



Planning,
Industry &
Environment

IRF21/1528

Gateway determination report – PP_2021_297

Rezone the rear of 88 Bower Street, Manly from RE1
Public Recreation to E4 Environmental Living and
apply associated map amendments

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1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 1 Planning proposal details

LGA	Northern Beaches Council
PPA	Northern Beaches Council
NAME	Rezone rear of 88 Bower Street, Manly from RE1 to E4
NUMBER	PP_2021_297
LEP TO BE AMENDED	Manly Local Environment Plan 2013 (MLEP2013)
ADDRESS	88 Bower Street, Manly
DESCRIPTION	Lot 1 in DP 1244511
RECEIVED	11/02/2021
FILE NO.	IRF21/1528
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

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

The objectives of the planning proposal are to amend the Manly Local Environmental Plan 2013 to enable the orderly use of the site for residential purposes, consistent with the site's private ownership and adjoining uses.

The objectives of this planning proposal are clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the Warringah LEP 2013 per the changes below:

Table 1 Current and Proposed controls

Control	Current	Proposed
Zone	RE1 Public Recreation	E4 Environmental Living
Maximum height of the building	Nil	8.5m
Floor space ratio	Nil	0.45:1

Minimum lot size	Nil	500m2
Number of dwellings	0	0

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.3 Site description and surrounding area

The Planning Proposal relates to Lot 1 in DP 1244511 (the site) which is a small parcel of land with an area of 56.8m2. The site is immediately to the north of the residential property at 88 Bower Street, Manly.

It is currently used as private open space and associated landscaping for the house at 88 Bower Street, Manly.

The site is currently owned by the proponent who purchased the site from the Department of Industry - Lands on 28 August 2018. The proponent also owns the adjoining property at 88 Bower Street.



Figure 1 Subject site (source: Nearmap)

1.4 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning map (LZN_006), lot size map (LSZ_006), height of buildings map (HOB_006) and floor space ratio map (FSR_006), which are suitable for community consultation.

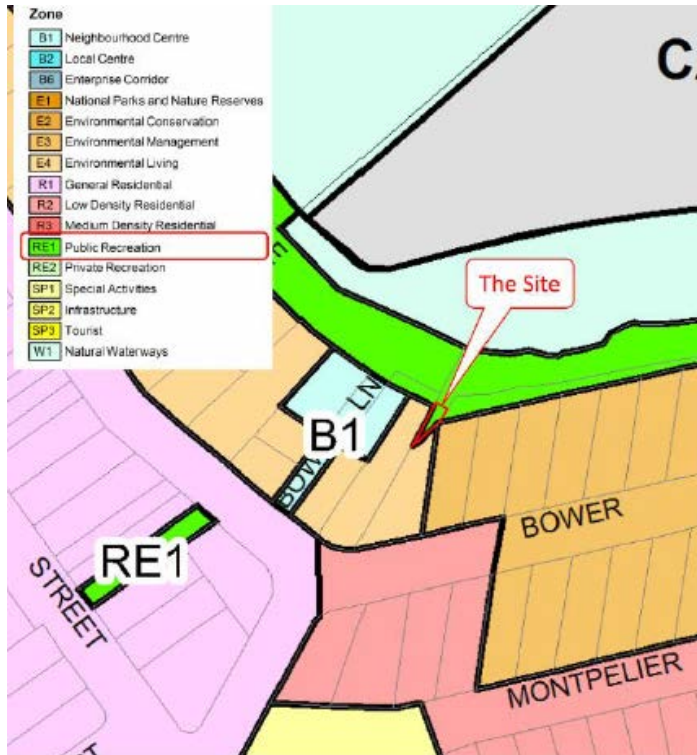


Figure 2 Current zoning map

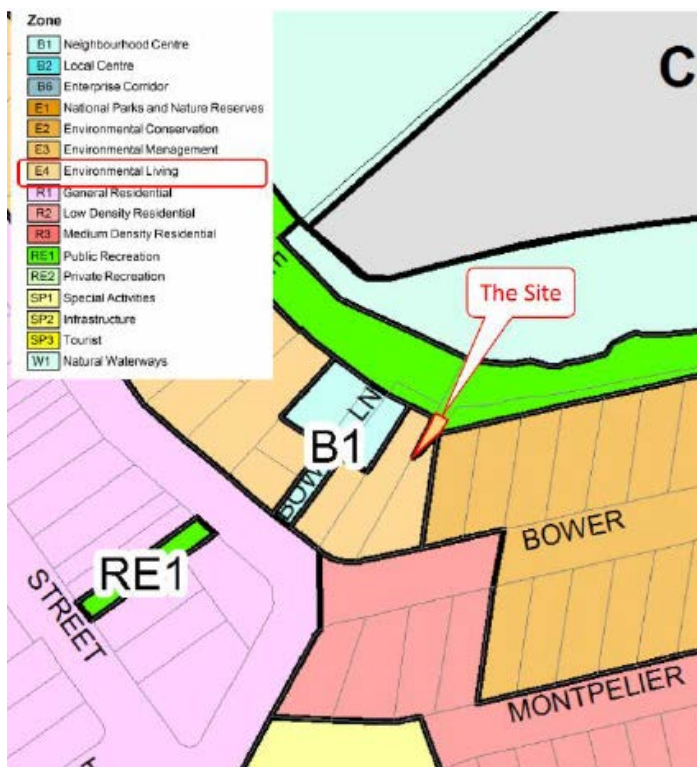


Figure 4 Proposed zoning map

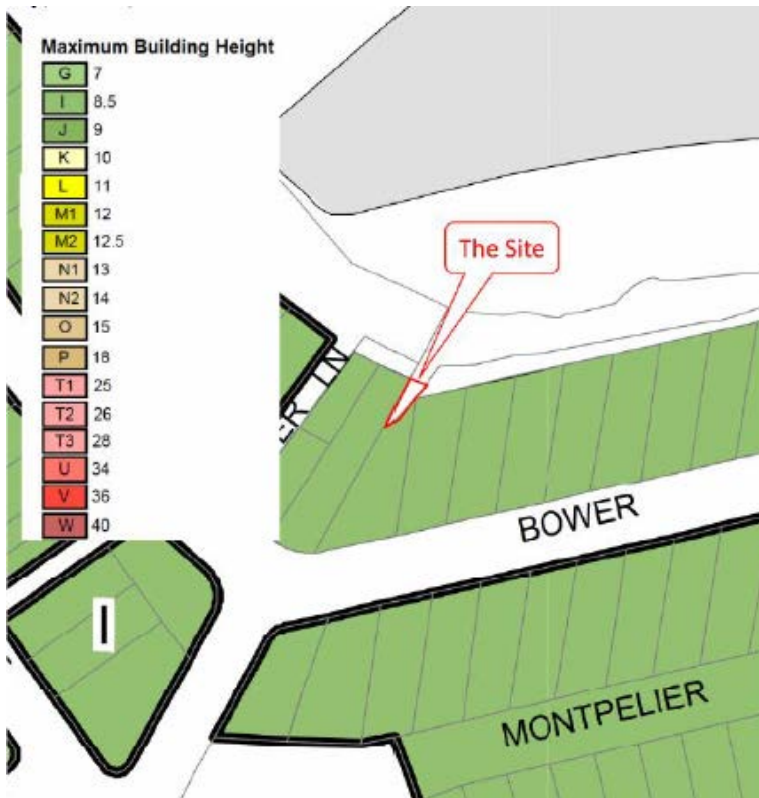


Figure 5 Current height of building map

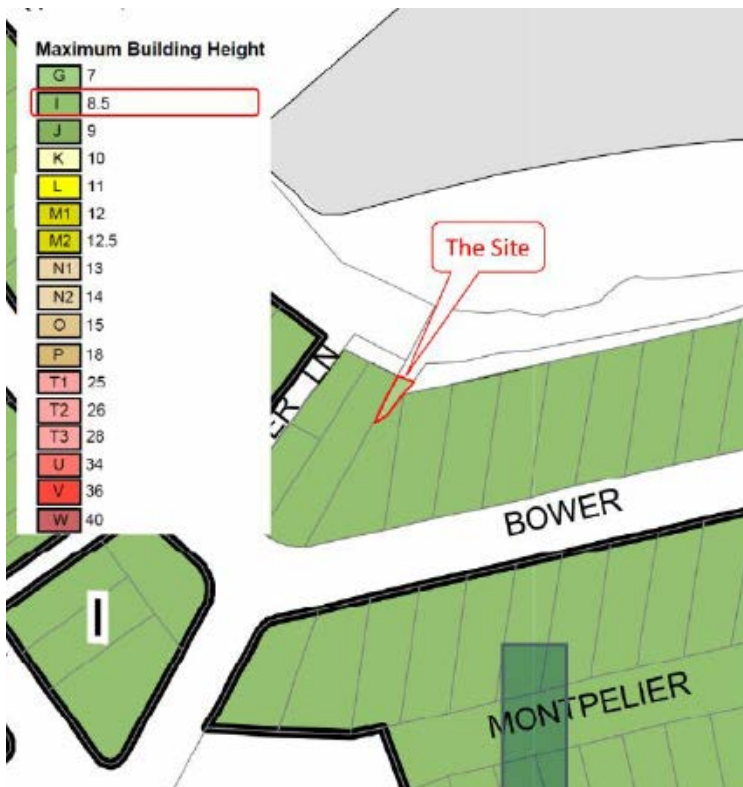


Figure 6 Proposed height of building map

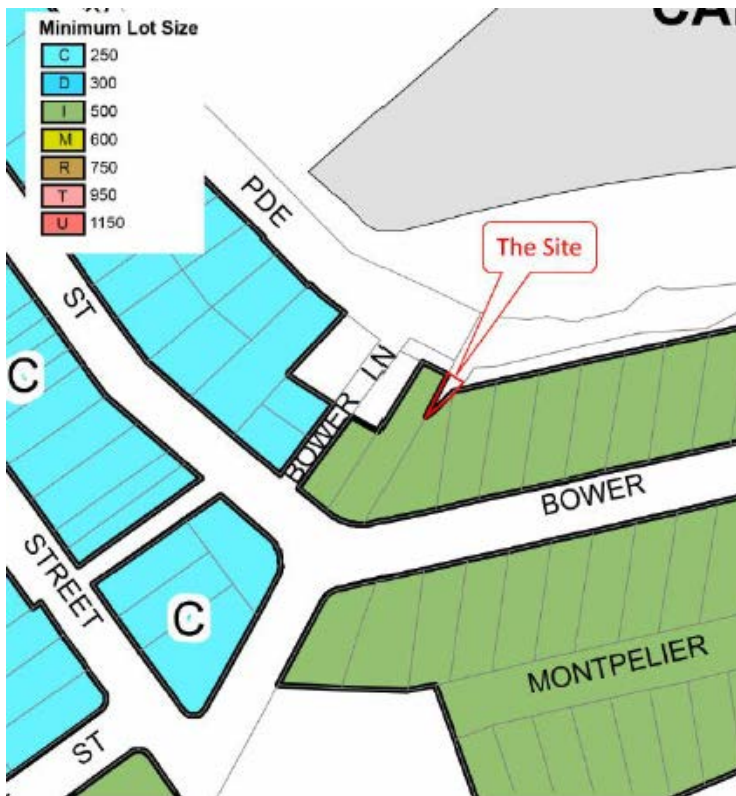


Figure 7 Current minimum lot size map

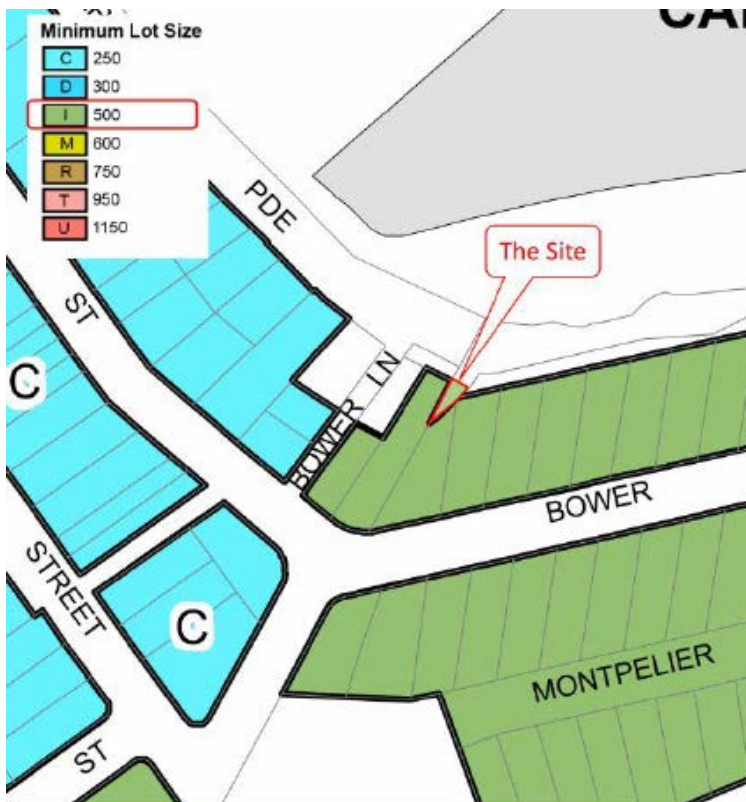


Figure 8 Proposed minimum lot size map

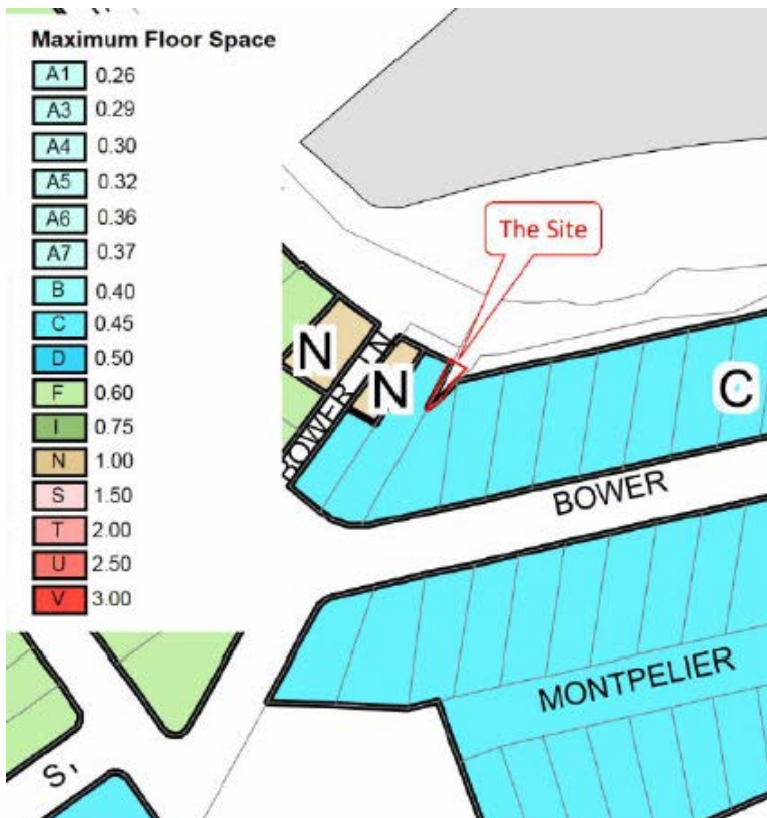


Figure 9 Current floor space ratio map

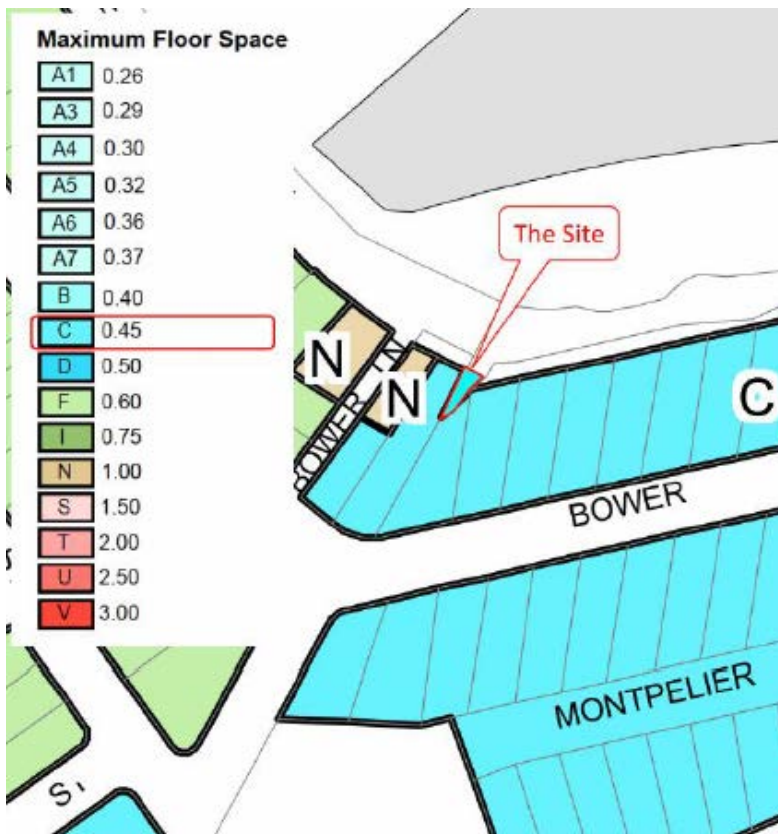


Figure 9 Proposed floor space ratio map

2 Need for the planning proposal

The planning proposal is not the result of any endorsed Local Strategic Planning Statement, strategic study or report. The planning proposal will allow the orderly and economic use and development of the land in conjunction with the adjoining principal residential property (88 Bower Street, Manly) and is the most appropriate recourse for achieving the objectives of the proposal.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is considered minor in nature. The Department is satisfied that the planning proposal gives effect to the relevant aspects of the Greater Sydney Regional Plan – A Tale of Three Cities.

3.2 District Plan

The site is within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The proposal is considered minor in nature. The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

3.3 Local

The proposal states that it will give effect to Towards 2040, the Northern Beaches Local Strategic Planning Statement (LSPS).

3.4 Local planning panel (LPP) recommendation

The Panel recommended that:

- Council endorse the planning proposal lodged for the rear of 88 Bower St, Manly, to be submitted to the Department to seek a Gateway Determination.
- evidence be provided to show that the site has been consolidated with 88 Bower Street prior to exhibition of the planning proposal.

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 3 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 2.1 Environment Protection Zones	Yes	The site does not contain any threatened or endangered species population or ecological communities or their habitats.

Direction 2.2: Coastal Management	Yes	<p>The proposal is considered to be inconsistent with item 5 of Direction 2.2 which states that a proposal must not rezone land which would enable increased development or more intensive land-use on land that has been identified as land affected by current or future coastal hazard in a local environmental plan, development control plan, study or assessment by or on behalf of the relevant planning proposal authority.</p> <p>Direction 2.2 does allow for planning proposals to be inconsistent with the Direction if it can be satisfied that the provisions of the planning proposal that are inconsistent are of minor significance.</p> <p>The proposal is considered to be of minor significance. Further, Coastal Engineering advice found that future development at the site could be designed to have an acceptably low risk of being damaged by coastal processes and hazards.</p>
Direction 2.3: Heritage Conservation	Yes	<p>The site is not identified as a heritage item and is not located within a heritage conservation area.</p> <p>Heritage Items No. I167 (Fairy Bower Pool) and Landscape Item No. I168 (Ocean Foreshores) are located in the area. However, as they are not in the near vicinity, the proposal is unlikely to impact them.</p>
Direction 2.4: Recreation Vehicle Areas	Yes	The proposal does not enable land to be developed for the purpose of a recreation vehicle area.
Direction 2.6 Remediation of Contaminated Land	No	<p>A preliminary site investigation has not been completed. However, given the minor nature of the proposal, history of its use and size of the site, it is considered not required.</p> <p>Should a Development Application be submitted, Council can include conditions for further investigations.</p>
Direction 3.1: Residential Zones	Yes	The proposal is considered consistent with the objectives contained in this direction.
Direction 3.4: Integrating Land Use and Transport	Yes	The proposal is considered consistent with the objectives contained in this direction.
Direction 6.1: Approval and Referral Requirements	Yes	The proposal is considered consistent with the objectives contained in this direction.
Direction 6.2: Reserving Land for Public Purposes	Yes	The reservations applying to the site were revoked when the site went from public to private ownership, as they were considered surplus to government and public requirements.
Direction 6.3: Site Specific Provisions	Yes	The proposal does not include site specific provisions that are unnecessarily restrictive. The proposal is consistent with adjoining lots.

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 4 Assessment of planning proposal against relevant SEPPs

SEPPs	Proposal	Complies
State Environmental Planning Policy No. 55 – Remediation of Land	<p>The proposal indicates that the site is reclaimed land that has historically been used for landscaping works and open space adjacent to residential properties.</p> <p>The Department supports the view that the site is unlikely to be affected by contamination.</p> <p>A preliminary site investigation has not been completed. However, given the minor nature of the proposal, the history of its use and the size of the site, it is considered not required.</p> <p>Should a Development Application be submitted Council can include conditions for further investigations</p>	Yes
State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coastal)	<p>The site is located within a “coastal environment area” and “coastal use area” as mapped in SEPP Coastal where the consent authority must consider whether a proposed development is likely to cause adverse impacts as outlined in the SEPP.</p> <p>Coastal engineering advice found that any future development on the site consolidated with 88 Bower Street, under the proposed amendments could be designed and sited to satisfy the requirements of the SEPP.</p>	Yes

4 Site-specific assessment

4.1 Environmental

As the site is urbanised and the proposal is minor in nature, it is considered that the likelihood of adverse effects on critical habitat or threatened species, populations or ecological communities, or their habits is minimal.

4.2 Social and economic

The proposed amendments will not have any adverse social or economic effects on the surrounding area. Risks associated with coastal inundation were considered in the Coast Engineering Advice. The advice finds that any risks can be mitigated through design measures.

4.3 Infrastructure

Because of the minor nature of the proposal it is considered that the proposed amendments will not require additional infrastructure to support the proposal.

5 Consultation

5.1 Community

Given the minor nature of the proposal, an exhibition period of 14 days is considered appropriate, and forms to the conditions of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. Given the minor nature of the proposal, the Department considers that agency consultation is not required.

6 Timeframe

The Department recommends a time frame of 6 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that any Gateway determination should include conditions requiring council to exhibit and report on the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal is considered to be minor in nature the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions as the proposal is considered minor in nature and has been adequately justified.

9 Recommendation

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

1. Prior to public exhibition the planning proposal is to be updated to:
 - a) Delete reference to Section 9.1 Direction 3.3 Home Occupations and Direction 7.1 Implementation of A plan for Growing Sydney, which have been repealed;
 - b) Update labels on Maps 1 and 2 (Page 16) to clearly show the developments standards;
 - c) Update Map 3 Proposed Maximum Building Height (Page 17) to remove the dark square; and
 - d) Provide evidence that the site has been consolidated with 88 Bower Street.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - a) the planning proposal must be made publicly available for a minimum of 14 days; and
 - b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A

guide to preparing local environmental plans (Department of Planning and Environment, 2018).

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
4. Council is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a) Council has satisfied all the conditions of the Gateway determination;
 - b) the planning proposal is consistent with Section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c) there are no outstanding written objections from public authorities.
5. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.

 1 June 2021

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 1 June 2021

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