

BATHURST 
REGIONAL COUNCIL

PLANNING PROPOSAL

FOR

**BATHURST REGIONAL (INTERIM) LOCAL
ENVIRONMENTAL PLAN 2005
AMENDMENT No 9
(20.00251)**

HERITAGE HOUSEKEEPING

Lot	DP	Address
4	1076699	107 William Street, Bathurst
44	1172067	Wentworth Drive, Kelso
46	1172067	French Smith Place, Kelso

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Schedule of Maps

Map Number	Map Name	Version
1	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011BB_020_20101206)	A
2	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011BB_020_20121217)	A
3	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011F_020_20101206)	A
4	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011F_020_20121217)	A

List of Attachments

Attachment Number	Name
1	Minute to proceed with the Planning Proposal
2	Supporting letter from Council's Heritage Advisor
3	Maps

Relevant Planning Authority Details

Relevant Planning Authority:	Bathurst Regional Council
Contact Person:	Mr David Shaw Director, Environmental Planning and Building Services
Contact Phone Number:	02 6333 6213
Contact email address:	david.shaw@bathurst.nsw.gov.au

Introduction

Council first identified the curtilage of the Heritage Items (Holy Family School (former Marsden School) (I155) and the Cathedral of St Michael and St John (I73)) in Amendment No 5 of the Bathurst Regional (Interim) LEP 2005.

Since then, the Holy Family School have completed a subdivision which has part of the curtilage on an adjacent parcel of land. Council was notified from the Heritage Branch of the amended State listed curtilage of the Cathedral of St Michael and St John as notified in the Government Gazette dated 30 November 2012.

A copy of the minute to proceed with the Planning Proposal is provided at **attachment 1**.

If the Planning Panel so determines, Council will accept the delegated functions offered to it pursuant to Section 59 of the Environmental Planning and Assessment Act 1979.

The Planning Proposal has been prepared in accordance with Section 55 of *the Environmental Planning and Assessment Act 1979* (the Act) and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Part 1 Objectives or intended outcomes

1.1 Introduction

The Heritage Housekeeping Planning Proposal involves an amendment to the Bathurst Regional (Interim) Local Environmental Plan 2005 (“the LEP”), to:

- (i) alter the curtilage of:
 - a) Heritage Item I73 - Cathedral of St Michael and St John (State Heritage Listed (SHR No. 1885); and
 - b) Heritage Item I155 - Holy Family School (former Marsden School) so that it is contained wholly within Lot 46 DP 1172067.

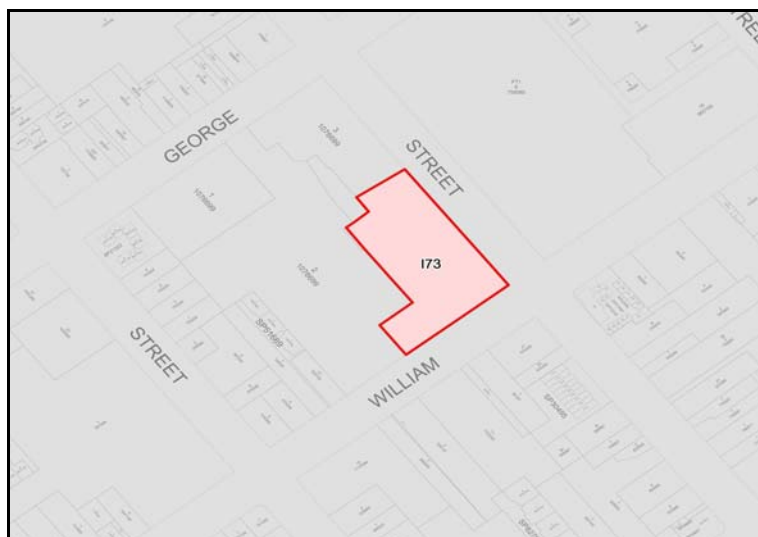
The Planning Proposal aims to:

- a) increase the curtilage of Heritage Item 73, Cathedral of St Michael and St John and former St Mary’s School, to match that area recently gazetted on the State Heritage Register; and
- b) decrease the curtilage of Heritage item 155 (Holy Family School (former Marsden School)) to follow a natural landscape boundary rather than a former property boundary.

1.2 The subject land

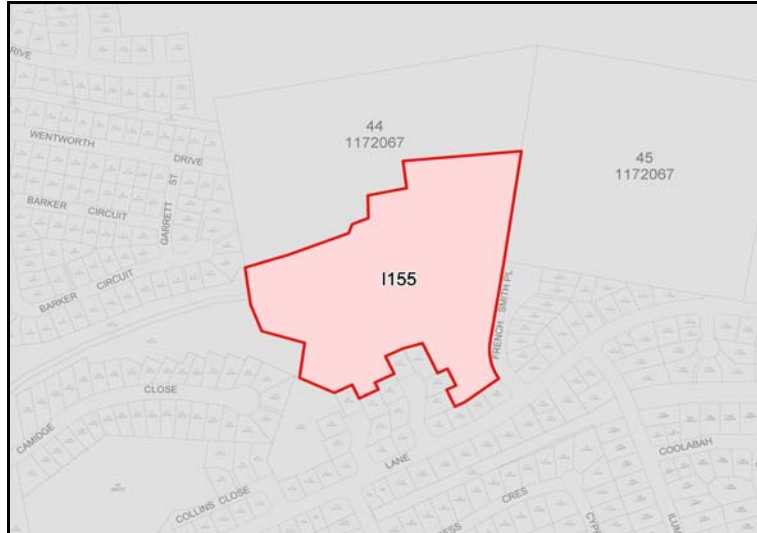
Cathedral of St Michael and St John

The subject land comprises Lot 4 DP 1076699, 107 William Street, Bathurst. The site contains the State Heritage Listed Cathedral of St Michael and St John (SHR No. 1885) and the former St Mary’s School.



Holy Family School (former Marsden School)

The subject land comprises Lots 44 & 46 DP 1172067, French Smith Place and Wentworth Drive, Kelso. The site contains the Holy Family School (former Marsden School).



Part 2 Explanation of Provisions

2.1 Introduction

The Heritage Housekeeping Planning Proposal involves an amendment to the Heritage Map of the Bathurst Regional (Interim) Local Environmental Plan 2005 (“the LEP”), to:

- (ii) alter the curtilage of:
 - a) Heritage Item I73 - Cathedral of St Michael and St John (State Heritage Listed (SHR No. 1885); and
 - b) Heritage Item I155 - Holy Family School (former Marsden School) so that it is contained wholly within Lot 46 DP 1172067.

The Planning Proposal aims to:

- a) increase the curtilage of Heritage Item 73, Cathedral of St Michael and St John and former St Mary’s School, to match that area recently gazetted on the State Heritage Register; and
- b) decrease the curtilage of Heritage item 155 (Holy Family School (former Marsden School)) to follow a natural landscape boundary rather than a former property boundary.

In respect of (b) above, the reduction of the curtilage will enable proposed dwellings on approved residential lots (Lot 44 DP 1172067) to be considered as Complying Development.

PART 3 Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

No.

Council was notified of the amended curtilage of the State Heritage Listed Cathedral of St Michael and St John and former St Mary's School from the Heritage Branch. This Planning Proposal responds to that notification and seeks to make the two listings consistent with each other.

The land containing the Holy Family School was subdivided in March 2012 creating 3 allotments, of which Lot 46 DP 1172067 wholly contained the Holy Family School (former Marsden School). The curtilage for the Heritage Item however now affects both Lots 44 & 46 DP 1172067. The aim of this Planning Proposal is to amend the curtilage of the Heritage Item so that it is wholly contained on Lot 46 DP 1172067 (its natural curtilage) and is removed from Lot 44 DP 1172067, to be subdivided for residential purposes.

Council's Heritage Advisor has reviewed the Planning Proposal documentation and supports the Planning Proposal. (see attachment 2)

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means of achieving the development and intended outcomes of the Planning Proposal.

The curtilage for the Holy Family School Heritage Item was subdivided and now affects both Lots 44 & 46 DP 1172067. The aim of this Planning Proposal is to amend the curtilage of the Heritage Item so that it is wholly contained on Lot 46 DP 1172067. 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 Planning Proposal responds to the notification that the curtilage of the State Heritage Listed Cathedral of St Michael and St John and former St Mary's School has been altered and make the two listings consistent with each other.

Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The following table addresses the evaluation criteria for the consistency with the regional and sub-regional strategies, as required by the guidelines for preparing a Planning Proposal.

Evaluation criteria	Y/N	Comment
<p>Does the proposal have strategic merit and:</p> <ul style="list-style-type: none"> ◇ Is consistent with a relevant local strategy endorsed by the Director General; or ◇ Is consistent with the relevant regional strategy or Metropolitan Plan; or ◇ Can it demonstrate strategic merit, giving consideration to the relevant section 117 directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas , public transport and infrastructure accessibility, providing jobs closer to home etc) 	Yes	<p>There are no relevant regional strategies relevant to the Bathurst Regional LGA.</p> <p>The Planning Proposal is consistent with the relevant Section 117 directions of the Minister. They are explained later in this Planning Proposal.</p>
<p>Does the proposal have site specific merit and is it compatible with the surrounding land uses, having regard to the following:</p> <ul style="list-style-type: none"> ◇ The natural environment (including known significant environmental values, resources or hazards) and ◇ The existing uses, approved uses and likely future uses of the land in the vicinity of the proposal; and ◇ The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision. 	Yes	<p>The Department places a high priority on Complying Development particularly in relation to dwellings.</p> <p>The Planning Proposal 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).</p> <p>The Planning Proposal also aims to alter the curtilage of the State Heritage listed Cathedral of St Michael and St John and former St Mary's School to make the Bathurst Regional (Interim) LEP 2005 consistent with the State Heritage Register.</p>

4. Is the Planning Proposal consistent with a Council's local strategy or other local strategic Plan?

The Planning Proposal is not supported by a strategy.

Council's Heritage Advisor has reviewed the Planning Proposal documentation and supports the Planning Proposal.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Council has undertaken a review to determine whether or not the Planning Proposal is consistent with the State Environmental Planning Policies.

State Environmental Planning Policy (SEPP)	Compliance (Yes/No or Not Relevant)
SEPP No 1 – Development Standards	Not Relevant
SEPP No 4 - Development without consent and miscellaneous Exempt and Complying Development	Not Relevant
SEPP No 6 – Number of Storeys in a building	Not Relevant
SEPP No 14 – Coastal Wetlands	Not Relevant
SEPP No 15 – Rural Landsharing Communities	Not Relevant
SEPP No 19 – Bushland in Urban Areas	Not Relevant
SEPP No 21 – Caravan Parks	Not Relevant
SEPP No 22 – Shops and Commercial Premises	Not Relevant
SEPP No 26 – Littoral Rainforests	Not Relevant
SEPP No 29 – Western Sydney Recreation Area	Not Relevant
SEPP No 30 – Intensive Agriculture	Not Relevant
SEPP No 32 – Urban Consolidation (Redevelopment of Urban Land)	Not Relevant
SEPP No 33 – Hazardous and Offensive Development	Not Relevant
SEPP No 36 – Manufactured Home Estates	Not Relevant
SEPP No 39 – Spit Island Bird Habitat	Not Relevant
SEPP No 41 – Casino Entertainment Complex	Not Relevant
SEPP No 44 – Koala Habitat Protection	Not Relevant
SEPP No 47 – Moore Park Showground	Not Relevant
SEPP No 50 – Canal Estate Development	Not Relevant
SEPP No 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not Relevant
SEPP No 55 – Remediation of Land	Not Relevant
SEPP No 59 – Central Western Sydney Regional Open Space and Residential	Not Relevant
SEPP No 60 – Exempt and Complying Development	Not Relevant
SEPP No 62 – Sustainable Aquaculture	Not Relevant

SEPP No 64 – Advertising and Signage	Not Relevant
SEPP No 65 – Design Quality of Residential Flat Development	Not Relevant
SEPP No 70 – Affordable Housing (Revised Schemes)	Not Relevant
SEPP No 71 – Coastal Protection	Not Relevant
SEPP (Affordable Rental Housing) 2009	Not Relevant
SEPP (Building Sustainability Index: BASIX) 2004	Not Relevant
SEPP (Exempt and Complying Development Codes) 2008	Not Relevant
SEPP (Housing for Seniors or People with a Disability)2004	Not Relevant
SEPP (Infrastructure) 2007	Not Relevant
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not Relevant
SEPP (Kurnell Peninsula) 1989	Not Relevant
SEPP (Major Development) 2005	Not Relevant
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not Relevant
SEPP (Penrith Lakes Scheme) 1989	Not Relevant
SEPP (Rural Lands) 2008	Not Relevant
SEPP (SEPP 53 Transitional Provisions) 2011	Not Relevant
SEPP (State and Regional Development) 2011	Not Relevant
SEPP (Sydney Water Drinking Catchment) 2011	Not Relevant
SEPP (Sydney Region Growth Centres) 2006	Not Relevant
SEPP (Temporary Structures) 2007	Not Relevant
SEPP (Urban Renewal) 2010	Not Relevant
SEPP (Western Sydney Employment Area) 2009	Not Relevant
SEPP (Western Sydney Parklands) 2009	Not Relevant

There are no SEPP's which are relevant to the Planning Proposal.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Council has undertaken a review to ensure the planning proposal is consistent with all relevant Section 117 Ministerial Directions issued by the Minister for Planning to relevant planning authorities under section 117(2) of the *Environmental Planning and Assessment Act 1979*.

All relevant Section 117 Ministerial Directions are considered in the following table.

Section 117 Ministerial Direction	Consistency
1. Employment and resources	
1.1 Business and Industrial Zones	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
1.2 Rural Zones	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
1.4 Oyster Aquaculture	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
1.5 Rural Lands	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
2. Environment and Heritage	
2.1 Environment Protection Zones	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
2.2 Coastal Protection	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
2.3 Heritage Conservation	The Planning Proposal relates to the amendment of the curtilage of two (2) existing Heritage items. Council's Heritage Advisor has reviewed the Planning Proposal documentation and supports the Planning Proposal. The amendment to the curtilage does not detrimentally impact on the heritage significance of the items. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
2.4 Recreation Vehicle Areas	Not applicable. Council is satisfied that the planning proposal is consistent with the

Section 117 Ministerial Direction	Consistency
	requirements of the direction.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.3 Home Occupations	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.4 Integrating Land Use and Transport	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.5 Development Near Licensed Aerodromes	The proposal does not alter or remove a provision relating to land in the vicinity of a licensed aerodrome. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
3.6 Shooting Ranges	The proposal does not affect land adjacent or adjoining an existing shooting range. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	The Bathurst Region does not include any land identified on Acid Sulfate Soils Planning maps held by the Department. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.2 Mine Subsidence and Unstable Land	The Bathurst Region does not include any land identified as within a Mine Subsidence District proclaimed under the Mine Subsidence Compensation Act 1961. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.3 Flood Prone Land	The Planning Proposal does not include any land which is identified as being flood liable land as identified either by Council's computer based flood model

Section 117 Ministerial Direction	Consistency
	or the Bathurst Floodplain Management Policy. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
4.4 Planning for Bushfire Protection	The Planning Proposal does not include any land which is identified as being Bushfire Prone Land. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5. Regional Planning	
5.1 Implementation of Regional Strategies	No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.2 Sydney Drinking Water Catchments	The Bathurst Region is outside the identified Sydney Drinking Water Catchment area. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to the Bathurst Region. No farmland of State or Regional significance is located within the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.4 Commercial and Retail; Development along the Pacific Highway, North Coast	Does not apply to the Bathurst Region. No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
5.8 Second Sydney Airport: Badgerys	Does not apply to the Bathurst Region. No regional or sub-regional strategy applies to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.

Section 117 Ministerial Direction	Consistency
Creek	requirements of the direction.
6. Local Plan Making	
6.1 Approval and referral Requirements	The Planning Proposal does not affect development application provisions. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
6.2 Reserving land for Public Purposes	Not applicable. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
6.3 Site Specific Provisions	The Planning Proposal does not relate to a particular development to be carried out on a specific site. Council is satisfied that the planning proposal is consistent with the requirements of the direction.
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Strategy	Does not apply to the Bathurst Region. Council is satisfied that the planning proposal is consistent with the requirements of the direction.

Section C – Environmental , social and economic impact

7. 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?

Council is satisfied that, as a result of the Planning Proposal, critical habitat, threatened species, populations or ecological communities will not be adversely affected by the rezoning.

8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Council considers that there are no likely environmental effects as a result of the Planning Proposal. The Planning Proposal aims to amend the curtilage of 2 existing Heritage Items.

9. Has the Planning Proposal adequately addressed any social and economic effects?

Social Impacts

It is considered that as a result of the Planning Proposal there are no social impacts that need to be addressed.

Economic Impacts

It is considered that as a result of the Planning Proposal there are no economic impacts that need to be addressed.

Section D State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

The Planning Proposal does not impact on any existing or future public infrastructure.

11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the Gateway Determination?

Council has not consulted with any Government Agencies. Council proposes to consult with the Office of Environment and Heritage as part of the Planning Proposal exhibition process.

Part 4 Mapping

The maps relevant to the Planning Proposal have been prepared in accordance with the Department of Planning and Infrastructure's standard technical requirements for LEP maps.

The maps relevant to this Planning Proposal are attached to this Planning Proposal.

Map Number	Map Name	Version
1	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011BB_020_20101206)	A
2	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011BB_020_20121217)	A
3	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011F_020_20101206)	A
4	Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No 09) (0470_CMP_HER_011F_020_20121217)	A

Part 5 Community Consultation

Council anticipates that following the Gateway Determination and Council satisfying any conditions imposed prior to the public exhibition period, the Planning Proposal will be placed on public exhibition for a period of 28 days.

It is proposed that the Planning Proposal will be publically notified by:

- a) a notice in the Western Advocate newspaper on at least 2 occasions; and
- b) written notification to the landowner and directly adjoining landowners;
and
- c) notification on Council's website.

It is not anticipated that a Public Hearing will need to be conducted as part of this Planning Proposal, unless requested by a person making a submissions.

Concurrently with the public exhibition period, Council will notify the Office of Environment and Heritage with respect to the Planning Proposal.

Following the public exhibition period, this section will be altered to reflect the extent of consultation that was undertaken, including any issues which were raised as a result of the consultation.

Part 6 Project timeframe

The following table outlines Council's anticipated timetable for the completion of the Planning Proposal. Council anticipates that the process will take approximately 12 months from the date of the Gateway Determination.

Step	Criteria	Project timeline
1	Anticipated commencement date (date of Gateway determination)	February 2013
2	Anticipated timeframe for the completion of required technical information	End of March 2013
3	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	End of April 2013
4	Commencement and completion dates for public exhibition period	May 2013
5	Dates for public hearing (if required)	July 2013
6	Timeframe for consideration of submissions	End of August 2013
7	Timeframe for the consideration of a proposal post exhibition	November 2013
8	Date of submission to the department to finalise the LEP	End of November 2013
9	Anticipated date RPA will make the plan (if delegated)	End of February 2014
10	Anticipated date RPA will forward to the department for notification.	End of February 2014