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Planning Proposal Gwydir Shire

Minor Revisions to LEP

Revision 2.0

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Gwydir LEP revision – Planning Proposal

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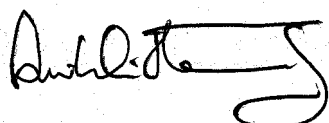
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- It contains all relevant available information that is current at the time of release.



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INTRODUCTION

At present, all exempt development carried out in the LGA relies upon the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (hereafter ‘the SEPP’). However, given the specific levels of development within the town and rural areas of the LGA, a slightly more lenient approach to exempt development is desired in respect of a range of developments.

PART 1 – OBJECTIVES AND INTENDED OUTCOMES

PROPOSAL OBJECTIVE

Objective 1: To provide amended development standards for a range of developments that can benefit from more lenient provisions due to their rural location.

The intended outcomes of the proposed changes are as follow:

1. Reduce the load on the planning assessment team by diverting some low-impact developments to the exempt development category.
2. Simplify development approval requirements and facilitate the construction of appropriate rural infrastructure with minimal external impacts.

PART 2 – EXPLANATION OF PROVISIONS

The following proposed clauses have been copied and modified from State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. They all relate to entries in Part 2 Exempt Development Codes. The changed sections are highlighted in yellow, and details are provided in the right hand column.

Proposed Additions to Schedule 2 Exempt Development of Gwydir Local Environmental Plan 2012	Change and Purpose
<p>Balconies, decks, patios, pergolas, terraces and verandahs</p> <p>2.11 Specified development</p> <p>The following development is specified for this code—</p> <p>(a) the construction or installation of a balcony, deck, patio, pergola, terrace or verandah, whether free standing or attached to the ground floor level of a building, or roofed or unroofed, if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area,</p> <p>(b) the replacement of a deck if the deck is not higher than 1m above ground level</p> <p>2.12 Development standards</p> <p>(1) The standards specified for the development specified in clause 2.11(a) are that the development must—</p> <p>(a) (Repealed)</p> <p>(b) have an area of not more than 25m², and</p> <p>(c) not cause the total floor area of all such structures on the lot to be more than—</p> <p style="padding-left: 40px;">(i) for a lot larger than 300m²—15% of the ground floor area of the dwelling on the lot, or</p>	<p>Difference to SEPP: Delete “if the deck is not higher than 1m above ground level”. Comment: There is no need to impose a height limit – “replacement” implies the height would be the same as previously.</p>

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- (ii) for a lot 300m² or less—25m², and
- (d) not have an enclosing wall higher than 1.4m, and
- (e) be located—
 - (i) if carried out in connection with farm experience premises or farm gate premises—more than 50m from a road, or
 - (ii) otherwise—behind the building line of a road frontage, and
- (f) be located at a distance from each lot boundary of at least—
 - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
 - (ii) for development carried out in any other zone—900mm, and
- (g) (Repealed)
- (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (i) have a floor height not more than 1m above ground level (existing), and
- (i1) if it is a roofed structure—have a roof that does not overhang the structure by more than 600mm on each side,
- (j) if it is a roofed structure attached to a dwelling—not extend above the roof gutter line of the dwelling, and
- (j1) be no higher than 3m at its highest point above ground level (existing), and
- (k) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and

<p>(l) be constructed or installed so that any roofwater is disposed of into an existing stormwater drainage system, or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property, and</p> <p>(m) not interfere with the functioning of existing drainage fixtures or flow paths, and</p> <p>(n) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material. and</p> <p>() (Repealed)</p> <p>(2) The standards specified for the development specified in clause 2.11(b) are that the development must—</p> <p>(a) use equivalent or improved quality materials, and</p> <p>(b) not change the size or height of the existing deck.</p> <p>(3) Subclause (1)(h) does not apply to development carried out in connection with a building used for the purposes of farm stay accommodation, farm gate premises or farm experience premises.</p>	<p>Difference to SEPP: Add the words indicated. Comment: Many country towns/rural properties do not have formal stormwater systems.</p>
<p>Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses</p> <p>2.17 Specified development</p> <p>The construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or greenhouse is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, on land in a foreshore area or in an environmentally sensitive area.</p> <p>2.18 Development standards</p>	

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- (1) The standards specified for that development are that the development must—
- (a) (Repealed)
 - (b) not have a floor area of more than—
 - (i) on land in Zone RU1, RU2, RU3, RU4, RU6 or R5—100m², or
 - (ii) on land in any other zone—50m², and
 - (c) be not higher than 3m above ground level (existing), and
 - (d) be located at a distance from each lot boundary of at least—
 - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
 - (ii) for development carried out in any other zone—900mm, and
 - (e) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and
 - (f) not be a shipping container, and
 - (g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property, and
 - (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials if it is located on land in a residential zone, and
 - (i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
 - (j) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and

Difference to SEPP: Change 50 to 100 in (i) and change 20 to 50 in (ii). **Comment:** More realistic areas given that rural lot sizes are generally larger particularly in Gwydir Shire.

Difference to SEPP: Add the words indicated. **Comment:** Many country towns/rural properties do not have formal stormwater systems.

<ul style="list-style-type: none"> (k) if it is located adjacent to another building—be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building, and (l) be a Class 10 building and not be habitable, and (m) be located at least 1m from any registered easement, and (n) in relation to a cabana—not be connected to water supply or sewerage services. (2) There must not be more than 2 developments per lot. 	
<p>Carports</p> <p>2.19 Specified development</p> <p>The construction or installation of a carport is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area. Carport means a roofed structure for the shelter of motor vehicles that has 2 or more sides open and not less than one-third of its perimeter open</p> <p>2.20 Development standards</p> <p>(1) The standards specified for that development are that the development must—</p> <ul style="list-style-type: none"> (a) not result in a building classified under the <i>Building Code of Australia</i> as class 7a, and (b) not have a floor area more than— <ul style="list-style-type: none"> (i) for a lot larger than 300m² in a rural zone or Zone R5—85m², or (iii) for a lot larger than 300m² in a zone other than a rural zone or Zone R5—25m², or (i) for a lot 300m² or less in any zone—20m², and 	<p>Difference to SEPP: Adds in the definition of Carport from Cl 1.5(1)a of the SEPP. Comment: Ensures consistency with the SEPP definition.</p> <p>Difference to SEPP: maximum size changed from 50 to 85. Comment: allows for larger size carports as exempt development.</p>

- (c) be not higher than 3m above ground level (existing) and, if attached to an existing single storey dwelling, be not higher than the roof gutter line, and
- (d) be located at least 1m behind the building line of any road frontage, and
- (e) be located at a distance from each lot boundary of at least—
 - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
 - (ii) for development carried out in any other zone—900mm, and
- (f) (Repealed)
- (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (h) not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the Roads Act 1993, and
- (i) be constructed or installed so that any roofwater is disposed of into the existing stormwater drainage system, **or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property**, and
- (j) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and
- (k) (Repealed)
- (l) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and

Difference to SEPP: Add the words indicated.
Comment: Many country towns/rural properties do not have formal stormwater systems.

<p>(m) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and</p> <p>(n) be located so that it does not reduce vehicular access to, or parking or loading or unloading on, or from, the lot.</p> <p>Note. See the definition of carport in clause 1.5(1) that sets out additional requirements for carports.</p> <p>(2) The roof of the development must be located at least 500mm from each lot boundary.</p> <p>(3) There must not be more than 1 development—</p> <p>(a) per lot if there is a dwelling on the lot, or</p> <p>(b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.</p>	<p>Difference to SEPP: words deleted from here and placed as part of Specified Development.</p> <p>Comment: to ensure compliance with the definition of Carport without need to include all of clause 1.5(1).</p>
<p>Subdivision 10B Change of use of places of public worship</p> <p>2.20C Specified development</p> <p>A change from a current use to a new use that is a change from a place of public worship to another place of public worship or a place of public assembly is development specified for this code.</p> <p>2.20D Development standards</p> <p>The standards specified for that development are that—</p> <p>(a) the current use must be a lawful use, and</p> <p>(b) the current use must not be an existing use within the meaning of section 4.65 of the Act, and</p> <p>(c) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car</p>	<p>Difference to SEPP: indicated words added.</p> <p>Comment: no difference in impact, and adds flexibility.</p>

<p>parking, vehicular movement, traffic generation, loading, waste management and landscaping, and</p> <p>(d) the new use must not increase or create significant adverse environmental impacts by reason of noise, waste products or traffic generation.</p>	
<p>Subdivision 14 Driveways and hard stand spaces</p> <p>2.27 Specified development</p> <p>The following development is specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, in a heritage conservation area or a draft heritage conservation area, on land in a foreshore area or in an environmentally sensitive area—</p> <p>(a) the construction or installation of a driveway associated with access to an open hard stand space, a carport, a loading bay or a garage,</p> <p>(b) the construction or installation of a hard stand space associated with a driveway, whether open or part of a carport.</p> <p>2.28 Development standards</p> <p>The standards specified for that development are that the development must—</p> <p>(a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property, and</p> <p>(b) be constructed in accordance with AS/NZS 2890.1:2004, <i>Parking facilities, Part 1: Off-street car parking</i> or AS 2890.2:2018, <i>Parking facilities, Part 2: Off-street commercial vehicle facilities</i>, and</p> <p>(c) if the development is ancillary development to a dwelling—not require cut or fill more than 600mm below or above ground level (existing), and</p>	<p>Difference to SEPP: Add the words indicated. Comment: Many country towns/rural properties do not have formal stormwater systems.</p>

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- (d) if the development is not ancillary development to a dwelling—not require cut or fill more than 1m below or above ground level (existing), and
- (e) if the development is a driveway—
 - (i) not be wider than the open hard stand space, carport or garage with which it is associated, and
 - (ii) be constructed in accordance with the relevant road authority’s policy and specifications on vehicle and driveway crossings, and
 - (i) be subject to written consent from the relevant roads authority (if required under section 138 of the [Roads Act 1993](#)) for the building of any kerb, crossover or driveway, and
- (f) if the development is a hard stand space—
 - (i) measure at least 2.6m wide by 5.4m long, and
 - (ii) have an area of not more than 20m², and
 - (iii) if the development is ancillary to a dwelling—be located at least 1m behind the building line of any road frontage (other than a laneway) and at least 900mm from each side or rear boundary, and
 - (iv) in any other case—be located clear of any required landscaped area, and
- (g) if the development is constructed or installed in a residential zone or rural zone—not result in the total area of all driveways or hard stand spaces, pathways and paved areas on the lot exceeding 15% of the area of the lot or 150m², whichever is the lesser, and
- (h) if constructed or installed in a residential zone—
 - (i) if a lot has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and

<p>(ii) if a lot has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area.</p>	
<p>Subdivision 16 Farm buildings (other than stock holding yards, grain silos and grain bunkers)</p> <p>2.31 Specified development</p> <p>The construction or installation of a farm building (other than a stock holding yard, grain silo or grain bunker) that is not used for habitable purposes is development specified for this code if it is—</p> <ul style="list-style-type: none"> (a) constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6, and (b) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area, and (c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport. <p>Note 1. <i>Farm building</i> is defined in the Standard Instrument as a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.</p> <p>Note 2. Subdivisions 16A and 16B make special provision for farm buildings that are stock holding yards, grain silos or grain bunkers.</p> <p>2.32 Development standards</p> <p>(1) The following standards are specified for that development—</p>	

- (a) the development must not be higher than—
 - (i) for a landholding that has an area of less than 10ha—7m above ground level (existing), and
 - (ii) for a landholding that has an area of 10ha to 200ha—10m above ground level (existing),
 - (iii) for a landholding that has an area of greater than 200ha – no limit.
- (b) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,
- (c) if the development—
 - (i) is on a landholding that has an area of more than 4ha, and
 - (ii) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and
 - (iii) is located within 100m of that ridgeline,it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,
- (d) subject to paragraph (e), the footprint of a farm building must not exceed 500m²,
- (e) the footprint of all farm buildings (other than grain bunkers) on a landholding must not exceed the footprint shown in the following table—

Difference to SEPP: Add the words indicated.
Comment: For large properties, there is no need to limit building height provided suitable boundary setbacks are achieved.

Landholding area	Maximum footprint of all farm buildings (other than grain bunkers)	
0–4ha	2.5% of the area of the landholding	
>4ha–10ha	1,000m ²	
>10ha-200 ha	2,000m ²	<p>Difference to SEPP: Add the words indicated. Comment: For large properties, more generous footprint allowances can be provided.</p>
>200ha-1000ha	4,000m ²	
>1,000ha	10,000m ²	
<p>(f) the development must be located at least 20m from any road boundary and have a minimum setback from any other boundary as shown in the table to this paragraph—</p>		
Building footprint	Minimum setback from boundary	
0–100m ²	10m	
>100m ² –200m ²	50m	
>200m ² – 500m ²	100m	<p>Difference to SEPP: Add the words indicated. Comment: For larger building footprints, setbacks should be greater.</p>
>500m ²	200m	
<p>(g) a farm building must be located at least 6m from any other farm building (including any farm building that is a stock holding yard, grain silo or grain bunker) on the landholding or on an adjoining landholding,</p>		
<p>(h) the development must be located at least 50m from a waterbody (natural),</p>		
<p>(i) the development must be designed by, and constructed in accordance with the specifications of, a professional engineer,</p>		

<p>(j) if the development is a shipping container, there must not be more than the following number of shipping containers per landholding—</p> <ul style="list-style-type: none"> (i) for a landholding that has an area of less than 400ha—1, (v) for a landholding that has an area of 400ha or more—5, <p>(k) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority,</p> <p>(l) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.</p> <p>(2) In this clause, <i>footprint</i> means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.</p> <p>Note 1. There are other existing legislative requirements relating to the clearance of power lines, substations and Obstacle Limitation Surfaces near airport flight paths.</p> <p>Note 2. The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p>	
<p>Subdivision 16B Grain silos and grain bunkers</p> <p>2.32C Specified development</p> <p>(1) The construction or installation of a farm building that is a grain silo or grain bunker that is not</p>	

used for habitable purposes is development specified for this code if it is—

- (a) constructed or installed on land in Zone RU1, RU2 or RU6, and
- (b) used for the purpose of the storage of grain that has been produced on the landholding **or an adjoining landholding**, and
- (c) not constructed or installed on land shown on any relevant Procedures for Air Navigation Services—Aircraft Operations Map prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and for which a PANS-OPS surface is identified that may compromise the effective and on-going operation of the relevant aerodrome or airport, and
- (d) in the case of development that has a footprint greater than 200m²—not carried out on unsewered land in the Sydney Drinking Water Catchment, if that development will result in a site disturbance area of more than 250m², and
- (e) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area.

(2) In this clause, **footprint** means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices.

2.32D Development standards—general

The following standards are specified for that development—

- (a) the development must not be constructed or installed on a landholding with an area of less than 40ha,
- (b) the development must be located at least 15m from any road boundary and at least 100m from any other boundary,
- (c) the development must be located at least 100m from any dwelling,

Difference to SEPP: Add the words indicated.
Comment: Minor aggregation is common

- (d) the development must be located at least 6m from any other farm building (including any farm building that is a stock holding yard) on the landholding or on an adjoining landholding,
- (e) the development must be located at least 50m from a waterbody (natural),
- (f) if the development—
 - (i) is on a landholding in relation to which the natural ground at any point within 100m of the ridgeline of any hill is at least 20m lower than the ridgeline, and
 - (ii) is located within 100m of that ridgeline,it must be sited on the landholding so that the highest point of the development is at least 5m below that ridgeline,
- (g) the development must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority,
- (h) if the development is located within 13km of an airfield or aerodrome—the development must be adequately sealed or protected to prevent the entry of wildlife,
- (i) despite clause 2.30(a), excavation for the purposes of structural supports may exceed a depth of 600mm, measured from ground level (existing), unless the land is identified for the purposes of an environmental planning instrument as Class 1–5 on an Acid Sulfate Soils Map.

Note 1. There are other existing legislative requirements relating to the clearance of power lines and Obstacle Limitation Surfaces near airport flight paths.

Note 2. The consent of the appropriate roads authority is required under section 138 of the [Roads Act 1993](#) for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.

2.32E Development standards—grain silos

(1) The following additional standards are specified for that development if the development is a grain silo—

(a) it must not be higher than—

- (i) in the case of a landholding that has an area of 40ha or more but less than 100ha—7m above ground level (existing), and
- (ii) in the case of a landholding that has an area of 100ha or more—15m above ground level (existing),

(b) it must not have a footprint greater than 200m²,

(c) it must not have a footprint that would result in the footprint of all farm buildings (other than grain bunkers) on the landholding exceeding the footprint shown in the following table—

Landholding area	Maximum footprint of all farm buildings (other than grain bunkers)
0–4ha	2.5% of the area of the landholding
>4ha–10ha	1,000m ²
>10ha-200 ha	2,000m ²
>200ha-1000ha	4,000m ²
>1,000ha	10,000m ²

(d) if the development is located on land that is identified for the purposes of an environmental planning instrument as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not be higher than 7m,

Difference to SEPP: Add the words indicated.
Comment: For large properties, more generous footprint allowances can be provided.

- (e) it must be constructed in accordance with the Code of Practice entitled “*Safety Aspects in the Design of Bulk Solids Containers Including Silos, Field Bins and Chaser Bins*” as published on the website SafeWork NSW and amended from time to time,
 - (f) in the case of a grain silo that is sealed—it must be designed and sealed in accordance with sections 2 and 3 of AS 2628—2010, *Sealed grain-storage silos—Sealing requirements for insect control*,
 - (g) it must not result in more than 5 silos being erected on a landholding.
- (2) In this clause, **footprint** means the surface area covered by a built structure that has either a roof or a floor installed as a fixture, or both, excluding the area of access ramps, eaves, sunshade devices, hard surfaces for parking or landscaping associated with the structure.

2.32F Development standards—grain bunkers

- (1) The following additional standards are specified for that development if the development is a grain bunker—
 - (a) it must not be higher than 7m above ground level (existing),
 - (b) it must not have a footprint that would result in the footprint of all grain bunkers on the landholding exceeding 7,000m², or 10,000m² is the property has an area in excess of 1,000ha.
 - (c) if the development is located on land that is identified as “Land with scenic and landscape values” on a Scenic and Landscape Values Map or as “Scenic Protection Area” on a Scenic Protection Map or Scenic Protection Area Map—it must not have a footprint greater than 200m²,
 - (d) any structural elements, including any wall or concrete floor slab, of the development must be constructed in accordance with the specifications of a professional engineer,

Difference to SEPP: Add the words indicated.
Comment: For large properties, more generous footprint allowances can be provided.

<p>(e) despite clause 2.30, it must not require cut or fill more than 1m below or above ground level (existing) and any cut or fill must only be carried out wholly within a 50m radius of the grain bunker,</p> <p>(f) it must not cause the redirection of the flow of any surface water or ground water or cause sediment to be transported onto an adjoining landholding,</p> <p>(g) it must be not be located over any registered easement, sewer main or water main.</p> <p>(2) In this clause, footprint means the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, excluding the area of access ramps, eaves and sunshade devices.</p> <p>Note 1. It is an offence to transport waste to a place other than an appropriate and lawful waste facility (see section 143 of the Protection of the Environment Operations Act 1997).</p> <p>Note 2. The consent of the appropriate roads authority is required under section 138 of the Roads Act 1993 for the carrying out of certain works in relation to roads, including the building of any crossover or creating road access.</p> <p>Note 3. Subdivision 15 of Division 1 of Part 2 contains additional requirements relating to earthworks.</p>	
<p>Subdivision 17 Fences (certain residential zones and Zone RU5)</p> <p>2.33 Specified development</p> <p>The construction or installation of a fence on land within Zone R1, R2, R3, R4 or RU5 is development specified for this code if it is not constructed or installed—</p> <p>(a) on a lot, or along a common boundary of a lot, that contains a heritage item or a draft heritage item, or</p>	

(b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or

(c) on a flood control lot, or

(d) on land that is identified as being in a foreshore area.

Note. If the fence is a dividing fence, the [Dividing Fences Act 1991](#) also applies.

2.34 Development standards

(1) The standards specified for development specified in clause 2.33 are that the development must—

(a) not be higher than 1.8m above ground level (existing), and

(b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and

(c) if it includes an entrance gate—not have a gate that opens outwards, **unless the gate swing is wholly within private land,** and

(d) if it is located in a core koala habitat or potential koala habitat within the meaning of [State Environmental Planning Policy No 44—Koala Habitat Protection](#) or in a movement corridor used by koalas—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and

(e) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and

(f) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and

(g) not be an electrical fence or use barbed wire.

Difference to SEPP: Add the words indicated.
Comment: Provides more flexibility while achieving the same outcome.

<p>(2) Despite subclause (1), any fence located along the boundary of, or within the setback area to, a primary or secondary road must—</p> <p>(a) not be more than 1.2m above ground level (existing), and</p> <p>(b) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above this height being no more than 350mm in width with a minimum aperture of 25mm.</p> <p>(3) If a lot has a frontage to a secondary road or roads, subclause (2) only applies to 50% of the length of all contiguous secondary road boundaries, measured from the corner with the primary road boundary. only applies in front of the building line to the primary frontage</p> <p>(4) Subclause (2)(b) does not apply to the part of the fence along the side boundary and within the setback area to the primary road.</p> <p>(5) Despite subclauses (1) and (2), if the fence is erected on a sloping site and stepped to accommodate the fall in the land—</p> <p>(a) a fence that is required to be not more than 1.2m above ground level (existing), must not be more than 1.5m above ground level (existing) at each step, and</p> <p>(b) a fence that is required to be not more than 1.8m above ground level (existing), must not be more than 2.2m above ground level (existing) at each step.</p>	<p>Difference to SEPP: Delete the words indicated. Comment: This would preclude the construction of a brick fence despite it being permitted in Cl 2.34(1)(b).</p> <p>Difference to SEPP: Delete the words indicated. Comment: There is no need to limit the fencing height to 1.2m along the secondary road frontage.</p>
<p>Subdivision 21AA Fuel tanks and gas storage</p> <p>2.42AA Specified development</p> <p>The construction or installation of an above ground fuel tank or gas storage facility for agricultural activity is development specified for this code if it is constructed or installed on</p>	

<p>a lot in a rural zone that is larger than 2ha and is not constructed or installed in an environmentally sensitive area.</p> <p>2.42AB Development standards</p> <p>The standards specified for that development are that the development must—</p> <ul style="list-style-type: none"> (a) not have a capacity of more than— <ul style="list-style-type: none"> (i) for a fuel tank—5,000 L, or (ii) for a gas tank—1,000 L, and (b) be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary, and (c) be self-bunded or externally bunded with the capacity to contain at least 110% of the capacity of the tank, and (d) if a fuel tank—be constructed of prefabricated metal, be freestanding and installed in accordance with the requirements of AS 1940:2017, <i>The storage and handling of flammable and combustible liquids</i>, and (e) if a gas tank—be designed and constructed in accordance with the requirements of AS/NZS 1596:2014, <i>The storage and handling of LP Gas</i> by a professional engineer, and (f) not be used for advertising, and (g) be located at least 1m from any registered easement, sewer main or water main. <p>Note. Other existing legislative requirements still apply in relation to work place health and safety issues.</p>	<p>Difference to SEPP: Add the words indicated. Comment: Self-bunded tanks are now quite common and achieve the same outcome.</p>
<p>Subdivision 28 Pathways and paving</p> <p>2.55 Specified development</p> <ul style="list-style-type: none"> (1) The construction or installation of a pathway or paving, including any paving of a deck, pergola, patio or terrace is development specified for this code. 	

- (2) Subclause (1) does not include any paving of a driveway, hard stand space or turning or parking area to be used by vehicles for any purpose, including the delivery or loading of goods.

2.56 Development standards

The standards specified for that development are that the development must—

- (a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, or, if no system exists in a manner that does not increase overland flow outside the boundaries of the property, and
- (b) if constructed or installed in a residential zone or Zone RU5—
- (i) not require cut or fill more than 600mm below or above ground level (existing), and
- (ii) not result in the total area of all paved areas (including driveways and hard stand spaces) on the lot exceeding 15% of the area of the lot or 150m², whichever is the lesser, and
- (c) if constructed or installed in a residential zone—
- (i) on a lot that has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and
- (ii) on a lot that has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area, and
- (d) if constructed or installed in a zone (other than a residential zone or Zone RU5)—
- (i) not require cut or fill more than 1m below or above ground level (existing), and
- (ii) not reduce any required landscaped area along a boundary with a road or an adjoining lot on which a dwelling is located.

Note. The Standard Instrument defines *landscaped area* as a part of a site used for growing plants, grasses and trees, but not including any building, structure or hard paved area.

Difference to SEPP: Add the words indicated.
Comment: Many country towns/rural properties do not have formal stormwater systems.

<p>Subdivision 38 Subdivision</p> <p>2.75 Specified development</p> <p>The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code—</p> <p>(a) widening a public road,</p> <p>(b) a realignment of boundaries—</p> <p>(i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and</p> <p>(ii) that will not create additional lots or increase the number of lots with a dwelling entitlement except where all lots are either above the minimum lot size, or would not be reduced in area if below the minimum lot size and contain a dwelling or increase the opportunity for additional dwellings, and</p> <p>(iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (other than a lot that was already smaller than that minimum size), and</p> <p>(iv) that will not adversely affect the provision of existing services on a lot, and</p> <p>(v) that will not result in any increased fire risk to existing buildings, and</p> <p>(vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4—that will not result in more than a minor 50% change in the area of any lot, and</p> <p>(vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,</p> <p>(c) (Repealed)</p>	<p>Difference to SEPP: Add the words indicated, delete the words indicated. Comment: Provides a little more flexibility but will still comply with minimum lot size requirements.</p> <p>Difference to SEPP: Add the words indicated, delete the words indicated. Comment: Provides more flexibility for rural land boundary adjustments.</p>

- (d) rectifying an encroachment on a lot,
- (e) creating a public reserve,
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

2.76 Development standards

Note. (At the commencement of this clause no standards were specified.)

PART 3 – JUSTIFICATION

NEED FOR PROPOSAL

This proposal is needed to amend the Gwydir LEP 2013 so that the provisions for carports and driveways can be slightly relaxed so that more of these can be undertaken as exempt development. The outcomes of this would be consistent with the existing built environment and would lead to the reduction of un-needed demand for full development assessment processes to be implemented for these minor projects.

RELATIONSHIP TO PLANNING FRAMEWORK

The proposed amendment is consistent with the planning policies and framework the New England North West Region as it advances regional planning priorities and strategic aims, particularly in relation to housing, villages, and development. In addition, it is consistent with the aims and intent of state environmental planning policies to minimise unnecessary development applications.

SECTION 9.1 MINISTERIAL DIRECTIONS

The proposal is consistent with the Ministerial Directions issued under Section 9.1 of EPA Act 1979. Specifically:

1.1 Implementation of Regional Plans

The proposal is consistent with the New England North-West Regional Plan 2041 in that it facilitates economic growth and development by providing additional development paths that do not require a development application. In particular, it would facilitate on-farm development necessary to sustain and enhance agricultural production.

1.2 Development of Aboriginal Land Council Land

The land affected by this proposal is subject to this Direction. At the time of submission of this proposal no development delivery plan had been prepared for the land.

At the time of this submission, no interim development delivery plan applied to the land.

The proposal is therefore consistent with this direction.

1.3 Approval and Referral Requirements

No change to these provisions is proposed.

The proposal is therefore consistent with this direction.

1.4 Site Specific Provisions

No change to these provisions is proposed.

The proposal is therefore consistent with this direction.

1.5 Parramatta Road Corridor Urban Transformation Strategy

1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan

1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan

1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan

1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor

1.10 Implementation of the Western Sydney Aerotropolis Plan

1.11 Implementation of Bayside West Precincts 2036 Plan

1.12 Implementation of Planning Principles for the Cooks Cove Precinct

1.13 Implementation of St Leonards and Crows Nest 2036 Plan

1.14 Implementation of Greater Macarthur 2040

1.15 Implementation of the Pyrmont Peninsula Place Strategy

1.16 North West Rail Link Corridor Strategy

1.17 Implementation of the Bays West Place Strategy

1.18 Implementation of the Macquarie Park Innovation Precinct

1.19 Implementation of the Westmead Place Strategy

1.20 Implementation of the Camellia-Rosehill Place Strategy

1.21 Implementation of South West Growth Area Structure Plan

1.22 Implementation of the Cherrybrook Station Place Strategy

N/A – None of these apply to the land

3.1 Conservation Zones

The proposal is consistent with this Direction as there is no change to standards applying to conservation zones.

3.2 Heritage Conservation

No change to heritage provisions is proposed, and existing heritage provisions would continue to operate over the land.

The proposal is therefore consistent with this direction.

3.3 Sydney Drinking Water Catchments

N/A - This direction does not apply to the land.

3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

N/A - This direction does not apply to the land.

3.5 Recreation Vehicle Areas

The planning proposal does not include any proposals for recreation vehicle areas.

The proposal is therefore consistent with this direction.

3.6 Strategic Conservation Planning

No land the subject of this proposal is identified as avoided land or a strategic conservation area under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

The proposal is therefore consistent with this direction.

3.7 Public Bushland

N/A - This direction does not apply to the land.

3.8 Willandra Lakes Region

N/A - This direction does not apply to the land.

3.9 Sydney Harbour Foreshores and Waterways Area

N/A - This direction does not apply to the land.

3.10 Water Catchment Protection

The land is not within a regulated water supply catchment.

The proposal is therefore consistent with this direction.

4.1 Flooding

There is no change to the planning provisions relating to flood prone land.

The proposal is consistent with this Direction.

4.2 Coastal Management

N/A - This direction does not apply to the land.

4.3 Planning for Bushfire Protection

The proposal does not affect the operation of Planning for Bushfire Protection, and would not increase bushfire risk in terms of habitable premises.

The proposal is therefore consistent with this direction.

4.4 Remediation of Contaminated Land

The land does not contain an investigation area within the meaning of the *Contaminated Land Management Act 1997*.

The land is not being used for, or known to have been used for, a use as outlined in Table 1.

The proposal is therefore consistent with this direction.

4.5 Acid Sulfate Soils

The land has not been identified as containing acid sulfate soils.

The proposal is therefore consistent with this direction.

4.6 Mine Subsidence and Unstable Land

The land is not contain a declared mine subsidence area.

The proposal is therefore consistent with this direction.

5.1 Integrating Land Use and Transport

The proposal does not involve any aspects of transport, but consists of minor extensions to exempt development.

The proposal is therefore consistent with this direction.

5.2 Reserving Land for Public Purposes

No rezonings creating or reducing a reservation zoning are part of this proposal.

The proposal is therefore consistent with this direction.

5.3 Development Near Regulated Airports and Defence Airfields

The land does not include a regulated airport or defence airfield.

The proposal is therefore consistent with this direction.

5.4 Shooting Ranges

The proposal would not affect any shooting ranges, and would not increase vulnerable development in the vicinity of a shooting rang.

The proposal is therefore consistent with this direction.

6.1 Residential Zones

The proposal would facilitate a range of minor developments without the requirement for a development application. It would reduce approval requirements while not affecting local character.

The proposal is therefore consistent with this direction.

6.2 Caravan Parks and Manufactured Home Estates

The proposal does not include a caravan park or manufactured home estate.

The proposal is therefore consistent with this direction.

7.1 Employment Zones

The proposal would facilitate some forms of minor development within employment lands.

The proposal is therefore consistent with this direction.

7.2 Reduction in non-hosted short-term rental accommodation period

N/A - This direction does not apply to the land.

7.3 Commercial and Retail Development along the Pacific Highway, North Coast

N/A - This direction does not apply to the land.

8.1 Mining, Petroleum Production and Extractive Industries

The proposal would neither prohibit or restrict access to regional significant reserves.

The proposal is therefore consistent with this direction.

9.1 Rural Zones

The proposal does not propose to rezone land to a residential zone

The proposal is therefore consistent with this direction.

9.2 Rural Lands

The proposal is consistent with this direction in that it is consistent with an applicable regional plan.

Agriculture has been considered and the proposal will facilitate minor development which supports agriculture

There is no negative impact on native vegetation, biodiversity, cultural heritage or water resources.

The natural attributes of the land have been considered, and would not be detrimentally affected by the proposal.

There is no proposal to require development consent for most normal farming activities.

The proposal is therefore consistent with this direction.

9.3 Oyster Aquaculture

The land is not oyster growing land.

The proposal is therefore consistent with this direction.

9.4 Farmland of State and Regional Significance on the NSW Far North Coast

N/A - This direction does not apply to the land.

DCP

There is no DCP for Gwydir Shire. The proposal is consistent with the strategic plans for Bingara and Warialda in that facilitation of minor development would not detrimentally affect local character.

STATE ENVIRONMENTAL PLANNING POLICIES

A review of the current SEPPs has been undertaken as set out in the Table below. Relevant SEPPs are discussed following the Table.

Gwydir LEP revision – Planning Proposal

Table – Relevance of SEPPs to the proposal

SEPP	Relevant? (Y/N)
SEPP (Biodiversity and Conservation) 2021	Y (Issue of koala habitat is relevant as is identification of lands of biodiversity). In practice, however the proposed changes would not impact on koala habitat.
SEPP (Building Sustainability Index: BASIX) 2004	N (Not relevant to the changes in this proposal)
SEPP (Exempt and Complying Development Codes) 2008	Y (this proposal provides additional flexibility over and above the SEPP. It does not affect underlying permissibility of land use types)
SEPP (Housing) 2021	N (the proposal does not change permissibility with respect to housing.)
SEPP (Industry and Employment) 2021	N (No relevant provisions)
SEPP No 65 – Design Quality of Residential Apartment Development	N (the proposal does not change permissibility with respect to housing).
SEPP (Planning Systems) 2021	N (proposal is not affected by this SEPP)
SEPP (Precincts – Central River City) 2021	N – (The subject land is not within the precinct)
SEPP (Precincts – Eastern Harbour City) 2021	N – (The subject land is not within the precinct)
SEPP (Precincts – Regional) 2021	N – (The subject land is not within the precinct)

SEPP	Relevant? (Y/N)
SEPP (Precincts – Western Parkland City) 2021	N – (The subject land is not within the precinct)
SEPP (Primary Production) 2021	Y – (the proposal does not directly affect primary production although it does facilitate minor works which would support agriculture).
SEPP (Resilience and Hazards) 2021	Y – (The land is not in a coastal area, nor is it exposed to potential or actual hazardous or offensive development. The land is contaminated).
SEPP (Resources and Energy) 2021	N – (The proposal is not for, nor does it have any implications for extractive industry, mining and the like)
SEPP (Sustainable Buildings) 2021	N – (the requirements of this SEPP would not be affected by the proposal)
SEPP (Transport and Infrastructure) 2021	N – (the requirements of this SEPP would not be affected by the proposal)

ENVIRONMENTAL, SOCIAL, and ECONOMIC IMPACT

ENVIRONMENTAL IMPACT

The proposal seeks to facilitate minor additional development of the types included in SEPP (Exempt and Complying Development Codes) 2008. In this respect, there would be no significant environmental impact associated with the proposal.

SOCIAL and ECONOMIC IMPACT

The proposal would facilitate minor developments, including developments that would support the agricultural sector. In this respect the proposal has minor economic benefits. No adverse social impacts are anticipated.

GOVERNMENT INTERESTS

The proposal would not affect government interests.

PART 4 – MAPPING

There is no mapping associated with this proposal.

PART 5 – COMMUNITY CONSULTATION

General Consultation

Gwydir Shire Council will publicly exhibit the Planning Proposal in accordance with the requirements of Schedule 1, Clause 4 of the Environmental Planning and Assessment Act 1979. The exhibition will also comply with any other requirements determined by the Gateway determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.

PART 6 – SCHEDULE / TIMELINES

PROJECT PROGRAM

PLANNING PROPOSAL TIMELINES

The following timelines are proposed:

ITEM	DATE
Submission to Gwydir Shire Council	October 2023
Submission to DPE for Gateway Determination	End October 2023
Community Consultation (28 days – Minor Proposal)	November-December 2023
Assessment and Reporting to Council	February 2024
Making of the Plan	March 2024