the planning proposal, and (e) ensure the planning proposal is consistent with the Strategy. <p>(2) Where a planning proposal proposes land uses that may result in adverse impacts identified under (1)(b) and (1)(c), relevant planning authority must:</p> <ul style="list-style-type: none"> (a) provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions, (b) allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and (c) include a copy of any objection and supporting information received from the Secretary of DPI with the statement to the Planning Secretary before undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. 	N/A
9.4 Farmland of State and Regional Significance on	<p>(1) A planning proposal must not:</p> <ul style="list-style-type: none"> (a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes. 	N/A. The planning proposal does not rezone any land.

Ministerial Directions	Requirements	Compliance
the NSW Far North Coast	(b) rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes. (c) rezone land identified as “significant non-contiguous farmland” for urban or rural residential purposes.	

APPENDIX 3

PROPOSED LEP CHANGES

Land Use Table Zone RU1 Primary Production

Insert 'home industry', 'artisan food and drink industry' and 'creative industry' to **3 Permitted with consent**

Insert 'High Technology Industries' to **4 Prohibited**

Land Use Table Zone E1 Local Centre

Omit 'To ensure that development is of an appropriate scale to service the needs of the local community and does not detract from the role of the zone as the primary retail, commercial and entertainment centre of Lismore' from **1 Objectives of zone**

Insert 'Creative Industries' to **3 Permitted with consent**

Land Use Table Zone E2 Commercial Centre

Insert 'Creative Industries' to **3 Permitted with consent**

Clause 6.11(6), definition of "small scale"

Omit definition of 'small scale'

Clause 6.11(6), definition of "tourism development"

Insert 'Artisan Food and Drink Industries' to (a)