

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Newcastle
<b>PPA</b>	Newcastle City Council
<b>NAME</b>	Sanctuary Estate Fletcher (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2018_NEWCA_004_00
<b>LEP TO BE AMENDED</b>	Newcastle Local Environmental Plan 2012
<b>ADDRESS</b>	Fletcher
<b>DESCRIPTION</b>	Various lots and DPs
<b>RECEIVED</b>	17 May 2018
<b>FILE NO.</b>	EF18/7010
<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.

### INTRODUCTION

#### Description of planning proposal

The planning proposal seeks to rezone land within and around Sanctuary Estate, Fletcher to provide consistency with adjoining land uses and onsite land uses, and to correct zoning anomalies now that the development is substantially commenced. Relevant planning controls in relation to building height, floor space ratio and minimum lot size will also be altered to align with the proposed zone. It is also intended to list two sites as items of local environmental heritage.

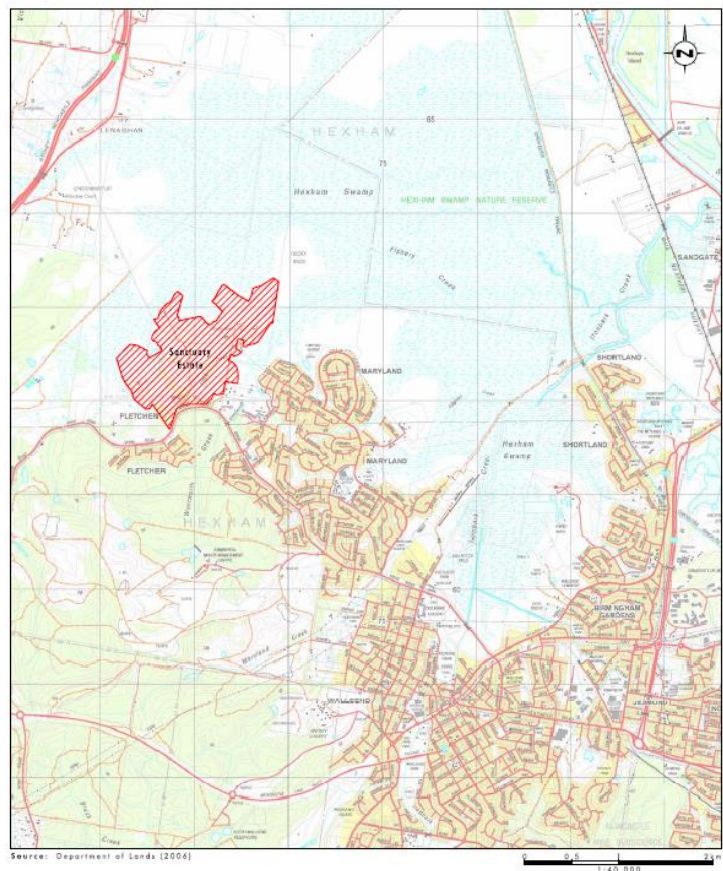


Figure 1: Location Plan

## Site description

Sanctuary Estate is a housing estate on the western edge of Newcastle LGA approved in 1998. The development is delivering 839 residential lots, four urban housing lots, a commercial site, two Aboriginal heritage conservation management areas and open space.

The planning proposal affects 27 parcels in the Sanctuary Estate some of which are in Council ownership and classified community land and some have been dedicated to Council as conservation lands. The proposal separates the sites into four categories (or parts) based on the type of change being made to the planning controls. (See Figure 2 Site Map).

### Part A: R2 Low Density Residential zone to E2 Environmental Conservation zone

Part A contains 15 parcels dedicated to council (except for 280 Minmi Road which Council advises is owned by Hunter and Central Rivers Catchment Management Authority). This land is around the edge of the urban area and is vacant and primarily with scattered vegetation and regrowth.

### Part B: Rezoning from R2 Low Density Residential zone and/or E2 Environmental Conservation zone to RE1 Public Recreation zone (Five sites B1 – B5)

Sites B1 and B5 are public reserves owned by Council and used for education and recreation. Site B1 contains a large assemblage of Aboriginal flaked stone artefacts and provides extensive views across Hexham Wetlands and to 'Rocky Knob' which is a culturally important feature of the landscape.

B5 is a sheltered position between two creek lines and is representative of the diverse natural resources that were used and looked after by the traditional Awabakal people.

B2 is a children's playground for public use owned by Council.

B3 and B4 provide a sporting oval and amenities block for public use owned by Council.

### Part C: Rezoning from B1 Neighbourhood Centre to R2 Low Density Residential zone

These four properties (C1 – C4) are in private ownership and contain fully constructed single dwellings.

### Part D: Realignment of B1 Neighbourhood Centre and R2 Low Density Residential common zone boundaries

These sites consist of two properties held in private ownership, Lot 2 DP 1231562 and Lot 1 DP 1231562 and part of the road reserve. The zone boundary does not align with the common boundary with the road reserve and there are three mapping anomalies required to correct the anomaly.



Figure 2: Site map

### Existing planning controls

The existing planning controls that apply to the four different types of sites are indicated in Table 1 below.

Sites	Land use zone
Part A	E2 Environmental Conservation zone and/or R2 Low Density Residential zone
Part B	R2 Low Density Residential zone and/or E2 Environmental Conservation zone
Part C	B1 Neighbourhood Centre zone
Part D	B1 Neighbourhood Centre and/or R2 Low Density Residential zone

Table 1: Existing Planning Controls



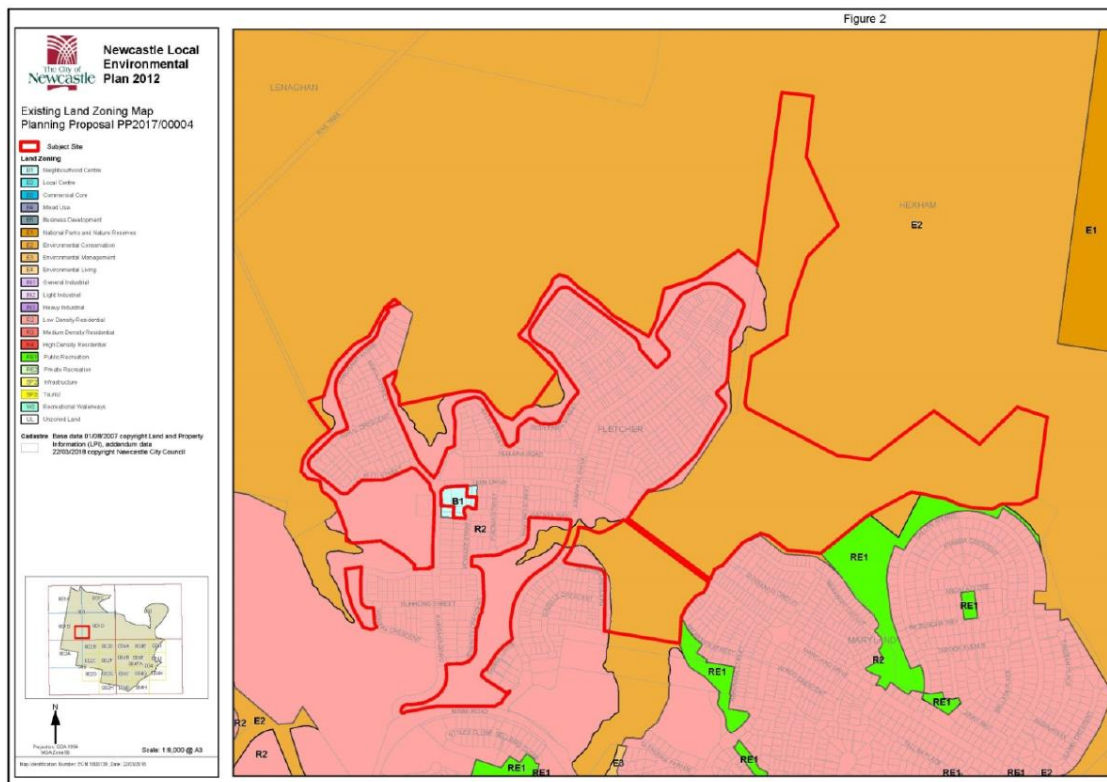


Figure 2: existing zones

## Surrounding area

The surrounding area is characterised by green field urban development on the fringe of Newcastle LGA backing onto Hexham Wetland and Hunter Wetlands National Park (see Figure 1. Location Plan). It is in close proximity to the M1 Pacific Motorway and the Hunter Expressway providing connections to the Hunter Valley and beyond the region. It adjoins the Lake Macquarie north western LGA boundary. The nearest centre is Wallsend which is 6km away and it is 12 km to the Cardiff employment area.

## Summary of recommendation

It is recommended that the planning proposal proceed to public exhibition, subject to conditions. There are two minor corrections to the planning proposal relating to the Minimum Lot Size and mapping. It is recommended the Gateway determination be conditioned so that these aspects of the planning proposal are corrected prior to exhibition.

## PROPOSAL

### Objectives or intended outcomes

The objectives of the planning proposal are adequately conveyed. The planning proposal seeks to amend Newcastle Local Environmental Plan 2012 to:

- Ensure zoning of land is compatible with the intended use of the land;
- Protect and maintain open space and bushland areas;
- Identify and protect local Aboriginal history and cultural heritage sites; and
- Correct minor zoning anomalies.

## Explanation of provisions

The explanation of provisions is presented in a clear manner to be comprehended through community consultation. The provisions are to amend the land zoning map, height of buildings map, floor space ratio map and minimum lot size map of various sites, as well as amend Schedule 5 Environmental heritage. Table 2 (page 6) of the planning proposal provides a detailed list of the changes proposed for each site.

In summary, the provisions of the planning proposal are:

Section 1	
Part A	Rezoning from R2 Low Density Residential zone to E2 Environmental Conservation zone and associated planning controls. There is an error in the explanation of provisions in the planning proposal for the MLS. Table 2 indicates the MLS for the E2 Environmental Conservation zone is 40,000 sqm when it is actually 400,000sqm. This error is also contained in Appendix 3 Mapping changes. It is recommended that the Gateway determination be conditioned for the planning proposal to be amended to reflect the correct MLS.
Part B	Rezoning from R2 Low Density Residential zone and/or E2 Environmental Conservation zone to RE1 Public Recreation zone and associated planning controls
Part C	Rezoning from B1 Neighbourhood Centre to R2 Low Density Residential zone and associated planning controls
Part D	Realignment of B1 Neighbourhood Centre and R2 Low Density Residential common zone boundaries and associated planning controls
Section 2	
	Amend Schedule 5 Environmental Heritage Part 3 Archaeological sites to include the following sites: Lot 174, DP 1113792 25 Konara Crescent for Aboriginal Heritage Park 1 (Yutilliko Park); and Lot 1536, DP 122535225 29 Threkeld Crescent for Aboriginal Heritage Park 2 (Kauma Park);

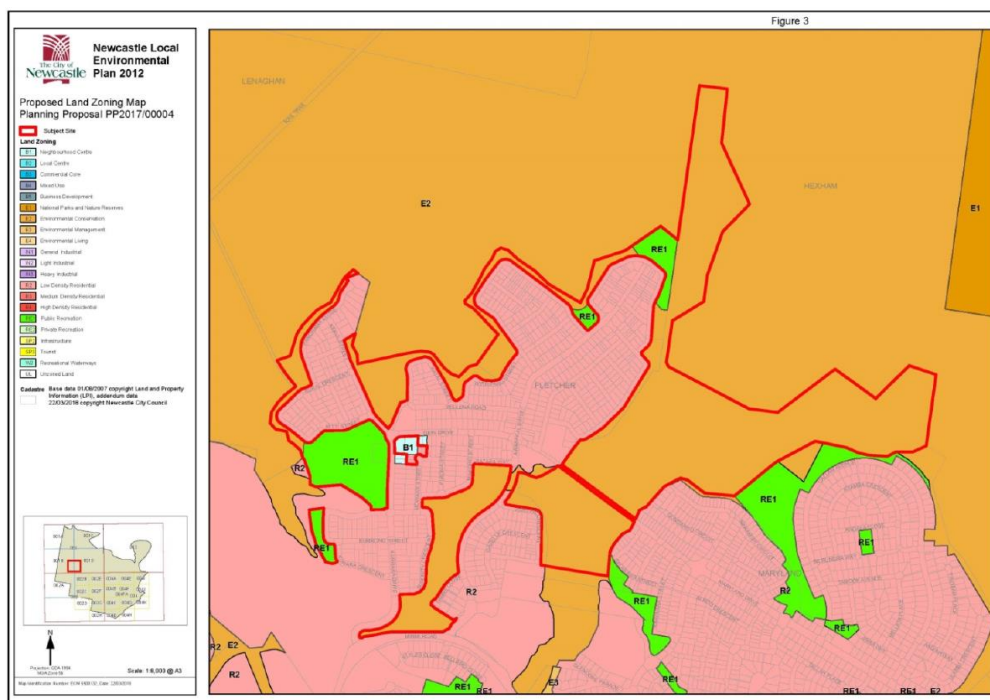


Figure 3: Proposed zones

## Mapping

The proposal includes amendments to Newcastle LEP 2012 maps the description of which in the planning proposal is adequate for community consultation.

001B and 001D map tiles on the following maps require amendment;

- Land Zoning Map
- Height of Buildings Map
- Floor Space Ratio Map
- Minimum Lot Size Map
- Heritage Map

There are inconsistencies in the way in which existing and proposed zoning and planning controls for Parts C and D are illustrated in Appendix 3 Mapping changes. This is confusing. It is recommended that Council use the same approach as for Parts A and B so that it is clear to the community when consultation occurs.

## NEED FOR THE PLANNING PROPOSAL

The planning proposal is necessary to correct inconsistencies with the Sanctuary Estate rezoning now that the site has been substantially developed. At the completion of the subdivision of the Estate in 2011, Council entered into a Voluntary Planning Agreement (VPA) to resolve dedication of land for conservation, public reserve and protection of Aboriginal Cultural Heritage (see the VPA map **Attachment A**).

While the planning proposal is not the result of a strategic study or report, it will align zones and development standards to the land uses that are occurring or to occur on those lands, following more detailed assessment through the development application process. The planning proposal acknowledges the environmental

conservation value of Hexham Wetland surrounding the Estate and the resolution of ongoing management of Aboriginal cultural heritage items on site.

The Department agrees with the need for the planning proposal.

## **STRATEGIC ASSESSMENT**

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### **Hunter Regional Plan 2036**

The Hunter Regional Plan 2036 Direction 14 seeks to protect and connect natural areas. It is also consistent with Direction 18 by improving connections of new and existing urban areas with the natural landscape and man-made open space. The planning proposal supports these directions by clearly delineating the interface between Sanctuary Estate and Hexham Swamp and Hunter Wetlands National Park.

The proximity of the site to the future Richmond Vale Rail Trail also presents opportunities for the residential estate to expand the inter-regional cycling link in accordance with Direction 18 of the HRP2036.

The Regional Plan aims to work with Aboriginal communities to protect and identify Aboriginal cultural heritage in a manner suitable to Aboriginal communities. The planning proposal supports this aim through management of the large number of artefacts (3,000) found on the development site through the creation of Yutilliko and Kauma parks. This is consistent with HRP Direction 19 that seeks to identify and protect the region's heritage.

Relevant supporting actions of the HRP 2036 are as follows:

- Direction 14 Protect and connect natural areas
  - Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region
- Direction 18 Enhance access to recreational facilities and connect open spaces
  - Enhance public access to natural areas and identify a range of accessible open space and recreation opportunities and integrate open space, active transport and recreation networks.
  - Facilitate more recreational walking and cycling paths including planning for the Richmond Vale Rail Trail and expanded inter-regional walking and cycling links.
- Direction 19 Heritage
  - Conserve Aboriginal cultural heritage through respecting the Aboriginal communities right to determine how they are identified and managed.

### **Draft Greater Newcastle Metro Plan (GNMP)**

The planning proposal is aligned with the strategies of the draft GNMP which build upon the Hunter Regional Plan 2036 directions. Specifically:

- Strategy 2.2 Create more great public spaces where people come together
  - Identify, protect and celebrate Aboriginal cultural heritage
- Strategy 2.3 Enhance the blue green grid and the urban tree canopy

- Improve local access to open space, recreation areas and waterways so that 90% of houses are within a 10-minute walk of open space

### **Newcastle Community Strategic Plan**

The proposal is consistent with the Newcastle 2030 Community Strategies Plan by protecting and enhancement of the environment. The planning proposal aligns with this strategy by rezoning the perimeter road which is zoned R2 Low Density Residential zone to E2 Environmental Conservations zone.

The planning proposal also will contribute towards the protection of heritage and more vibrant and activated public places though rezoning the public reserves for Aboriginal cultural heritage interpretation and the sporting facilities for public recreation.

### **Local Planning Strategy 2015**

The planning proposal is consistent with the objectives in the Local Planning Strategy for the suburb of Fletcher which seeks to; protect and maintain existing public open space and bushland areas and to increase the range of community and sporting facility to meet the demands of the growing population.

### **Section 9.1 Ministerial Directions**

See **Attachment B** – Site summary table for table showing section 9.1 directions in relation to individual site amendments.

#### **Part A Rezoning from R2 Low Density Residential zone to E2 Environmental Conservation zone**

Direction 3.1 Residential Zones: Inconsistent with subclause 3(a) as it will alter an existing residential zone boundary. The PP is considered justified as the land is intended as conservation and not to be developed. It is therefore of minor significance. The agreement of the Secretary's delegate is recommended.

Direction 4.4 Planning for bushfire protection: The Planning Proposal affects land mapped as bushfire prone. Consultation with NSW RFS must occur and any comments taken into consideration prior to undertaking community consultation.

Direction 6.2 Reserving Land for Public Purposes: The Secretary's approval is required where a change is proposed to the planning controls of publicly owned land. As Local Land Services (Catchment Management Authority) owns a parcel of land that is to be rezoned, consultation with this agency is needed before consistency with the direction can be determined.

#### **Part B Rezoning from R2 Low Density Residential zone and/or E2 Environmental Conservation zone to RE1 Public Recreation zone**

Direction 2.1 Environment and Protection Zones: Inconsistent with clause 5 as it will reduce the environment protection standards over the land for those areas zoned E2. The PP is considered justified as the public open space within the Sanctuary Cove development has an approved recreational use. The amendment is of minor significance and the agreement of the Secretary's delegate is recommended.

Direction 3.1 Residential Zones: Inconsistent with subclause 3(a) as it will alter an existing residential zone boundary. The PP is considered justified as it is Council owned land and contains sporting facilities and reserves. The amendment is of minor significance and the agreement of the Secretary's delegate is recommended.



Direction 4.4 Planning for bushfire protection: The Planning Proposal affects land mapped as bushfire prone and consultation with NSW RFS must occur and any comments taken into consideration prior to undertaking community consultation.

Direction 6.2 Reserving Land for Public Purposes: The Secretary's agreement is needed where the planning controls of public land or reserves are to change. The planning proposal will zone land already identified for passive and active recreation through previous Council approvals and the Planning Agreement. The Secretary should agree to the change per subclause 4 of the direction.

Direction 2.3 Heritage Conservation: Two of the Part B sites are to be listed in the heritage schedule to recognise their cultural heritage. Notwithstanding the need for consultation to occur with the Awabakal LALC, the proposal is consistent with this direction.

#### Part C Realignment of B1 Neighbourhood Centre and R2 Low Density Residential common zone boundaries

Direction 1.1 Business and Industrial Zones: Inconsistent with subclauses 4(c) as it will reduce business zone and FSR for employment uses. It is considered justified as the 4 sites contain dwellings on them which are permissible in the B1 zone and there is adequate land for a neighbourhood centre on the land adjoining these parcels on Karruka Drive. Council has confirmed that landowners have been notified of the planning proposal and will be consulted as part of the public exhibition. Notwithstanding the need for this consultation to occur, the amendment is of minor significance and the agreement of the Secretary's delegate is recommended.

#### Part D Realignment of B1 Neighbourhood Centre and R2 Low Density Residential common zone boundaries and associated planning controls

Directions 3.1 Residential Zones and 1.1 Business and Industrial Zones: Inconsistent as it will alter an existing residential and business zones. The proposed amendment is considered justified as it will correctly align zone boundaries with the common boundary with the road reserve. The amendment is of minor significance and the agreement of the Secretary's delegate is recommended.

### **State environmental planning policies**

#### SEPP (Coastal Management) 2018

Some of the sites around the perimeter of the Estate (Part A) are affected by the Proximity Area for Coastal Wetlands layer in the SEPP (Coastal Management) 2018. The SEPP was published in March 2018 which postdates the development approval for Sanctuary Estate. The zone amendments are consistent with clause 11 of the SEPP which does not permit development consent on land identified as 'proximity area for coastal wetlands' (see map below). Any future development application on land effected by the Proximity Area for Coastal Wetlands layer will be required to address the SEPP (Coastal Management) 2018.

The Planning proposal is consistent with SEPP (Coastal Management) 2018.



## SITE-SPECIFIC ASSESSMENT

### Social

The planning proposal will deliver positive social impacts by formalising the existing public recreation areas and land identified for environmental protection to the appropriate zone.

There does not appear to be adverse social impacts by reducing the B1 Neighbourhood Centre zone by removing the 4 lots as adequate land remains for a suitable neighbourhood centre to be established. The subject sites to be rezoned are more suitably zoned residential in-keeping with the approved existing dwellings and will allay any adverse impacts from traffic generating commercial land uses on a residential street. As indicated above, landowners have been notified of the planning proposal.

### Environmental

#### Bushfire

Bushfire affected lands are appropriately to be zoned RE1 Public Recreation which does not permit dwellings however permits special fire protection purpose such as child care facility. Future development assessment is required for any special purpose uses permitted within the zone. Consultation with NSW RFS is required to satisfying section 9.1 Direction 4.4.

#### Flood

Some of the E2 Environmental Conservation zone land is flood effected however this zone is more restrictive of development that the R2 Low Density Residential zone and will provide a more suitable development outcome under this constraint. No additional residential development is to occur on this land.

## Heritage

The planning proposal will protect Aboriginal cultural heritage by listing two new Aboriginal areas/artefacts under Schedule 5 in Newcastle LEP 2012 and rezone the land from residential to RE1 Public Recreation zone. These areas were selected as they contained a large number of artefacts.

These areas were chosen through consultation with Awabakal Local Aboriginal Land Council. Consultation with the Land Council is required to confirm that the inclusion of the sites in Newcastle LEP 2012 is supported.

## Infrastructure

Provision and funding of state infrastructure was considered in the assessment of the original zoning of this land. Further infrastructure considerations are not required as part of this planning proposal.

## CONSULTATION

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### Community

Newcastle Council proposes to exhibit the planning proposal for 14 days. This is considered an adequate exhibition period.

### Agencies

Council has indicated it will consult with agencies as required by the Gateway.

Consultation is required with Office of Environment and Heritage regarding land being zoned from E2 Environmental Conservation to RE1 Public Recreation and regarding matters relating to Aboriginal Cultural Heritage. Awabakal Local Aboriginal Land Council should be consulted also.

Site A3, 280 Minmi Road (Part Lot 51 DP 1192169), owned by Local Land Services (CMA), is largely zoned E2 Environmental Protection but contains some R2 Low Density Residential zone around the edges of the estate. It is recommended that Hunter CMA be consulted as the owner of this property.

NSW Rural Fire Service regarding bushfire impacts.

## TIME FRAME

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Council has requested a timeframe of 12 months and this is considered adequate given that this planning proposal will correct anomalies and formalise existing land uses.

## LOCAL PLAN-MAKING AUTHORITY

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Newcastle City Council has previously advised that it does not want to be the local plan-making authority for any proposals.

## CONCLUSION

The proposal is supported because it will formalise landuses agreed to by Council, the developer and the Local Aboriginal Land Council. The planning proposal is also consistent with the goals and objectives of the relevant Regional and draft Metropolitan, and local strategies.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.1 Business and Industrial Zones, 2.1 Environment and Protection Zones and 3.1 Residential Zones are minor and justified.
2. approve the changes proposed to the public reserves (to be zoned RE1) per section 9.1 Direction 6.2 Reserving Land for Public Purposes.
3. note the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes (Site A3 - Local Land Services land) is unresolved and will require justification/consultation.

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

1. Prior to exhibition:
  - (a) amend the Explanation of Provisions for Part A sites and Appendix 3 Mapping changes to indicate the E2 Environmental Conservation zone Minimum Lot Size as 400,000sqm; and
  - (b) amend Appendix 3 Mapping changes for Parts C and D to clearly identify the land affected by the proposed changes.
2. The planning proposal should be made available for community consultation for a minimum of 14 days.
3. Consultation is required with the following public authorities:
  - Office of Environment and Heritage
  - Local Land Services (Catchment Management Authority)
  - NSW RFS Rural Fire Service (S9.1 Direction 4.4)
  - Awabakal Local Aboriginal Land Council
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given Council's position on not accepting the Minister's delegations, Council should not be authorised to exercise delegation to make this plan.

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22/6/2018  
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