

Bathurst Interim LEP 2005 Heritage amendment

Proposal Title : **Bathurst Interim LEP 2005 Heritage amendment**

Proposal Summary : **Amendment to two heritage items in Bathurst: increase the curtilage of the State Heritage-listed Cathedral of St Michael and St John (zoned 3(a)General Business); 107 William Street Bathurst; and decrease the curtilage around the Holy Family School, French Smith Place and Wentworth Drive, Kelso, zoned Residential 2(a).**

PP Number : **PP_2013_BATHU_002_00** Dop File No : **13/03608**

Proposal Details

Date Planning Proposal Received :	18-Feb-2013	LGA covered :	Bathurst Regional
Region :	Western	RPA :	Bathurst Regional Council
State Electorate :	BATHURST	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	107 William Street		
Suburb :	Bathurst	City :	Bathurst
Land Parcel :	Lot 4 1076699	Postcode :	2795
Street :	French Smith Place and Wentworth Drive		
Suburb :	Kelso	City :	Bathurst
Land Parcel :	Lots 44 and 46 DP 1172067	Postcode :	2795

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :	6.70	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	70
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**
If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting Notes : **Council did not provide information on the land use zones or intended future use, particularly affecting the land at Kelso. The amendment to the curtilage of the site at Kelso will 'free' up approximately 6.7ha for residential development. The land is zoned Residential 2(a) and aerial photographs show that it is abutting rural land.**

**There is no information on the State Heritage listing amendment which has led to the amendment of the curtilage of the Cathedral in William Street.
There is support provided from the Council's Heritage Advisor for the reduction of the curtilage around Holy Family School at Kelso, but this is not comprehensive.**

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The PP involves an amendment to the Bathurst Regional Interim LEP 2005 Heritage Map:**

- 1. To amend the curtilage of the Cathedral of St Michael and St John and former St Mary's school, to match the (increased) area recently gazetted on the State Heritage Register;**
- 2. To decrease the curtilage of the Holy Family School to "follow a natural landscape boundary rather than a former property boundary".**

(This involves changing the mapping to align with a recent subdivision of former Part Lot 2 DP 1064148 into Lots 44 and 46 DP1172067. Lot 44 will be developed for housing).

Council advises that the reduction of curtilage will enable proposed dwellings on

approved residential lots on Lot 44 DP117067 to be considered as Complying Development.

The aim of the PP is to amend the curtilage of the Heritage Item so that it is contained on Lot 46 DP 1172067. Council advises "if left unamended, the curtilage will affect future residential allotments once Lot 44 is resubdivided, excluding future dwellings being able to be considered as Complying Development".

The new property boundary between lots 44 and 46 follows a driveway to the school, planted with exotic trees.

Council also states that "The Department places a high priority on Complying Development particularly in relation to dwellings. The PP aims to facilitate Complying Development for future residential dwellings contained on Lot 44 DP 1172067, by amending the curtilage of the Heritage item to be wholly contained on Lot 46 DP 1172067 (containing the heritage item)".

Council did not mention the need to also mention Schedule 5 Environmental Heritage to reflect the new property description, where this is currently:

Kelso: Holy Family School(former Marsden School,) French Smith Place, Part Lot 2, DP 1064148, Local 1155

The subdivision of the site for the purpose of separating the heritage item from the undeveloped portion is justified on the basis of making future development available to Exempt and Complying development provisions. This does not exclude the need to assess the impact of the subdivision (and subsequent residential development) and it is recommended that the advice of the NSW Heritage Office is obtained.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : It is proposed to amend the Bathurst Interim LEP by amendment to the Heritage Map series and Schedule. The Bathurst LEP is not an SI and therefore maps are not online. Council has provided copies of new maps to illustrate what the amendments will achieve.

For William Street, the site identification map is the sheet with title 0470_COM_HER_011BB_010_201001206 and the Heritage Map showing items and conservation areas is titled HER_011B.

For the Holy Family School, the site identification map is titled 0470_COM_HER_011F_020_20101206 and the Heritage Map is Sheet HER_011F. It is expected that the Holy Family School will be identified by the new legal description in Schedule 5 of the LEP.

All four maps mentioned above are attached.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **2.3 Heritage Conservation**

* May need the Director General's agreement

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **N/A**

e) List any other **Heritage Advisor, Barbara Hickson has provided support for the PP:**

matters that need to be considered :

"I support the Planning Proposal amending the curtilage of the State Heritage Item to

reflect that of the amended State Heritage Register listing.

I support the reduction of the curtilage of the Heritage Item. It is appropriate that the curtilage be adjusted from the former property boundary to the natural vegetation boundary as proposed in the Planning Proposal."

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

In relation to Section 117 Direction 2.3, Council provides advice from the Heritage advisor which gives support to the PP. There is no inconsistency with the Direction on account of the continued conservation of heritage items. The advice of the NSW Heritage Office should be sought to verify the new property boundary between Lots 44 and 46 at Holy Family School to ensure that future residential development does not adversely affect the heritage items.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A consultation period of 28 days is proposed. This is supported.**

Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **March 2014**

Comments in relation to Principal LEP :

There are difficulties with the draft SI LEP, particularly related to Exempt and Complying development and Council's reluctance to adopt the SEPP Housing Codes and the SI.

Assessment Criteria

Need for planning proposal :

There is no urgency for the PP. It is expected that Council will (and is) prepare PPs in lieu of working on the draft LEP given the current position.

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Consistency with strategic planning framework :

Council provides no reference to the Bathurst strategy in relation to the land at Kelso where it is intended to develop the land for residential purposes. However, the land in French Smith Place and Wentworth Drive in Kelso is already zoned Residential 2(a) by the Bathurst Interim LEP 2005. The area of the land will have a potential yield of approx 70 lots. The land containing the Holy Family School was 14ha in area (Part Lot 2 DP1064148) but has been recently subdivided into two lots, 44 and 46 DP1172067 (7.4ha and 6.7ha respectively). The school is situated on Lot 46 and Lot 44 is vacant rural land.

The land on which the State Heritage Listed item is situated (Lot 4 DP 1076699) is located in the Bathurst CBD and zoned 3(a) General Business.

In both cases, the curtilages are being altered, which in turn has no effect on land use zoning.

Council has mentioned that by subdividing the Holy Family School, the now new separate lot (zoned residential) is able to access Complying development provisions which are unavailable due to the presence of a heritage item.

Environmental social economic impacts :

Council has advised that environmental, social and economic impacts will be minimal as a result of the PP.

The PP will have the result of releasing more land for residential development.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

If Other, provide reasons :

A heritage consultant has provided support for the Planning Proposal. The advice of the NSW Heritage Office is recommended, particularly in relation to the Holy Family School.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The subdivided residential land the subject of this PP will result in the development of new housing.**

Documents

Document File Name	DocumentType Name	Is Public
propheritageitem_i155_zone.pdf	Map	No
propheritageitem_i73_zone.pdf	Map	No
Heritage advisor letter of support.pdf	Study	No
Minute - DEPBS ro GM re Planning Proposal.pdf	Proposal	No
Planning Proposal requesting gateway determination.pdf	Proposal Covering Letter	No
0470_COM_HER_011BB_010_20101206.pdf	Map	No
0470_COM_HER_011BB_010_20121217.pdf	Map	No
0470_COM_HER_011F_020_20101206.pdf	Map	No
0470_COM_HER_011F_020_20121217.pdf	Map	No
cathedral of saints michael and john.doc	Study	No
Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_making_functions.doc	Determination Document	No
lot 44 dp 1172067.pdf	Photograph	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **2.3 Heritage Conservation**

- Additional Information :
- 1. Consultation is required with the following public authorities under section 56(2)(d) of the EPAA: NSW Heritage Office (OEH)**
 - 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EPAA) as follows:**
 - (a) the planning proposal must be made publicly available for 28 days, and**
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A Guide to Preparing LEPs (Department of Planning & Infrastructure 2012)'.**
 - 3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EPAA. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
 - 4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.**
 - 5. Council's wish to utilise delegations in this matter is supported.**

- Supporting Reasons :
- 1. To ensure professional advice on the integrity of the amendment to the curtilage of the Holy Family School at Kelso is obtained and considered.**
 - 2. To ensure an appropriate consultation period.**
 - 3. To ensure an adequate timeframe to complete the LEP.**

Signature:



Printed Name:

Dan Wagner

Date:

01/03/2013