

*Looking After  
our Community*

## PLANNING PROPOSAL

### CLAUSE 4.1C EXCEPTIONS TO MINIMUM SUBDIVISION LOT SIZES



MID-WESTERN REGIONAL COUNCIL  
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



Version	Date	Notes
V001	March 2024	Draft PP reported to Council – March 2024
V002	June 2025	PP updated in accordance with Gateway Determination

# Table of Contents

Overview .....	4
Introduction .....	4
Background .....	4
Part 1 – Objectives or Intended Outcome .....	5
Objectives .....	5
Intended Outcomes .....	5
Land to which the Planning Proposal applies .....	6
Site context and setting .....	7
Part 2 – Explanation of Provisions .....	9
Part 3 – Justification .....	10
Section A - Need for the Planning Proposal .....	10
Section B - Relationship to Strategic Framework .....	10
Section C - Environmental, Social and Economic Impact .....	14
Part 4 – Mapping .....	15
Part 5 – Community Consultation .....	16
Part 6 – Project Timeline .....	17
Proposed Timeline .....	17

# Overview

## Introduction

The Planning Proposal seeks to amend the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012) by *removing Clause 4.1C Exception to minimum subdivision lot sizes around Zone MU1*. The Planning Proposal explains the intent of, and justification for, the proposed amendments to MWRLEP 2012.

The Planning Proposal is to remove the following clause from the MWRLEP 2012:

*4.1C Exception to minimum subdivision lot sizes around Zone MU1*

*(1) The objective of this clause is to enable medium density housing on a range of lots around land in Zone MU1 Mixed Use.*

*(2) Despite clause 4.1(3), there is no minimum subdivision lot size for the subdivision of land identified as "Area C" on the Lot Size Map and within 100 metres of land in Zone MU1 Mixed Use, if the subdivision is for the purposes of residential accommodation.*

The Planning Proposal will remove the 'Area C' on the Lot Size Map.

The intent of the Planning Proposal is to provide for a 450m<sup>2</sup> minimum lot size for the area within 100 metres of the Zone MU1 Mixed Use. The intent of the provision has not occurred as was intended by Council. The current provision 'Area C' does not stipulate a minimum lots size and is considered to potentially facilitate the creation of small, constrained lots, with minimal frontage.

The proposal has been prepared in accordance with Section 3.32 and 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning, Housing and Infrastructure (Department), *Local Environmental Plan Making Guideline*, August 2023.

## Background

MWRLEP 2012 came into effect on 10 August 2012. MWRLEP 2012 is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Principal Local Environmental Plan.

The subject area is part of the Caerleon locality. Council resolved to endorse the Planning Proposal in May 2012 and provided for an opportunity for an additional 900-1400 residential lots (dependant on resultant lot size). The Caerleon Development Control Plan was endorsed for public exhibition in August 2012 and was subsequently exhibited concurrently with the Planning Proposal. An objective of the Planning Proposal was *'to allow for a variety of lot sizes, ranging from 450m<sup>2</sup> up to 2 + hectares'* page 13 of the Planning Proposal, April 2012. The site was rezoned in March 2013.

# Part 1 – Objectives or Intended Outcome

## Objectives

The objective of the Planning Proposal is to amend the MWRLEP 2012 to remove *Clause 4.1C Exception to minimum subdivision lot sizes around Zone MU1* and allow the mapped 450m<sup>2</sup> subdivision minimum lot size to prevail. The amendment will include the subsequent removal of 'Area C' from the lot size mapping.

## Intended Outcomes

The intended outcomes of the Planning Proposal is the removal of:

### *4.1C Exception to minimum subdivision lot sizes around Zone MU1*

*(1) The objective of this clause is to enable medium density housing on a range of lots around land in Zone MU1 Mixed Use.*

*(2) Despite clause 4.1(3), there is no minimum subdivision lot size for the subdivision of land identified as "Area C" on the Lot Size Map and within 100 metres of land in Zone MU1 Mixed Use, if the subdivision is for the purposes of residential accommodation.*

The Planning Proposal will result in the removal of 'Area C' of the Lot Size Map. Area C is depicted on the following page.

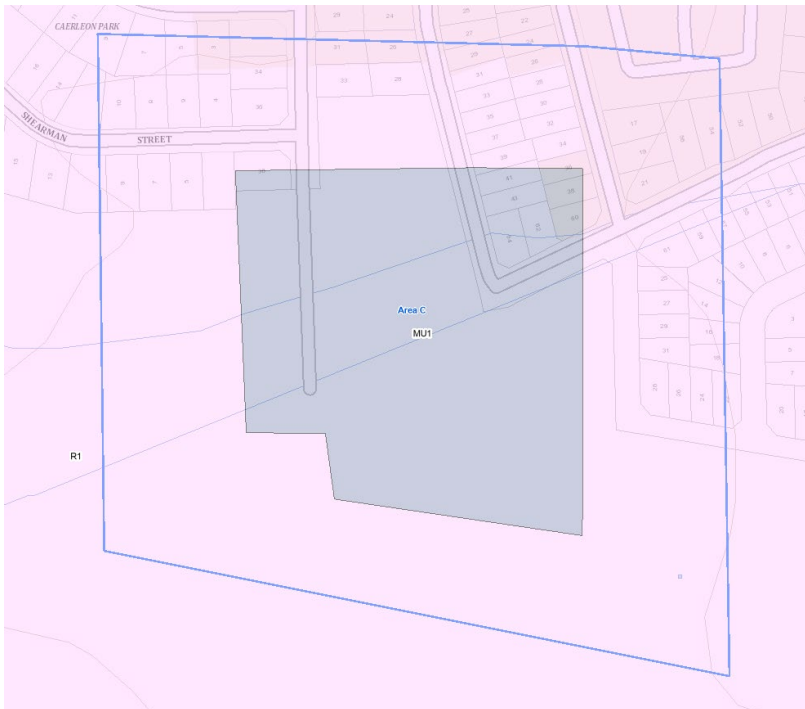
As outlined above, the objective of this Clause was to enable medium density housing on land around the MU1 Mixed Use zoning. In contrary, there has been a proposal to utilise this Clause to create vacant lots with a minimum lot size of 300m<sup>2</sup>.

The land use permissibility will not change, medium density development will continue to be permissible in 'Area C'. Council intends to support the development of medium density housing and subsequent subdivision within 'Area C'.

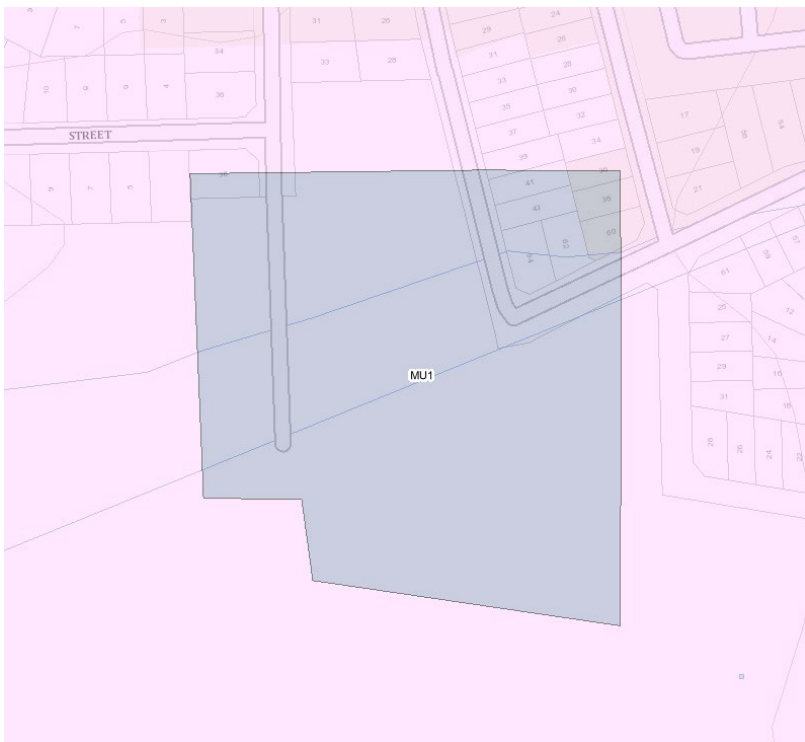
With the removal of 'Area C', the minimum lot size of 450m<sup>2</sup> will prevail across the R1 General Residential zoning. Within the R1 General Residential zoning, under the current LEP controls, attached dual occupancy and subsequent subdivision can be considered on lots measuring 600m<sup>2</sup>, with resulting lots measuring 300m<sup>2</sup>.

## Land to which the Planning Proposal applies

The land to which the planning proposal applies (subject area) is the 'Area C' as identified by the blue line on the lot size mapping.



**Figure 1: Planning Proposal subject area – area within blue line** (Source: adapted from the NSW Planning Portal)



**Figure 2: Planning Proposal subject area of amendment as proposed mapping without 'Area C'** (Source: adapted from the NSW Planning Portal)

Lots subject of this amendment:



Legal Description				
Lot 818 DP 1273341	Lot 821 DP 1273341	Lot 926 DP 1274170	Lot 707 DP 1272630	Lot 1209 DP 1301185
Lot 1240 DP 1302496	Lot 705 DP 1272630	Lot 927 DP 1274170	Lot 715 DP 1272630	Lot 1208 DP 1301185
Lot 601 DP 1272616	Lot 1001 DP 1297490	Lot 928 DP 1274170	Lot 716 DP 1272630	Lot 1207 DP 1301185
Lot 602 DP 1272616	Lot 1002 DP 1297490	Lot 929 DP 1274170	Lot 717 DP 1272631	Lot 1206 DP 1301185
Lot 160 DP 1224148	Lot 1003 DP 1297490	Lot 819 DP 1273341	Lot 718 DP 1272631	Lot 1205 DP 1301185
Lot 901 DP 1274170	Lot 1004 DP 1297490	Lot 1226 DP 1302496	Lot 719 DP 1272631	Lot 1204 DP 1301185
Lot 902 DP 1274170	Lot 1005 DP 1297490	Lot 1227 DP 1302496	Lot 186 DP 1260317	Lot 1105 DP 1280482
Lot 903 DP 1274170	Lot 1006 DP 1297490	Lot 1228 DP 1302496	Lot 1214 DP 1301185	Lot 1106 DP 1280482
Lot 904 DP 1274170	Lot 1007 DP 1297490	Lot 1229 DP 1302496	Lot 1213 DP 1301185	Lot 1107 DP 1280482
Lot 905 DP 1274170	Lot 1008 DP 1297490	Lot 1230 DP 1302496	Lot 1212 DP 1301185	Lot 188 DP 1260317
Lot 906 DP 1274170	Lot 924 DP 1274170	Lot 704 DP 1272630	Lot 1210 DP 1301185	Lot 191 DP 1260317
Lot 820 DP 1273341	Lot 925 DP 1274170	Lot 706 DP 1272630	Lot 1211 DP 1301185	Lot 189 DP 1260317
Lot 190 DP 1260317	Lot 1102 DP 1280482	Lot 1104 DP 1280482		
Lot 1101 DP 1280482	Lot 1103 DP 1280482	Lot 603 DP 1272616		

Mudgee is nominated as a 'strategic centre' in the Central West and Orana Regional Plan 2041, with the Caerleon estate providing a significant residential land supply for Mudgee.

The subject area, Area C, is located within the locality of Caerleon around the MU1 Mixed Use zoning. The total area of the original Caerleon estate measures 310 hectares. The site has been developed from the Hill End Road frontage of the site. Three hundred and three lots have been developed up to the area of the Caerleon site zoned MU1 Mixed Use.



## Part 2 – Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved by removing Clause 4.1C Exception to minimum subdivision lot sizes around Zone MU1 and removing 'Area C' from the Mid-Western Regional Local Environmental Plan 2012, Lot Size Map – Sheet LSZ\_006 & 006C, Map Identification Number: 5270\_COM\_LSZ\_006\_160\_20220412 & 5270\_COM\_LSZ\_006C\_010\_20220706.

Note, Council is in the process of moving to digital mapping, accordingly PDF map references may not be applicable at the time of the finalisation stage.

## Part 3 – Justification

### Section A - Need for the Planning Proposal

**Q1: Is the planning proposal the result of an endorsed LSPS, strategic study or report?**

No. The Planning Proposal is not the result of an endorsed LSPS, strategic study or report however, it is consistent with the recommendations, goals and priorities of the Our Place 2040 – Mid-Western Regional LSPS. Specifically Planning Priority 2 *Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning.*

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

The Planning Proposal is the best and only means of amending MWRLEP 2012 and achieve the intended outcomes and objectives of the Planning Proposal.

The proposed amendment will be further supported by a future review of the applicable provision of Mid-Western Regional Development Control Plan 2013, Appendix C Caerleon.

### Section B - Relationship to Strategic Framework

**Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?**

Yes, the Planning Proposal will give effect of the Central Western and Orana Regional Plan 2041.

STRATEGY	DIRECTION/ACTION/OBJECTIVE - COMMENT
Central West and Orana Regional Plan 2041	<i>Objective 14: Plan for diverse affordable, resilient and inclusive housing.</i>  The Planning Proposal will provide for a minimum lots size of 450m <sup>2</sup> across the R1 General Residential zoning of Caerleon. Under the current controls, lots can be crested at a minimum of 300m <sup>2</sup> . An attached dual occupancy can be considered on lots measuring 600m <sup>2</sup> , the LEP provision allows for the subdivision of these dual occupancy, resulting in 300m <sup>2</sup> lots.

**Q4: Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

The Planning Proposal is consistent with Council's Toward's 2040 and Our Place 2040, Local Strategic Planning Statement. Specifically **Planning Priority 2** *Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning.*

### Q5: Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The Planning Proposal is minor in terms of broader State and regional strategies. Whilst no studies or strategies specifically relate to the Planning Proposal, there is nothing that the Planning Proposal is inconsistent with.

### Q6: Is the planning proposal consistent with applicable SEPPs?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table.

SEPP TITLE	PLANNING PROPOSAL CONSISTENCY
SEPP (Biodiversity and Conservation) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Sustainable Buildings) 2022	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
	Future development application would need to address the SEPP.
SEPP (Exempt & Complying Development Codes) 2008	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Housing) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Industry and Employment) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP No 65 – Design and Quality of Residential Apartment Development	Not applicable.
SEPP (Planning Systems) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Not applicable.
SEPP (Precincts – Regional) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resilience and Hazards) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
	Contamination and remediation to be considered at the development application stage with the consideration of specific sites.
SEPP (Resources and Energy) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Transport and Infrastructure) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.

## Q7: Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

These directions apply to planning proposals lodged with the Department on or after the date the particular direction was issued and commenced.

Detailed in the table below are the directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*.

DIRECTION	PLANNING PROPOSAL CONSISTENCY
<b>Focus area 1: Planning Systems</b>	
1.1 – Implementation of Regional Plan	Consistent with Regional Plan as detail above.
1.2 - Development of Aboriginal Land Council land	Not applicable.
1.3 - Approval and Referral Requirements	The proposed amendments do not include the requirements for approvals or referrals.
1.4 - Site Specific Provisions	Not applicable, as the proposed amendments are not site specific.
1.4A – Exclusion of Development Standards from Variation	Not applicable.
1.5 - Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
1.6 - Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
1.7 - Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.8 - Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.9 - Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.
1.10 - Implementation of the Western Sydney Aerotropolis Plan	Not applicable.
1.11 - Implementation of Bayside West Precincts 2036 Plan	Not applicable.
1.12 - Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
1.13 - Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
1.14 - Implementation of Greater Macarthur 2040	Not applicable.
1.15 - Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.
1.16 - North West Rail Link Corridor Strategy	Not applicable.
1.17 - Implementation of the Bays West Place Strategy	Not applicable.
1.18 – Implementation of the Macquarie Park Innovation Precinct	Not applicable.
1.19 – Implementation of Westmead Place Strategy	Not applicable.
1.20 – Implementation of Camellia-Rosehill Place Strategy	Not applicable.
1.21 – Implementation of South West Growth Area Structure Plan	Not applicable.
1.22 - Implementation of Cherrybrook Station Place Strategy	Not applicable.
<b>Focus area 2: Design and Place</b>	
-	
<b>Focus area 3: Biodiversity and Conservation</b>	
3.1 - Conservation Zones	Not applicable.

## CLAUSE 4.1C EXCEPTIONS TO MINIMUM SUBDIVISION LOT SIZES

DIRECTION	PLANNING PROPOSAL CONSISTENCY
3.2 - Heritage Conservation	Not applicable.
3.3 - Sydney Drinking Water Catchments	Not applicable.
3.4 - Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
3.5 - Recreation Vehicle Areas	Not applicable.
3.6 - Strategic Conservation Planning	Not applicable.
3.7 - Public Bushland	Not applicable.
3.8 - Willandra Lakes	Not applicable
3.9 - Sydney Harbour Foreshore and Waterways	Not applicable
3.10 - Water Catchment Protection	Not applicable
<b>Focus area 4: Resilience and Hazards</b>	
4.1 - Flooding	Consistent
4.2 - Coastal Management	Not applicable.
4.3 - Planning for Bushfire Protection	Consistent
4.4 - Remediation of Contaminated Land	Consistent
4.5 - Acid Sulfate Soils	Consistent
4.6 - Mine Subsidence and Unstable Land	Consistent
<b>Focus area 5: Transport and Infrastructure</b>	
5.1 - Integrating Land Use and Transport	Not applicable.
5.2 - Reserving Land for Public Purposes	Not applicable.
5.3 - Development Near Regulated Airports and Defence Airfields	Not applicable
5.4 - Shooting Ranges	Not applicable
5.5 - High Pressure Dangerous Goods Pipelines	Not applicable
<b>Focus area 6: Housing</b>	
6.1 - Residential Zones	Consistent
6.2 - Caravan Parks and Manufactured Home Estates	Not applicable
<b>Focus area 7: Industry and Employment</b>	
7.1 - Business and Industrial Zones	Consistent
7.2 - Reduction in non-hosted short-term rental accommodation period	Not applicable.
7.3 - Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
<b>Focus area 8: Resources and Energy</b>	
8.1 - Mining, Petroleum Production and Extractive Industries	Consistent
<b>Focus area 9: Primary Production</b>	
9.1 - Rural Zones	Not applicable
9.2 - Rural Lands	Consistent
9.3 - Oyster Aquaculture	Not applicable.
9.4 - Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.

## Section C - Environmental, Social and Economic Impact

**Q8: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The proposal to remove *Clause 4.1C Exception to minimum subdivision lot sizes around Zone MU1* and allow the mapped 450m<sup>2</sup> subdivision minimum lot size, will not have any direct adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats. These site-specific constraints were considered in the assessment of the original planning proposal will be again considered during the assessment of any future development applications within the subject area.

**Q9: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

As set out in Department's *Local Environmental Plan Making Guideline* (August 2023), the purpose of this question is to ascertain the likely environmental effects that may be relevant. The nature of the planning proposal is such that no technical information is required.

**Q10: How has the planning proposal adequately addressed any social and economic effects?**

This Planning Proposal will have limited social and economic implications given the nature of the amendment to the Mid-Western Regional LEP. As noted throughout this report, this amendment only implicates certain land located within the Caerleon Estate and ensures future lot sizes are delivered in the social interest of the community i.e. the creation of small, constrained lots, with minimum frontage is not permissible within the Mid-Western Regional LEP.

**Q11: Is there adequate public infrastructure for the planning proposal?**

Not applicable as the Planning Proposal will not trigger an upgrade or reliance on public infrastructure as the intent is not to increase the intensity or density of development in the subject area.

**Q12: What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

The views of state and federal public authorities and government agencies were not sort prior to Gateway Determination due to the nature of the Planning Proposal.

## Part 4 – Mapping

The Planning Proposal is a text and map amendment. Note, Council is in the process of moving to digital mapping, accordingly PDF map references may not be applicable at the time of the finalisation stage.

The following maps will be subject to amendment:

Lot Size Map – Sheet LSZ\_006 & 006C

Map Identification Number:

5270\_COM\_LSZ\_006\_160\_20240902 & 5270\_COM\_LSZ\_006C\_010\_20220706



## Part 5 – Community Consultation

Community consultation has not been carried out prior to the preparation of the Planning Proposal.

The Planning Proposal is considered ‘standard’ in accordance with the Department’s *Local Environmental Plan Making Guideline* (August 2023) and requires a public exhibition period of 20 days.

Public exhibition will be undertaken in accordance with any issued Gateway Determination.

## Part 6 – Project Timeline

The Planning Proposal is a minor amendment to the *Mid-Western Local Environmental Plan 2012* and should be able to be achieved within 6-9 months of the date of the Gateway Determination.

### Proposed Timeline

MILESTONE	DATE
Gateway Determination	13 May 2024
Planning Proposal updated prior to public exhibition	June 2025
Agency Consultation	June/July 2025
Public Exhibition	June/July 2025
Consideration of Submissions	August 2025
Legal Drafting & Opinion (incl Mapping)	September 2025
Finalisation	October 2025