

ITEM NO: 4

SUBJECT: BLUE MOUNTAINS LEP 1991 DRAFT AMENDMENT 39 (LEP 4 LAND)

FILE NO: F06350 - 12/52974

Delivery Program Link

Principal Activity: Civic Leadership - Providing Good Government

Service: City-wide Strategic Planning

Project: Provide statutory land use planning including Local Environmental Planning

Recommendations:

1. *That the Council endorses the commencement of the Planning Proposal to rezone land currently zoned under Local Environmental Plan No. 4 (LEP 4) to a suitable zone under Local Environmental Plan 1991 (LEP 1991); to be known as Blue Mountains Local Environmental Plan 1991 (Draft Amendment No 39);*
 2. *That the Council agree to the creation of the zones for public purposes as described in Table 2 of this report;*
 3. *That the Council forward the Planning Proposal to the Minister for Planning and Infrastructure for review and Gateway Determination;*
 4. *That the Council process the Planning Proposal in accordance with the Gateway Determination issued by the Department of Planning and Infrastructure;*
 5. *That the Council delegate to the General Manager the authority to make minor changes to the Planning Proposal or provide further information if requested by the Department of Planning and Infrastructure; and*
 6. *That the Council, subject to reviewing the Gateway Determination, proceed with the Planning Proposal and receive a report following the conclusion of the exhibition of the Draft Planning Proposal.*
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Report by Director, City & Community Outcomes:**Reason for report**

This report seeks the Council's endorsement of a Planning Proposal to commence the process to rezone certain land from Blue Mountains Local Environmental Plan No. 4 (LEP 4) to a suitable zone under Local Environmental Plan 1991 (LEP 1991). The report explains the background of this proposal, identifies the affected lands and outlines the future stages associated with the planning proposal.

Background

As part of the process of moving towards a single comprehensive local environmental plan, the Council has identified a number of sites which remain zoned under Blue Mountains Local Environmental Plan No. 4 (LEP 4). These lands were not transferred to the Council's other major LEPs (LEP 1991 and LEP 2005) when these LEPs were prepared, and the first stage in the Council's program to develop a single Comprehensive LEP is to transfer all lands still

zoned under LEP 4 to a suitable zone under another major LEP. The Council is therefore preparing two related planning proposals:

- 1) Rezoning some land presently zoned under LEP 4 to an appropriate zone under LEP 1991 (this Planning Proposal);
- 2) Rezoning other land zoned under LEP 4 to a suitable zone under LEP 2005 (addressed in a separate report in this Business Paper)

When these Planning Proposals have been completed, LEP 4 will be repealed, and so these two planning proposals represent significant steps in moving towards a single Comprehensive LEP for the Blue Mountains.

The Planning Proposal

This report seeks the Council's endorsement of the Planning Proposal to transfer some lands currently zoned under LEP 4 into the most compatible LEP 1991 zone. As the Council is aware, LEP 2005 is the Council's most recent planning instrument, and is considered to provide the 'state of the art' approach to managing land use and development in the Blue Mountains LGA. However, in some instances it is not appropriate to simply transfer some parcels of land zoned under LEP 4 to a zone under LEP 2005, and as a result, this planning proposal has been prepared to include those lands that are most appropriately transferred to a zone under LEP 1991. This generally occurs in the following situations:

- Where adjoining land is zoned under LEP 1991 and a similar LEP 1991 zone is appropriate for the LEP 4 land. In this instance, rezoning the LEP 4 land to a zone under LEP 1991 provides a simplified approach to determining land use zonings, use permissibility and DA assessments. It will in many cases eliminate "split zonings" applying to one allotment of land, thereby reducing the likelihood of errors occurring when LEP 1991 is combined into LEP 2005 in the future;
- Where land, currently zoned under LEP 4 is considered to be most appropriately transferred to the Bushland Conservation (BC) zone under LEP 1991 on a temporary basis.

As part of converting Council's 3 major LEPS into one comprehensive LEP, studies are currently being undertaken to support the transfer of LEP 1991 lands into LEP 2005. The BC zone under LEP 1991 is therefore being used as a "holding" zone in some cases until these studies are completed and a considered approach to all lands zoned BC under LEP 1991 has been finalised.

The allotments subject to this planning proposal have been identified, their history has been researched and environmental factors for each lot have been assessed. In total it is proposed to rezone 57 parcels of land at 27 different locations across the LGA. The reasons why these lots remain zoned under LEP 4, and were not transferred to LEP 1991 (or LEP 2005) when these LEPS were introduced falls into three broad categories, namely:

- Mapping anomalies – these are parcels of land where errors of mapping have occurred during the preparation of LEP 1991. Typically these parcels are formed roads or very small parcels of land;
- Minor unresolved issues – these are parcels of land with a potential unresolved issue such as possible future road widening or an environmental issue that had not been resolved when LEP 1991 was prepared; or
- Deferred land – these are parcels that were deferred during the preparation of LEP 1991 or LEP 2005 due to a significant and previously unresolved issue.

Land to be rezoned

The land to be rezoned is described in detail in the planning proposal and documentation supporting it (included as Enclosure 1). The table below provides a summary of the land proposed to be rezoned and a brief explanation of the current zone. In all cases the proposed zone has been selected because it is consistent with the zoning of surrounding land, and as a consequence will result in only minimal development and land use implications on the affected lands.

Table 1: Lands Affected by this Planning proposal

No	Property description	Current zone	Proposed zone & background to current zoning
1	Lots 1-10 Sec. 1 DP 758080; Lots 1-14 Sec. 2 DP 758080; Lot 1 Sec. 3 DP 758080; Lot 701 DP 92876 358-378 Darling Causeway, Boronia, Grevillia and & Waratah Streets Bell	Residential 2(a1); Recreation Existing; and Uncoloured.	Bushland Conservation; Bushland Conservation (CONS); Recreation – Environmental Protection with Protected Area – Land Between Towns Deferred from LEP process
2	Part Lot 1 DP 1036734; Part Lot 4 DP 719707. Part No's 142 – 146 Great Western Highway Mount Victoria	Arterial Road Proposed/Widening 9(b)	Bushland Conservation (No Subdivision) Previously identified for now completed road widening
3	Lot 1 DP 778079 Part 98 Darling Causeway Mount Victoria	Uncoloured	Bushland Conservation (CONS) Mapping anomaly
4	Part Lot 63 DP 16621 Pt No. 35 Sunbeam Avenue Blackheath	Residential 2(a2)	Part Bushland Conservation (No Subdivision) Part Environmental protection Mapping anomaly
5	Part Lot 2 DP 338763 Pt No. 3330334 Great Western Highway Blackheath	Uncoloured	Bushland Conservation (No Subdivision) Mapping anomaly
6	Lot 1 DP 857041 Part No. 51 Bundarra Street Blackheath	Uncoloured and Protected Area - Escarpment	Part Residential Bushland Conservation (No Subdivision) and part Environmental Protection with Protected Area – Escarpment Area Deferred from LEP process
7	Part Lot 46 DP 655569 Part No. 12 Belgravia Street Medlow Bath	Residential 2(a1)	Environmental Protection with Protected Area – Escarpment Area Previously unresolved environmental issues
8	Part Lot 10 DP 1018297 Part No. 14 Lomandra Place	Residential 2(a1)	Residential Bushland Conservation (8/ha)

No	Property description	Current zone	Proposed zone & background to current zoning
	Katoomba		Mapping anomaly
9	Part Lot 3 DP 772152 Pt No. 9-11 Narrow Neck Rd Katoomba.	Arterial Road proposed/Widening	Regional Open Space with Protected Areas – Land Between Towns and Escarpment Area Previously identified for now completed road widening
10	Pt Lot 9 Sec. 12 DP 759075 Part Central Park No. 35-41 Backhouse Street Wentworth Falls	Recreation Existing 6(a)	Recreation – Environmental Protection Mapping anomaly
11	Part Lot 7023 DP 1127147 Part Wentworth Falls Reserve (Bellevue Road end) Wentworth Falls	uncoloured	Recreation – Environmental Protection Mapping anomaly
12	Part Blue Mountains National Park Glen View Road Wentworth Falls	Special Uses (Sewerage Treatment Works - STP) 5 (ATW)	National Park Timing issue around the removal of the STP and LEP process
13	Part Lot 101 DP 1123068 Part No. 30 Great Western Highway Wentworth Falls	uncoloured	Residential Bushland Conservation (No Subdivision) Previously identified for road widening – currently underway
14	Part Lot 3 DP 1038750 Part No. 86 Fletcher Street Wentworth Falls	uncoloured	Residential Bushland Conservation (No Subdivision) with Protected Area – Escarpment Area Timing issue around the road closure, ownership transfer and LEP process
15	Part Lot 538 DP 729340 Part No. 4 Day Street Wentworth Falls	uncoloured	Residential Bushland Conservation (No Subdivision) Timing issue around the road closure, ownership transfer and LEP process
16	Part Lot 7 Sec. 5 DP 759075 Part No. 3 Wilson Street Wentworth Falls	uncoloured	Residential Bushland Conservation (No Subdivision) Mapping anomaly
17	Part Lot 1 DP 721806 Part Red Gum Park No. 44 DeQuincy Road Bullaburra	uncoloured	Recreation – Environmental Protection Mapping anomaly
18	Part Lots 71 & 72 DP 826683 Part No. 54 Valley Road & Part No. 1A John Street Hazelbrook	uncoloured	Residential – Bushland Conservation Land use was uncertain at time of LEP preparation

No	Property description	Current zone	Proposed zone & background to current zoning
19	Part Lot 1 DP 841442 Pt No.4 Red Crowned Court Winmalee	Residential 2(a1)	Residential Bushland Conservation (8/ha) Mapping anomaly
20	Part Lot 33 DP 730388 Part No. 14 Tutor Close Winmalee	Residential 2(a1)	Part Residential Bushland Conservation (No Subdivision) and part Environmental Protection Mapping anomaly
21	Lots 2, 3 & 4 Colless Road Yellow Rock	Reservation Local Open Space 9(d) and Escarpment Preservation Area	Recreation – Environmental Protection and Protected Area – Escarpment Area Deferred from LEP process
22	Part Angophora Place Valley Heights	Residential 2(a1)	Residential Bushland Conservation (8/ha) Mapping anomaly
23	Part Lot 2 DP 867663 Part No. 52 Great Western Highway Sun Valley	Uncoloured	Bushland Conservation (No Subdivision) Previously identified for now completed road widening
24	Part Lot 7015 DP 94190 Part Knapsack Park off Rusden Road Mount Riverview	Recreation Existing 6(a) and Escarpment Preservation Area	Recreation – Environmental Protection with Protected Area – Escarpment Area Mapping anomaly
25	Part Lot 2 DP 633120 Part No. 26 Curvers Drive Mount Riverview	Residential 2(a1)	Recreation – Environmental Protection
26	Lot 368 DP 48696 Part Darks Common Part No. 68 Emu Road Glenbrook	Uncoloured	Recreation – Environmental Protection Mapping anomaly
27	Part Walton Road Lapstone	Uncoloured with Escarpment Preservation Area	Recreation – Environmental Protection with Protected Area – Escarpment Area and proposed Road Closure Mapping anomaly
28	118-124 Mt York Rd Mount Victoria	Rural 1(a1)	Bushland Conservation (CONS) with Protected Area – water Supply catchment and Protected Area – Escarpment Area Mapping error

Further Action

The first step in creating a new or amending LEP is the preparation of a Planning Proposal. A planning proposal is a document that explains the intended effect of the proposed LEP and the justification for making it.

Following Council approval, the Planning Proposal is forwarded to the Minister for Planning and Infrastructure and a Gateway Determination is issued, specifying whether the planning proposal is to proceed, the requirements for consultation and other relevant matters.

It is recommended that the Council agree to forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) for Gateway Determination.

This Planning Proposal has been prepared in accordance with DoPI guidelines. It is generally consistent with all SEPPs, REPS and Section 117 Directions, and where any inconsistencies arise for particular sites they are only of minor significance and have been dealt with appropriately in the planning proposal. A detailed assessment of each of the sites and their consistency with relevant DoPI requirements is included in the enclosed Planning Proposal and its attachment.

One of the Section 117 Directions (No 6.2 – Reserving Land for Public Purposes) is worthy of mention. This direction requires that where a planning proposal zones or reserves land for public purposes, the relevant public authority has to agree to this. The Planning Proposal proposes that a number of lands be transferred to an existing zone under LEP 1991 for a public purpose, and it is intended to seek the approval of the relevant authority following gateway determination. However 3 of the affected sites are owned by the Council and its agreement to the proposed zone is sought. Details of the affected lands are as follows:

Table 2 – Proposed Zones for Public Purposes

Site and Location	Existing Zone Under LEP 4	Proposed Zone Under LEP 1991	Justification
Part Nos 9-11 Narrow Neck Rd Katoomba (Ref Sheet 9)	Arterial Road Proposed Widening 9(b)	Regional Open Space with protected Area – Land Between Towns and Protected Area – Escarpment Area	The site was not included in now completed Road widening by RTA. Proposed zone is consistent with zone of adjoining land.
Part of Red Gum Park Bullaburra (Ref Sheet 17)	Uncoloured	Recreation Environment Protection –	This zone is consistent with the remainder of Red Gum Park
Part of Walton Rd Lapstone (Ref sheet 27)	Uncoloured and Escarpment Protection Area	Recreation Environment Protection with protected Area – Escarpment Area and Proposed Road Closure	This zone is consistent with the land characteristics and with the rest of the reserve

To ensure consistency with this Section 117 Direction, it is recommended that the Council specifically agree to rezoning these 3 sites to the proposed zones included in the above table.

Given the number of sites involved and the nature of some of the planning issues that are being addressed, this is quite a complex planning proposal and it may take several months for it to be processed through to completion. The possibility needs to be considered that

DoPI may request further information or amendments to the Planning Proposal, or may not agree to some of the recommended zonings for particular sites. To minimise delays in finalising this LEP, it is recommended that the Council delegate to the General Manager the ability to make changes to this Planning Proposal without the need for further Council endorsement, where such changes are made prior to the exhibition of the proposal, and where the General Manager considers them to be of minor significance. This is considered appropriate because this Draft Planning Proposal is essentially a statutory planning exercise with no significant policy implications for the affected lands. Any such changes will be explained in detail to the Council when the matter is reported back for endorsement following the exhibition of the Draft Proposal, as would any other changes made as a result of the exhibition.

Sustainability Assessment

Effects	Positive	Negative
Environmental		Nil
Social	Nil	Nil
Economic	Nil	Nil
Governance	NSW Legislation requires that every Council moves towards a single comprehensive LEP and this amendment is moving towards this goal. Upon completion of this amendment, LEP 4 will be closer to being redundant thereby simplifying local planning and removing planning anomalies.	Nil

Financial implications for the Council

None at this stage.

Legal and risk management issues for the Council

There are no foreseeable legal or risk management issues associated with this proposal. However there could be risk management issues should the Council not proceed towards a single comprehensive LEP.

External consultation

The Council has already held consultations with the Sydney Catchment Authority and the Department of Primary Industry (Petroleum and Mining Division) about sites subject to this proposal that fall within their jurisdiction. These authorities have advised that they have no concerns with the Planning Proposal.

The Gateway Determination issued by DoPI will prescribe the extent and time frames for public authority and community consultation. It is expected that this will include a requirement to consult with all Government agencies that own affected lands as well as all owners of privately owned lands.

Conclusion

The enclosed planning proposal seeks to amend Blue Mountains LEP 1991 by rezoning land currently zoned under LEP 4. The reason for rezoning each of the sites has been summarised in the body of the report. This amendment is an important step in the progression towards a single comprehensive local environmental plan for the Blue Mountains local government area.

It is recommended that the Council commence the process to amend LEP 1991 by forwarding the enclosed Planning Proposal to DoPI Determination.

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Does this paper need to go to a briefing session OR have Ward Councillors been briefed?: No

ATTACHMENTS/ENCLOSURES

1	Planning Proposal LEP 4 - LEP 1991 final for June council meeting	12/86120	Enclosure
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