

## Planning Services

IRF19/2627

### Gateway determination report

<b>LGA</b>	Randwick
<b>PPA</b>	Randwick City Council
<b>NAME</b>	Edgecumbe Estate Heritage Conservation Area
<b>NUMBER</b>	PP_2019_RANDW_001_00
<b>LEP TO BE AMENDED</b>	Randwick Local Environmental Plan 2012
<b>ADDRESS</b>	The proposal relates to the following properties in Coogee: <ul style="list-style-type: none"> <li>• 37 Dudley Street, Coogee (Lot A DP 301192)</li> <li>• 39 Dudley Street, Coogee (Lot B DP 301192)</li> <li>• 41 Dudley Street, Coogee ( Lot C DP 301192)</li> <li>• 142A Brook Street, Coogee (Lots 1-6 in SP 13844)</li> <li>• 144 Brook Street, Coogee (Lots 1-6 in SP 4898)</li> <li>• 146 (referred to as 146A and 146B) Brook Street, Coogee (Lot 2 DP 388326)</li> <li>• 148 Brook Street, Coogee (Lot B DP 305284)</li> <li>• 150 Brook Street, Coogee (Lot A DP 305284)</li> <li>• 152 Brook Street, Coogee (Lot 1 DP 195960)</li> <li>• 5 Edgecumbe Avenue, Coogee (SP 12306)</li> </ul>
<b>RECEIVED</b>	15 April 2019
<b>FILE NO.</b>	IRF19/2627
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend Schedule 5 of Randwick Local Environmental Plan (LEP) 2012 by establishing a new Heritage Conservation Area (HCA) in Coogee, known as Edgecumbe Estate HCA and listing three new local heritage items.

The new HCA will comprise ten properties in Dudley Street, Brook Street and Edgecumbe Avenue, Coogee as follows:

- 37 Dudley Street, Coogee;
- 39 Dudley Street, Coogee;
- 41 Dudley Street, Coogee;
- 142A Brook Street, Coogee;
- 144 Brook Street, Coogee;
- 146 (referred to as 146A and 146B) Brook Street, Coogee;
- 148 Brook Street, Coogee;
- 150 Brook Street, Coogee;
- 152 Brook Street, Coogee; and
- 5 Edgecumbe Avenue, Coogee.

The proposal also seeks to list sites at 39 and 41 Dudley Street and 148 Brook Street, Coogee under Schedule 5 of Randwick LEP 2012 as local heritage items.

## **1.2 Background**

On 28 August 2018, Council resolved to commence a heritage study for the aforementioned properties with the intent of preparing a planning proposal to list the items under Schedule 5 of Randwick LEP 2012.

During the preparation of Council's heritage study on 25 September 2018, two complying development applications for the demolition of dwellings at 37 and 39 Dudley Street, Coogee were lodged. An Interim Heritage Order (IHO) was gazetted for 39 Dudley Street on 8 October 2019. The land owner has lodged a Class 1 appeal to the Land and Environment Court in relation to the IHO.

Council staff conducted a heritage study of the area that was considered and endorsed at the ordinary Council meeting of 27 November 2018. Council resolved to prepare and forward a planning proposal to the Department for Gateway determination.

The owner of 39 Dudley Street commissioned John Oultram Heritage and Design to prepare a heritage study for the property that was delivered in November 2018. The John Oultram heritage study opposes the heritage listing recommended by Council's heritage study. The John Oultram heritage study has been peer reviewed by Stephen Davies of Urbis. The peer review reaffirms the findings of the John Oultram study.

On 7 December 2018, a complying development application was lodged for the demolition of the property at 148 Brook Street, Coogee. An IHO was gazetted for the site on 10 December 2018.

At the Council meeting of 11 December 2018, a rescission motion was put forward, which sought to rescind the Council resolution of 27 November 2018. However, the original resolution to support the preparation of the planning proposal was upheld.

On 17 December 2018, a development application was lodged for 148 Brook Street, Coogee. The development application seeks to demolish the existing structure and construct a residential flat building comprising four dwellings and nine underground car spaces. The owner has commissioned a heritage study prepared by John Oultram Heritage and Design, which opposes the heritage listing recommended by Council's heritage study.

On 14 February 2019, the Randwick Local Planning Panel (LPP) considered the planning proposal. The LPP advised that it supports the proposal in principle. However, recommended that Council's heritage study be peer reviewed prior to requesting a Gateway determination.

Sue Rosen Associates was commissioned by Council to review Council's heritage study. The peer review recommended the listing of 39 and 41 Dudley Street and 148 Brook Street, Coogee. The peer review also recommended an HCA known as "Edgecumbe Estate" be established including the 10 subject properties. The planning proposal has been prepared in accordance with the findings of the Sue Rosen Associates peer review dated March 2019.

At the Council meeting of 26 March 2019 Council considered the revised planning proposal and Sue Rosen Associates Peer Review. Council resolved to support the planning proposal and that it be forwarded to the Department requesting Gateway determination.

On 2 April 2019, an extraordinary Council meeting was held to consider a rescission motion which sought to rescind Council's resolution of 26 March 2019. The rescission motion failed, and the proposal was forwarded to the Department requesting Gateway determination on 15 April 2019.

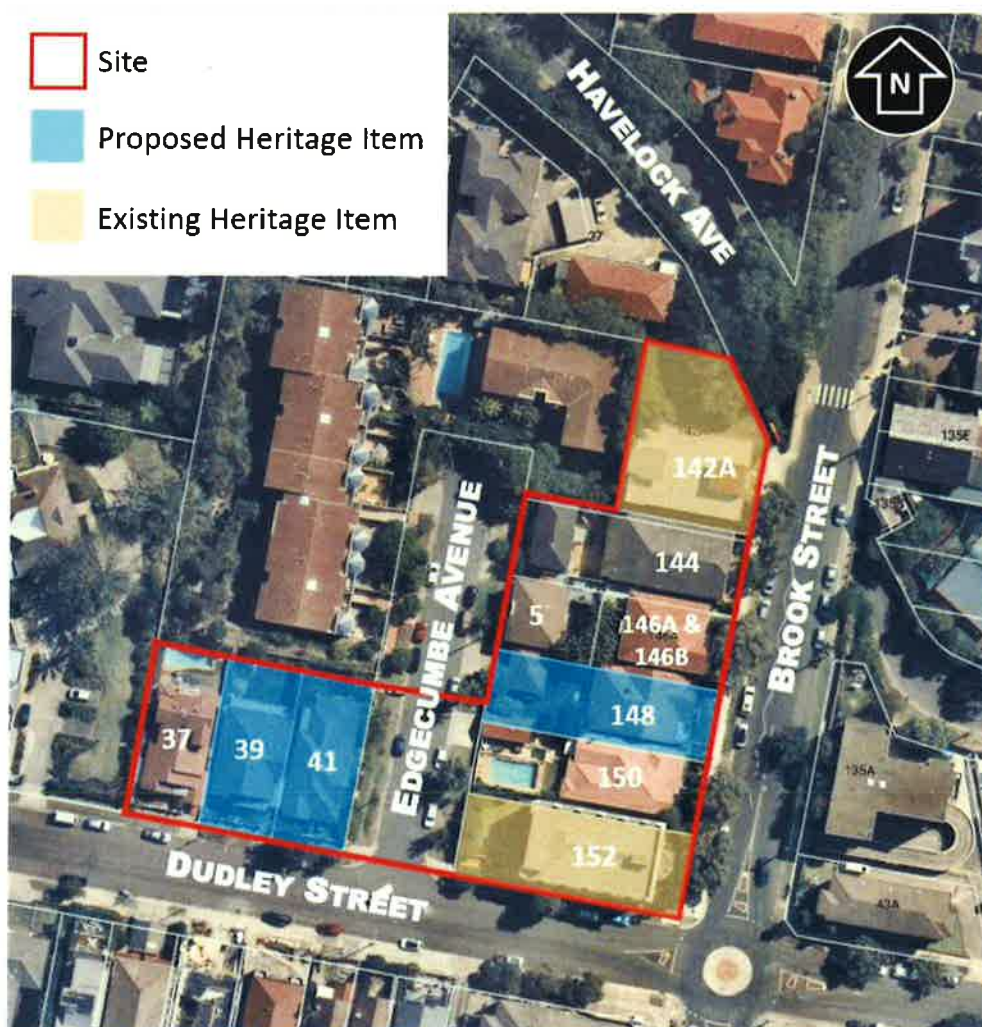
### 1.3 Site description

The site consists of ten individual properties with a cumulative site area of approximately 5,530m<sup>2</sup> (**Figure 1**).

Three properties are situated on the northern frontage of Dudley Street and contain detached single storey dwellings from the Inter-War period. Two of these properties are recommended for local heritage listing.

One property fronts the eastern frontage of Edgecumbe Avenue, the site comprises a 1930s art-deco style, 2 storey dwelling.

The remaining six properties are located on the western frontage of Brook Street. These properties comprise a mix of Inter-War developments including residential flat buildings and single storey bungalows.



**Figure 1:** Subject Site (Source: Nearmap)



#### 1.4 Statement of Significance

##### Proposed heritage item 39 Dudley Street, Coogee:

Council's heritage study assesses the site as being of local heritage significance for its historical, aesthetic and representative significance. It is described as being a typical, yet substantially intact example of an Inter-War Californian Style Bungalow which retains its original layout, form and majority of architectural features. The item is also said to represent the subdivision pattern and development of Coogee that is associated with the suburb's growth in the early twentieth century (**Figure 2**).

##### Proposed heritage item 41 Dudley Street, Coogee:

Council's heritage study assesses the site as being of local heritage significance for its historical, aesthetic and representative significance. The item is described as being a fine and relatively intact example of an Inter-War Californian Style Bungalow which retains a high degree of its original fabric. The building provides a scale and form which responds to its prominent corner position (**Figure 3**). The item is also said to represent the subdivision pattern and development of Coogee that is associated with the suburb's growth in the early twentieth century.

##### Proposed heritage item 148 Brook Street, Coogee:

Council's heritage study assesses the site as being of local heritage significance for its historical, aesthetic and representative significance. The item is described as being a fine and intact example of an Inter-War Californian Style Bungalow which retains a high degree of its original fabric. The item is said to represent the subdivision pattern and development of Coogee that is associated with the suburb's growth in the early twentieth century (**Figure 4**).

##### Proposed HCA: Edgecumbe Estate:

No statement of significance has been provided for the proposed HCA. However, Council's study demonstrates the shared architectural characteristics of the individual properties. The Sue Rosen Associates peer review references characteristics such as hipped and gabled roofs, battened gables, timber framed windows, brick construction and occasional use of stone. The group is also said to present a coherent group of developments from the Inter-War period.



**Figure 2:** 37 (Left) & 39 (Right) Dudley Street, Coogee (Source: DPE Site Visit)



**Figure 3:** Proposed heritage item 41 Dudley Street, Coogee  
(Source: Sue Rosen Associates Peer Review)



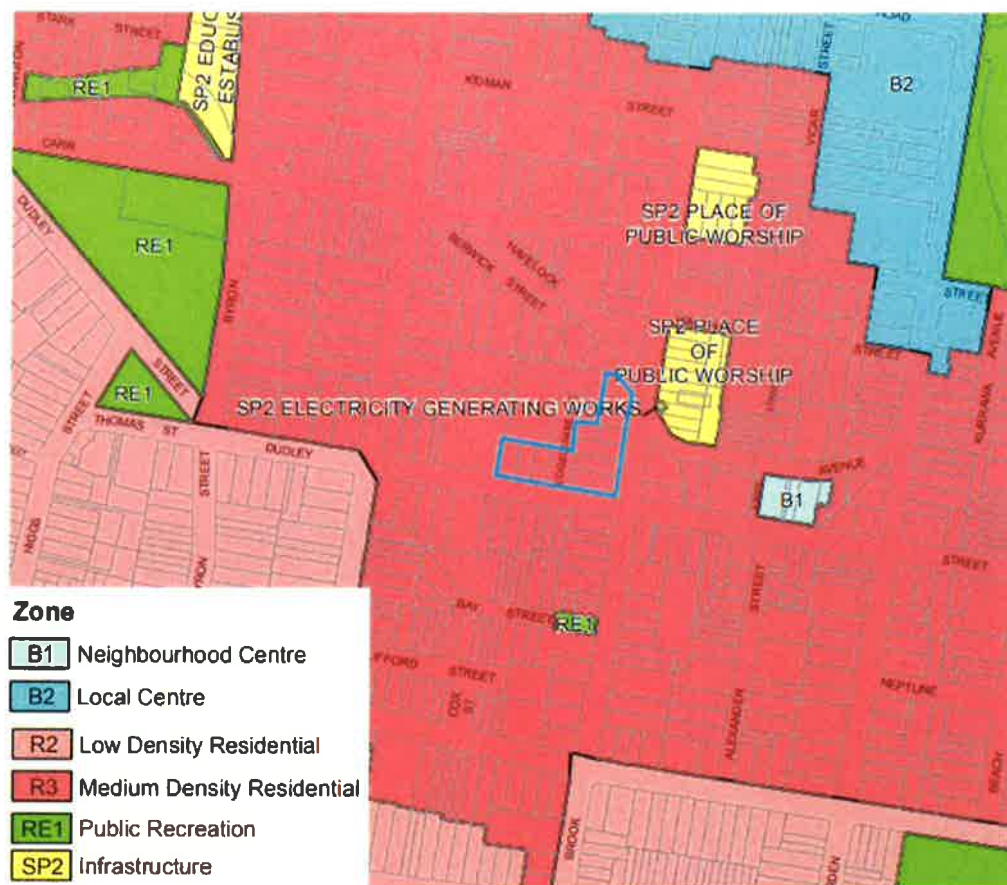
**Figure 4:** Proposed heritage item 148 Brook Street, Coogee (Source: DPE Site Visit)

### 1.5 Existing planning controls

The proposed conservation area is subject to the following planning controls under Randwick LEP 2012:

- Zoned R3 Medium Density Residential (**Figure 5**)
- Maximum floor space ratio control of 0.9:1 (**Figure 6**)
- Maximum height of building 12 metres (**Figure 7**)
- There are also two existing locally listed heritage items located in the proposed HCA being; 142A and 152 Brook Street, Coogee (**Figure 8 + 9**)





**Figure 5: Randwick LEP 2012 land use zoning map**



**Figure 6: Randwick LEP 2012 floor space ratio map**





Figure 7: Randwick LEP 2012 height of buildings map



Figure 8: Randwick LEP 2012 heritage map



**Figure 9:** Existing heritage items 152 (Left) & 142A (Right) Brook Street, Coogee  
(Source: DPE Site Visit)

### 1.6 Surrounding area

The site is predominately surrounded by residential uses. The residential area is zoned R3 medium density and is characterised by a mix of 2-3 storey flat buildings and single storey detached dwellings.

Approximately 150m west of the site is the Dudley Street HCA which shares a similar Inter-War character to the proposed HCA. The Dudley Street HCA was extended through an amendment to Randwick LEP 2012 on 22 February 2019. Adjacent to the site's west is a 2 storey senior's living development managed by Our Lady's Nurses for the Poor, a non-profit organisation.

Adjacent to the site's north east is St Brigid's Parish Church and 350m north east of the site is the Coogee Local Centre and Coogee Beach. A site locality map can be seen in **Figure 10**.

### 1.7 Summary of recommendation

The proposal is recommended to proceed subject to conditions as it:

- is supported by a peer reviewed heritage study that identifies the subject properties as having contributory heritage value and/or local heritage significance;
- is consistent with the objectives and directions of strategic and statutory planning frameworks; and
- will allow for greater management and conservation of identified heritage in the area.





Figure 10: Site locality map (Source: Nearmap)

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The planning proposal states that the intended outcome is to provide the statutory mechanism to protect the heritage significance of the aforementioned properties. The amendment will allow for the heritage conservation objectives and provisions under Clause 5.10 to apply to the properties.

The intended outcome and objective of the proposal is considered clear and is adequate for the purpose of public exhibition.

### 2.2 Explanation of provisions

The planning proposal seeks to amend Part 1 of Schedule 5 - Environmental Heritage of Randwick LEP 2012, to list 39 & 41 Dudley Street and 148 Brook Street, Coogee as items of local heritage significance. A draft amendment has been provided:

Suburb	Item name	Address	Property Desc.	Significance	Item no.
Coogee	39 Dudley Street, Coogee	39 Dudley Street, Coogee	Lot B DP 301192	Local	1470

Suburb	Item name	Address	Property Desc.	Significance	Item no.
Coogee	41 Dudley Street, Coogee	41 Dudley Street, Coogee	Lot C DP 301192	Local	1471
Coogee	148 Brook Street, Coogee	148 Brook Street, Coogee	Lot B DP 305284	Local	1472

Table 1: Proposed Part 1 – Schedule 5 Amendment

The proposal also seeks to amend Part 2 of Schedule 5 – Environmental Heritage of Randwick LEP 2012 to establish a new heritage conservation area. A draft amendment has been provided:

Name of area	Identification on Heritage Map	Significance
Edgecumbe Estate	Shown by red hatching and labelled "C21"	Local

Table 2; Proposed Part 2 – Schedule 5 Amendment

The explanation of provisions is considered adequate for the purpose of public exhibition and is not required to be updated.

### 2.3 Mapping

The planning proposal seeks to amend Sheet HER\_007 of the Heritage Map of Randwick LEP 2012. The mapping amendments will include the identification of the three heritage properties and establish the heritage conservation area incorporating the 10 relevant properties. The map is considered adequate for the purpose of public exhibition.

## 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal seeks to acknowledge the heritage significance of 39 and 41 Dudley Street and 148 Brook Street, Coogee, by listing them as items of local heritage significance. Additionally, the proposal seeks to establish a new heritage conservation area comprising of the relevant properties.

The proposal will allow for the application of clause 5.10 of Randwick LEP 2012, which will ensure that appropriate statutory protections apply to the site's development and ensure that they are recognised as being of local heritage significance.

A planning proposal is the only way an item can be listed under Schedule 5 of an LEP as an item of local heritage significance, a planning proposal is also the only way an HCA can be established in an LEP. As such, the planning proposal is the best means of achieving the intended outcomes.



## **4. STRATEGIC ASSESSMENT**

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### **4.1 Greater Sydney Region Plan – A Metropolis of Three Cities**

In March 2018 the Greater Sydney Commission released the Greater Sydney Region Plan. The plan provides a strategic framework to coordinate and manage Sydney's growth. The plan contains objectives for the Greater Sydney Region over the next 40 years and informs the actions and directions of the District plans.

The proposal is considered consistent with the plan, with particular reference to '*Objective 13: Environmental heritage is conserved and enhanced*'. The proposal demonstrates consistency with the objective as it seeks to conserve the subject properties that are assessed as having heritage significance or being of contributory value to the proposed HCA. The proposal is also considered consistent with the actions of the plan as Council has engaged with the community early in the planning process.

Council has undertaken preliminary consultation with affected land owners prior to lodging the planning proposal to the Department. This has provided transparency for land owners and has allowed them to voice their opinions early in the process. Additional consultation will also be carried out as part of the Gateway determination.

### **4.2 Eastern City District Plan**

The proposal is considered consistent with the plan, with particular reference to '*Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage*'. The proposal is considered consistent with the priority as it seeks to provide the statutory mechanisms required to protect and respect the District's heritage and the significance of Inter-War architecture in this part of Coogee.

### **4.3 Local - Randwick City Plan**

The Randwick City Plan is Council's current local strategic plan that seeks to guide and coordinate Council's activities over the next 20 years. The proposal is considered consistent with the plan, with particular relevance to the following:

- *Outcome 7: Heritage that is protected and celebrated; and*
- *Direction 7a: Our heritage is recognised, protected and celebrated.*

## **4.4 Section 9.1 Ministerial Directions**

### **2.3 Heritage Conservation**

The planning proposal is supported by Council's peer reviewed heritage study that concludes that the site's recommended for heritage listing satisfy the relevant heritage criteria for local listing.

The proposal will ensure that appropriate statutory mechanisms under clause 5.10 of Randwick LEP 2012 will apply to the site and conserve the heritage significance of the properties. Additionally, the proposal will not alter the existing heritage conservation mechanisms which already satisfy the requirements of the direction. As such, the proposal is considered consistent with the direction.

### **3.1 Residential Zones**

As the site is located in an R3 Medium Density Residential zone, this direction is considered relevant. The proposal is generally consistent with the direction as it ensures the retention of housing that is recognised as being of heritage significance. This assists in ensuring the provision of a variety of housing choices and types.

Additionally, the planning proposal does not reduce the permissible residential density of the site as it does not seek to alter the site's zoning, development standards or permissible uses across the site.

#### **4.1 Acid Sulfate Soils**

As the site is partially identified as containing class 5 acid sulfate soils in Randwick LEP 2012, this direction is considered relevant. The planning proposal is considered consistent with the direction as it does not seek to intensify the use of land that is identified as containing acid sulfate soils.

#### **4.5 State environmental planning policies (SEPPs)**

The planning proposal does not hinder or contradict the application of relevant State Environmental Planning Policies.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The planning proposal seeks to conserve buildings that are recognised as being of local heritage significance. The application of statutory mechanisms to conserve the proposed heritage conservation area and heritage items will allow the local community to have an ongoing positive understanding and connection with the area's heritage.

#### **5.2 Environmental**

The planning proposal relates to land in an existing urban area and does not seek to amend the site's zoning or development standards. As such, there are no environmental impacts expected to derive from the proposal.

#### **5.3 Economic**

The planning proposal is not anticipated to have any negative impacts on the local economy as it does not seek to amend the site's zoning or range of permissible uses.

The listing of the proposed heritage items is not anticipated to have a substantial impact on the local economy. Notwithstanding, land owners of heritage listed properties may need to seek development consent where they may not if their property hadn't been heritage listed. For example, the demolition of existing structures may have been captured by SEPP (Exempt and Complying Development Codes) 2008.

Additionally, if a landowner wishes to carry out development works and/or change the use of their property, which could affect the heritage significance of an item, they will need to do this in accordance with the provisions of Clause 5.10 of Randwick LEP 2012 and any development application will be assessed on its merits.

### **6. CONSULTATION**

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#### **6.1 Community**

The planning proposal states that it will be exhibited on Council's website and that a notification will be published in the local newspaper. Council's approach is considered adequate and the planning proposal should be publicly exhibited for a minimum of 28 days.



## **6.2 Owners**

Council has already consulted with land owners during the preparation of the planning proposal. Council also proposes to notify affected land owners and adjoining land owners as part of the formal public exhibition should a Gateway determination be issued.

## **6.3 Agencies**

Council proposes to consult with any agencies nominated as part of the Gateway determination. It is recommended that Council consult with the NSW Office of Environment and Heritage.

## **7. TIME FRAME**

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The projected timeline provided as part of the planning proposal anticipates a six month time frame for completion. Considering the timeline for the recent amendment made to extend the Dudley Street HCA and ongoing contention surrounding the proposal, a nine month timeframe for completion is considered appropriate.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to act as the local plan-making authority. It is recommended that Council is not authorised to be the local plan-making authority as the proposal:

- Is objected to by two land owners including an appeal to the NSW Land and Environment Court in relation to an IHO;
- is subject to five conflicting heritage studies or peer reviews; and
- relates to two ongoing interim heritage orders, three complying development applications and a development application for properties subject to the planning proposal.

## **9. CONCLUSION**

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The proposal is recommended to proceed subject to conditions as it:

- is supported by a peer reviewed heritage study that identifies the subject properties as having contributory heritage value and/or local heritage significance;
- is consistent with the objectives and directions of strategic and statutory planning frameworks; and
- will allow for greater management and conservation of identified heritage in the area.

## **10. RECOMMENDATION**

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the Office of Environment and Heritage
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.

4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.

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