



IRF22/183

Gateway determination report – PP-2022-239

Rezoning of land at 34 Allan Avenue, Belmore, and
Benda Street Reserve, Belmore

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Council Meeting Resolution, 26 October 2021
LPP Exemption Letter from Council's General Manager, 22 December 2021
Planning Proposal – 34 Allan Avenue and Benda Street Reserve, December 2021

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Canterbury Bankstown Council
PPA	City of Canterbury Bankstown
NAME	34 Allan Avenue and Benda Street Reserve, Belmore
NUMBER	PP-2022-239
LEP TO BE AMENDED	Canterbury Local Environmental Plan 2012
ADDRESS	34 Allan Avenue and Benda Street Reserve, Belmore
DESCRIPTION	Allan Street: Lot B DP 355867 Benda Street Reserve: NA
RECEIVED	21/01/2022
FILE NO.	EF22/873
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

1.2 Objectives of planning 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:

34 Allan Avenue, Belmore

- *rezone the site from RE1 Public Recreation to R3 Medium Density Residential to reflect the existing use of the site*
- *remove the reservation of land for a public purpose at the site as it has been identified as a low priority and is no longer a priority for Council*
- *provide certainty for the landowner and the community as to the long term land use envisaged for the site*
- *provide for a range of permitted residential development that facilitates housing within the R3 Medium Density Residential zone*
- *ensure the future redevelopment of the site is consistent with the existing local character of the area.*

Benda Street Reserve, Belmore

- *rezone the site from Zone R3 Medium Density Residential to RE1 Public Recreation*
- *reflect and formalise the long-standing use of the land as public open space and safeguard its use for this purpose*
- *provide certainty for the community as to the long term land use envisaged for the site.*

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Canterbury LEP 2012 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
34 Allan Avenue, Belmore		
Zone	RE1- Public Recreation	R3 – Medium Density Residential
Maximum height of the building	-	8.5 m
Floor space ratio	-	0.5:1
Minimum lot size	-	460 m ²
Land acquisition	Mapped for acquisition	Removed from acquisition map
Benda Street Reserve		
Zone	R3 – Medium Density Residential	RE1- Public Recreation
Maximum Height of Building	8.5 m	-
Floor Space Ration	0.5:1	-
Minimum Lot Size	460 m ²	-

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

1.4 Site description and surrounding area

The planning proposal relates to two sites in the former Canterbury Local Government Area.

The two sites are located close to one another on the southern side of Allan Avenue (**Figure 1**). The surrounding area is characterised by a regular street pattern with low to medium density residential development. Neither site is classified as community or operational land under Division 1 of the Local Government Act 1993.

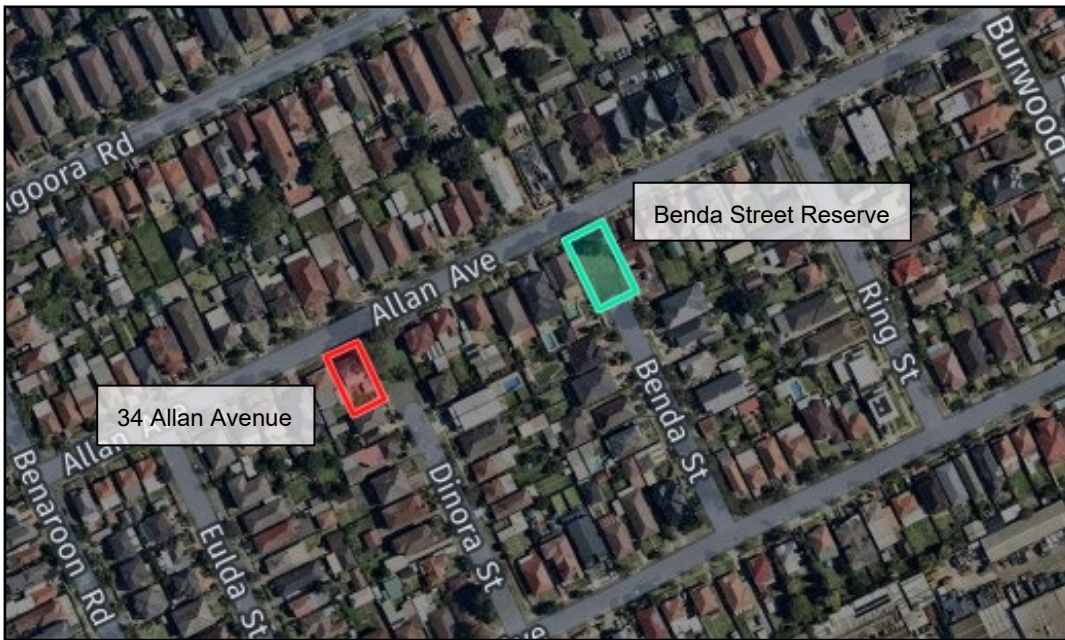


Figure 1 Site context showing the two sites in relation to each other (source: Nearmaps)

34 Allan Avenue, Belmore, is regular in shape and comprises approximately 508 m² of land (**Figure 2**). The site is privately owned and currently accommodates a single storey detached house with a northern frontage to Allan Avenue (**Figure 3**). The site is bordered to the east by the Dinora Street Reserve. This reserve provides pedestrian access from Allan Avenue to Dinora Street and supplies approximately 500 m² of open space. The Dinora Street Reserve occupies part of the road reserve and therefore has no legal site description.



Figure 2 The site at 34 Allan Avenue, Belmore (source: Nearmaps)



Figure 3 34 Allan Avenue, Belmore, and the Dinora Street reserve as viewed from Allan Avenue, Belmore (source: Google maps)

The Benda Street Reserve (**Figure 4**) forms part of the road reserve and does not have a legal description. The reserve is vacant and comprises 730 m² of landscaped area and provides pedestrian and cycle access between Allan Avenue and Benda Street (**Figure 5**). The Benda Street Reserve also provides public seating.

The Benda Street Reserve is not currently recognised as an open space in Council's open space network due to its residential zoning.



Figure 4 The site at Benda Street Reserve, Belmore (source: Nearmaps)

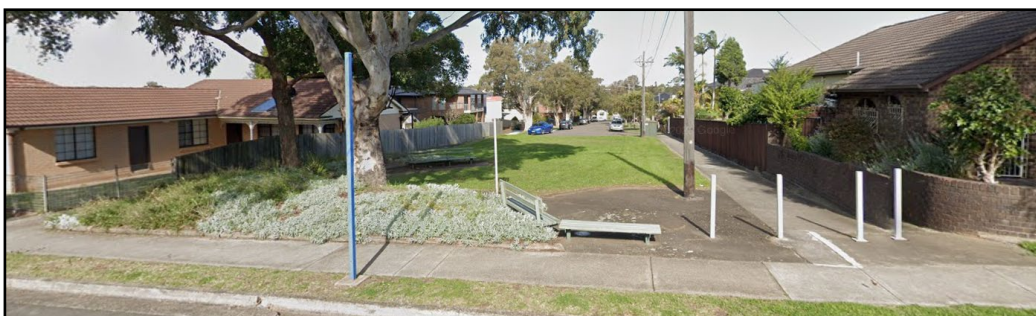


Figure 5 Benda Street Reserve, Belmore, as viewed from Benda Street (source: Google maps)

The two sites are approximately 800 m from Belmore Station, 940 m Lakemba Station and 720 m to Punchbowl Road (**Figure 6**). Other public open space in proximity to the two sites is limited. Knox Street reserve is located approximately 750 m to the north and Terry Lamb Reserve is located 1.65 km to the south east, adjacent to Belmore Stadium. Additionally, Peel Park is located 700 m to the south and the larger open space known as Parry Park is located 1.2 km to the west of the two sites. The two sites represent a central point triangulated by commercial areas in Belfield 850 m to the north, Belmore 1.5 km to the south east and Lakemba 1.05 km to the southwest. This is shown in the map inset to **Figure 6**.



Figure 6 Benda Street Reserve, Belmore, as viewed from Benda Street (Base source: Near map)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the following Canterbury LEP 2012 maps, which are suitable for community consultation.

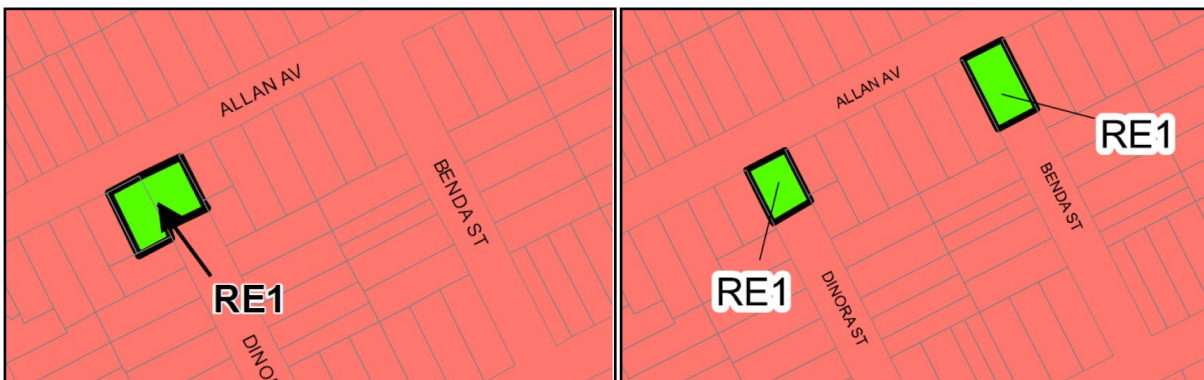


Figure 7 Current (left) and proposed (right) zoning map



Figure 8 Current (left) and proposed (right) land reservation acquisition map



Figure 9 Current (left) and proposed (right) maximum height of building map



Figure 10 Current (left) and proposed (right) floor space ratio map

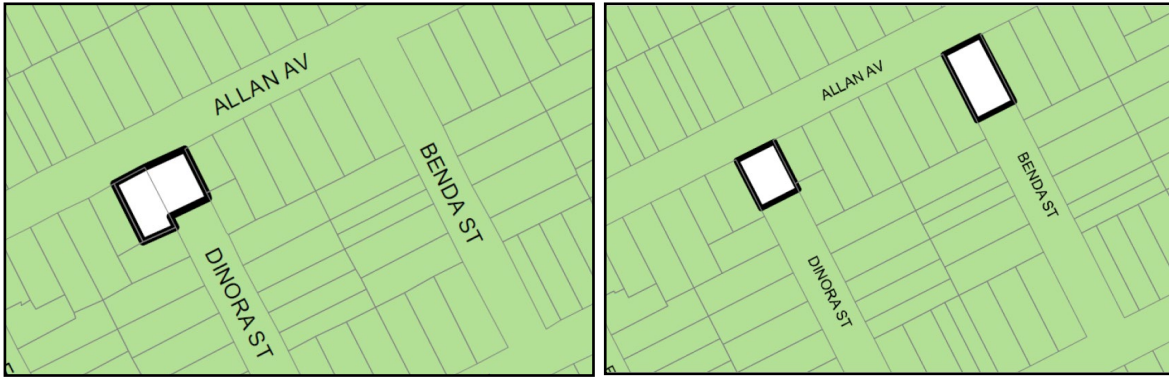


Figure 11 Current (left) and proposed (right) minimum lot size map

1.6 Background

The following background information is relevant to the planning proposal:

34 Allan Avenue, Belmore

- In 1993, the former Canterbury Council undertook a review of the *Canterbury Planning Scheme Ordinance 1970* to address the provision of public open space in the Belmore-Lakemba Precinct. The review recommended the acquisition of 34 Allan Avenue, Belmore, as a possible extension of Dinora Street Reserve.
- In 1998, the Canterbury Local Environmental Plan 178 was gazetted. The Plan confirmed 34 Allan Avenue was to be acquired and rezoned for public open space.
- Despite this intention, the site remained in private ownership and continued to be used for residential purposes.
- Council has advised that they are not in a position to purchase the land and the land is not included in any capital works programs. Council has advised that it will be focusing funding on other areas of the LGA where there is population growth.

Benda Street Reserve, Belmore

- Benda Street Reserve originally functioned as a roadway connecting Benda Street with Allan Avenue. It is unknown when Council converted this part of the roadway to public reserve.
- Neither site has been classified as community or operational land.

2 Need for the planning proposal

Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

No.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is the best means of rezoning the two sites, removing the public land reservation and applying development standards to the site at 34 Allan Avenue, Belmore.

3 Strategic assessment

3.1 Premier's Priorities

In March 2019, the NSW Premier announced a series of Premier's Priorities which represent the NSW government's commitment to making a significant difference to enhance the quality of life for the people of NSW.

Premier's Priority 11 *Greener Public Places: Increase the proportion of homes in urban areas within 10 minutes' walk of quality green, open and public space by 10 per cent by 2023* demonstrates the NSW Government's intention to increase access to high quality open space across NSW.

Priority 11 is relevant to the planning proposal as:

- the proposed rezoning the Benda Street Reserve from R3 Medium Density Residential to RE1 Public Recreation would formalise the current use of the site as a public reserve. This would ensure several homes in the Belmore area have continued access to open space
- the proposed rezoning of 34 Allan Avenue, Belmore from RE1 Public Recreation to R3 Medium Density Housing will not impact on access to existing open space given the site comprises a privately owned dwelling
- the site at Allan Avenue is adjoining an existing park and it's rezoning does not reduce the number of homes within 10 minutes walk of a park
- the concurrent rezoning of both sites will ensure no net lot of RE1 Public Recreation zoned land in the area.

The planning proposal did not consider the planning proposal's consistency with the Premier's Priorities or evaluate the quality of the open space at Benda Street Reserve.

Notwithstanding this, the Department considers the planning proposal to be consistent with the Premier's Priorities.

3.2 District Plan

The site is within the South District. The Greater Sydney Commission released the South District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Department is satisfied the planning proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4 District Plan assessment

District Plan Priorities	Justification
<u>Infrastructure</u> Planning Priority 1: Planning for a city supported by infrastructure	34 Allan Avenue is 508 m ² . It will not make a significant contribution to the local open space network. Formal pedestrian access is provided via the adjacent reserve. Rezoning 34 Allan Avenue and removing the site from the Land Reservation Acquisition Map will not affect regional or district infrastructure. Rezoning Benda Street Reserve to public open space will formalise the existing use.

<p><u>Liveability</u></p> <p>Planning Priority 3: Providing services and social infrastructure to meet communities' changing needs</p> <p>Planning Priority 4: Fostering healthy, creative, culturally rich and social connected communities.</p> <p>Planning Priority 5: Provide housing supply, choice and affordability with access to jobs, services and public transport.</p>	<p>Rezoning Benda Street Reserve to RE1 Public Recreation would formalise the use of the site for public open space and ensure continued pedestrian and cycle access from Benda Street to Allan Avenue. This connectivity encourages increased local active transport trips and contributes to reducing car dependency in the local area.</p> <p>The rezoning of Benda Street Reserve will have a negligible impact on the delivery of housing given that the site is vacant and currently used for open space purposes.</p> <p>Rezoning 34 Allan Avenue to R3 Medium Density Residential would permit a range of permissible medium density housing typologies on the site. The rezoning represents a minor contribution to the housing supply, choice and affordability in the local area.</p> <p>The rezoning of 34 Allan Avenue will have a negligible impact on social infrastructure and community needs given that the site is currently occupied by a privately owned dwelling. The site has been listed for acquisition since 1998, and it is unlikely to be acquired.</p>
<p><u>Sustainability</u></p> <p>Planning Priority 15: Increasing urban tree canopy cover and delivering Green Grid connections.</p> <p>Planning Priority 16: Delivering high quality open space</p>	<p>Action 71 of the District Plan seeks to <i>'maximise the use of existing open space and protect, enhance and expand public open space by...delivering on or complementing the Greater Sydney Green Grid'</i></p> <p>Priority S16 seeks to locate all dwellings within 400m of open space.</p> <p>The proposed loss of 34 Allan Avenue as public open space (508 m²) is of minor significance and will be balanced by the addition of Benda Street Reserve (730 m²), located only 8 sites to the east. There will be no net loss of RE1 Public Recreation zoned land in the area. Whilst the expansion of Dinora Reserve through future acquisition of 34 Allan Avenue would be a positive outcome, given the low provision of open space in the area, the overall small size and configuration if the space would only be likely to serve a small local catchment and is not located in an area where housing growth is planned nor is it located on any Greater Sydney Green Grid corridors.</p> <p>Rezoning the Benda Street Reserve to RE1 Public Recreation will ensure the ongoing use of the site as public open space. This will also ensure the existing vegetation and trees on the site will continue to contribute to the urban tree canopy and contribute to the local provision of green space.</p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the following table.

Table 5 Local strategic planning assessment

Local Strategies	Justification
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Local Strategic Planning Statement (LSPS)	<p>The Canterbury Bankstown LSPS was finalised in March 2020 and subsequently assured by the Greater Sydney Commission. The LSPS sets out a 20-year land use vision to guide land use planning for the LGA.</p> <p>The planning proposal is also consistent with the endorsed Canterbury Bankstown LSPS, particularly with the following actions:</p> <p><u>Priority E5.5 – Develop an integrated network of City-wide parks and trails</u></p> <p>The planning proposal would clarify the intended future use of the two sites and would ensure the Benda Street Reserve continues to be used as a pocket park. Rezoning 34 Allan Avenue would also confirm the future use of the site for residential purposes. These amendments would contribute to Council delivering the 'green web' in line with their active transport policies in the LSPS.</p> <p><u>Action E6.4 – Protect the low-density character of suburban neighbourhoods</u></p> <p>Rezoning 34 Allan Avenue would ensure the current residential use of the site continues. The proposed rezoning to R3 Medium Density Residential is in line with the character of the local suburban neighbourhood.</p> <p>The rezoning of Benda Street Reserve will have a negligible impact on the residential area given it is not currently used for residential purposes despite its zoning.</p> <p><u>Action E5.12 – Create diversity in open/public space character and types</u></p> <p>Rezoning the Benda Street Reserve from R3 Medium Density Residential to RE1 Public Recreation would formalise the site as a small pocket park in the Canterbury area and contribute to enhancing the open space network. Importantly, the reserve provides pedestrian connections from Benda Street through to Allan Avenue.</p> <p>Rezoning 34 Allan Avenue from RE1 Public recreation to R3 Medium Density Residential would have a negligible impact on the open space network given it is privately owned and contains a dwelling. The adjoining Dinora Street Reserve will continue to provide public open space and pedestrian connections from Dinora Street through to Allan Avenue.</p>
Community Strategic Plan (CSP)	<p>The vision of the CSP is to build a City that is thriving, dynamic and real. The proposal is consistent with the CSP.</p> <p>The 'Healthy and Active' direction intends to achieve this vision by providing access to open space and parks that cater to all ages and cultures by promoting an active lifestyle.</p> <p>The rezoning of the Benda Street Reserve supports this direction by clarifying the ongoing future use of the site will be RE1 Public Recreation. This zoning would ensure the site continues to be used as a pedestrian and cycle link that contributes to the active transport options in Canterbury area.</p> <p>The rezoning of 34 Allan Avenue will have a negligible impact on the provision of open space and parks given its low potential for future acquisition and the concurrent rezoning of the two sites will ensure no net loss of RE1 Public Recreation zoned land in the area.</p>

Canterbury Open Space Strategy 2017	<p>The Canterbury Open Space Strategy 2017 is not a Department endorsed strategy. However, it aims to provide strategic direction for the development and management of open space in the former Canterbury LGA. The Strategy also aims to guide Council on the future provision, allocation of resources and improvements required for public open space.</p> <p>The Strategy notes that Belmore currently represents a 'gap' in open space provision and that undertaking improvements to targeted local parks is a high priority. The Strategy, however, does not specifically mention 34 Allan Avenue or Benda Street Reserve.</p> <p>Council has advised that the Strategy did not account for some of the existing open space in the LGA such as Benda Street Reserve due to land use zoning and that demand for open space in this part of Belmore is low to medium.</p> <p>Council also advised that the residential density of Belmore has not increased significantly since 34 Allan Avenue was included on the land acquisition map.</p> <p>The concurrent rezoning of the two sites will ensure no net loss of RE1 Public Open space in the area.</p> <p>No further studies have been completed to assess the provision of public open space in the former Canterbury area since 2017.</p> <p>The planning proposal is not inconsistent with the Strategy.</p>
Canterbury Bankstown Local Housing Strategy 2020 (LHS)	<p>The Canterbury Bankstown Local Housing Strategy was endorsed by the Department in June 2021.</p> <p>The planning proposal would revert 505 m² of land from RE1 Public Recreation to R3 Medium Density Residential land at 34 Allan Street. While this would provide greater certainty to the local community as to the future use of the site, the contribution of a single residential site represents a negligible contribution to the LGA's housing target of 50,000 new dwellings by 2036.</p> <p>The proposed rezoning of Benda Street Reserve from R3 Medium Density Residential would also have a negligible impact on housing supply given that the site is vacant, Council-owned and currently used for public open space.</p> <p>The area surrounding the sites are not identified for increased housing density at this time, and as such, the open space needs of the immediate area are unlikely to change significantly.</p> <p>The planning proposal is nonetheless consistent with the Local Housing Strategy.</p>

3.4 Local planning panel (LPP) recommendation

On 22 December 2021, the General Manager of Canterbury Bankstown Council wrote to the Department of Planning advising the planning proposal was deemed to be exempt from requirement to be referred to the Canterbury Bankstown Local Planning Panel (LPP).

The exemption was made under the Local Planning Panels Ministerial Direction – Planning Proposal, dated 28 September 2018. This Direction identifies the following criteria to exempt a Planning Proposal from the requirement to be referred to a planning panel:

- a) the correction of an obvious error in a local environmental plan;
- b) matters are of a consequential, transitional, machinery or other minor nature; or

- c) matters that the council's general manager considers will not have any significant adverse impact on the environment or adjoining land.

Council's General Manager advises the exemption was deemed valid under criteria (a) and (c).

3.5 Section 9.1 Ministerial Directions

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

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Yes	The planning proposal is not inconsistent with the Region Plan.
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>Direction 4.4 aims to reduce the risk of harm to human health and the environment from contaminated land.</p> <p>Council have reviewed the history of the two sites and conclude no previous uses fall within a purpose identified in Table 1 of the contaminated land planning guidelines.</p> <p>The planning proposal has therefore demonstrated consistency with this Direction.</p>
Direction 5.1 Integrating Land Use and Transport	Consistent	<p>Direction 5.1 aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts; improve active and public transport access; reduce car dependency and travel demand; and provide for efficient movement of freight.</p> <p>This Direction applies when a planning proposal is prepared that will create, alter or remove a zone or a provision relating to urban land.</p> <p>The planning proposal did not consider this Direction. However, the Department considers the planning proposal is consistent with the Direction as it would not reduce access to housing, jobs or services and would reduce car dependency by encouraging active transport trips in the local area.</p>

Direction 5.2 Reserving Land for Public Purposes	Consistent	<p>This Direction relates to the administrative processes behind the creation, removal or alteration of publicly-zoned land. Under this Direction, a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department.</p> <p>Council have demonstrated the planning proposal is consistent with this Direction as the rezoning is supported by removal of the reservation of land for public purposes at 34 Allan Avenue on the basis it is no longer required by Council.</p> <p>Additionally, Council have noted the Direction does not apply to Benda Street Reserve as the site is a road reserve and is not identified on the land reservation acquisition map. There is no need to acquire the site.</p>
Direction 6.1 Residential Zones	Inconsistent - justified	<p>Direction 6.1 aims to encourage a variety of housing types, make efficient use of infrastructure and service and minimise the impact of residential development on the environment and resource lands.</p> <p>The planning proposal is inconsistent with the Direction as it rezones Benda Street Reserve which is currently zoned for residential purposes.</p> <p>Council note the inconsistency is justified as it would not result in any actual loss of residential land as Benda Street Reserve is already used as public open space and the rezoning of 34 Allan Street will generally balance the supply of residential zoned land.</p> <p>The planning proposal is inconsistent with this Direction, but the inconsistency is considered minor and justified in this instance.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is generally consistent with all relevant SEPPs.

However, the assessment of SEPPs in Appendix A of Council's planning proposal requires updating to reflect recent SEPP amendments and remove repealed SEPPs prior to exhibition.

4 Site-specific assessment

4.1 Environmental

There are no critical habitat areas, threatened species populations or ecological communities or their habitats present on the subject site. The planning proposal would not likely result in any adverse environmental effects as the proposed rezoning would reflect the current use of both sites.

4.2 Social

The planning proposal is not likely to result in any adverse social impacts. The planning proposal would provide greater certainty to local residents and landowners that the Benda Street Reserve will continue to be used a public open space. Similarly, the rezoning of 34 Allan Avenue would provide greater certainty to the landowner and apply appropriate development standards that reflect the character of the surrounding area. Overall, the planning proposal would result in approximately 200 m² of additional RE1 zoned land in Belmore.

4.3 Economic

The rezoning of the site at 34 Allan Avenue, Belmore, would result in an economic benefit for the owner of the site as new residential typologies would be permissible. The opportunity for development at this site is in keeping with the surrounding sites that are also zoned R3 Medium Density Residential. The rezoning represents an orderly and economic use of the site.

4.4 Infrastructure

There is no significant infrastructure demand that will result from the planning proposal. The proposed amendment does not include any provision to facilitate intensified development at the site. The site has access to adequate public infrastructure such as water, sewer, electricity and telephone services.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

Council note this process will include:

- notification in a local newspaper
- display on Council website
- written notification to affected and adjoining landowners

The exhibition period proposed is considered appropriate , and forms part of the conditions of the Gateway determination.

5.2 Agencies

The Department recommends the following agencies be consulted on the planning proposal and given 14 days to comment:

- Sydney Water
- Ausgrid.

6 Timeframe

Council proposes a 6 month time frame to complete the LEP (from the date of Gateway determination).

The Department agrees with this time frame as it would ensure the planning proposal is completed in line with the Department's commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

7 Local plan-making authority.

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal relates to only two sites, does not involve policy issues and is unlikely to result in adverse environmental impacts, the Department recommends Council be authorised to be the local plan-making authority.

8 Assessment summary.

The planning proposal is supported to proceed with conditions for the following reasons:

- the planning proposal would achieve the identified outcomes and rezone the two sites to reflect their current and desired future use;
- given the rezoning of the two sites is occurring concurrently, and they are in close proximity to one another, the overall impacts on open space provision, connectivity and future housing supply are negligible;
- the planning proposal is consistent with the South District Plan, Council's local strategic plans and relevant SEPPs; and
- any inconsistencies or relevant section 9.1 Ministerial Directions which are not currently addressed, will be addressed by way of Gateway conditions.

As discussed in the previous sections 4 and 5, the proposal should be updated to make the changes identified in Gateway Condition 1.

Based on the assessment outlined in this report, the proposal must be updated before consultation to address Gateway Condition 1.

9 Recommendation

It is recommended the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Direction 6.1 Residential Zones is minor and justified.

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

1. The planning proposal (including attachments) is to be revised prior to public exhibition to address the matters set out below:
 - update 'Appendix A – State Environmental Planning Policies' to reflect the current names and numbering noting the changes effective from 1 March 2022, and to remove repealed SEPPs
 - correct spelling of Allan Avenue from 'Allen Avenue'
 - clarify the land ownership of Benda Street Reserve

2. Consultation is required with the following public authorities:
 - Sydney Water
 - Ausgrid
3. The planning proposal should be made available for community consultation for a minimum of 10 days.
4. The planning proposal must be exhibited 1 month from the date of the Gateway determination.
5. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



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