

Planning Services

Gateway Determination Report

LGA	Blue Mountains
RPA	Blue Mountains City Council
NAME	Blue Mountains Local Environmental Plan 2015 (Amendment No 5) (0 homes, 0 jobs)
NUMBER	PP_2017_004_00
LEP TO BE AMENDED	Blue Mountains Local Environmental Plan 2015
ADDRESS	Various sites in the Blue Mountains LGA
DESCRIPTION	Various sites in the Blue Mountains LGA
RECEIVED	10/10/2017
FILE NO.	17/14344
QA NUMBER	qA420270
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.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to conserve the cultural heritage of the Blue Mountains, by amending Schedule 5 Environmental heritage (the heritage schedule) and relevant heritage maps (the heritage mapping) of the Blue Mountains Local Environmental Plan (LEP) 2015.

The planning proposal applies to various sites across the Blue Mountains Local Government Area (LGA). The individual items included in the proposal fall into the following categories:

1. proposed new heritage items (67 items);
2. proposed deleted heritage items (33 items); and
3. proposed modified items (305 items).

The planning proposal seeks to include natural areas with cultural landscape values as landscape conservation areas, does not include heritage conservation areas or Aboriginal heritage places, and no zones or development standards applying to the sites are proposed to change. Heritage schedules have been provided for all new and amended heritage items (**Attachment F**).

Site Description

The planning proposal applies to various sites in the Blue Mountains LGA. These sites are identified in **Attachment E**. Individual map excerpts identifying existing items and proposed changes are at **Attachment F**.

Summary of Recommendation

It is recommended that the proposal proceed conditionally as it will update Schedule 5 Environmental heritage of BMLEP 2015 to ensure an appropriate level of heritage protection is applied to relevant items across the LGA by either deleting, modifying or including heritage items.

PROPOSAL

Objectives or Intended Outcomes

The objectives of the planning proposal are:

- recognition and clarification of heritage significance of heritage items;
- statutory protection of items of heritage significance; and
- long-term conservation of the cultural heritage of the Blue Mountains.

The objectives of this planning proposal are clear and adequate.

Explanation of Provisions

The planning proposal clearly explains the proposed provisions to implement the objectives and intended outcomes by modifying Schedule 5 of BMLEP 2015 and associated heritage mapping to:

- include 67 new heritage items;
- delete 33 heritage items; and,
- modify 305 existing heritage items.

Mapping

The planning proposal will require amendment to 38 heritage map tiles of the Blue Mountains LEP 2015.

The planning proposal will not alter zoning, height of buildings, floor space ratio, natural resources on any other maps.

The map changes proposed in the planning proposal fall into the following three categories:

1. proposed new heritage items with a preliminary image of the new mapped area;
2. existing heritage items with a mapping change proposed, with preliminary images indicating existing and proposed mapping to highlight the change; and,
3. items proposed to be deleted, with no mapping included in the planning proposal.

Many large and complex items in 'natural' areas, which are currently identified on maps as a dot/small circle, such as walking tracks, will be shown using polygons.

The planning proposal also proposes to map archaeological remains along the Great Western Highway by mapping them as an 'archaeological conservation area'.

The proposal notes that all LEP mapping will comply with the Department's Standard Technical Requirements 2.0 (2012). This will need to be amended prior to community or agency consultation to comply with the Department's Standard Technical Requirements 2.0 (2017).

Sites Deferred from LEP 2015

Amendment No 1 to LEP 2015

The planning proposal includes 31 items currently deferred from BMLEP 2015, which are included in draft Amendment No 1 to BMLEP 2015. Council anticipates Amendment No 1 will be made before this planning proposal is finalised. These items may need further amendment and have been included in this planning proposal.

To assist agency and community consultation, it is recommended that the Gateway determination require Council to amend the planning proposal to clarify that the 31 items contained in BMLEP 2015 (draft Amendment No.1) are not currently listed in BMLEP 2015 and how Council intends to proceed with these heritage listings in the event of draft Amendment No.1 not being finalised in time.

Amendment No 2 to LEP 2015

A further 24 items identified in Council's heritage studies are located on sites deferred from the LEP 2015 and being dealt with under Amendment No.2, are not included in this planning proposal due to the unknown timeframe for Amendment No.2.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is the result of a number of studies carried out between 2004 and 2017. The planning proposal seeks to consolidate the work that has been prepared over a number of years under different studies but not incorporated into the LEP.

It is considered that the planning proposal is the best and most appropriate means of achieving the Council's intended outcome. A planning proposal is the only means available to conserve the cultural heritage of the Blue Mountains.

STRATEGIC ASSESSMENT

Regional / District

A Plan for Growing Sydney (2014)

The planning proposal is consistent with Direction 3.4 of A Plan for Growing Sydney (the Plan) which aims to promote Sydney's heritage, arts and culture.

The proposal is supported by a number of studies, and a peer review.

Draft Greater Sydney Region Plan (2017)

The planning proposal is consistent with Objective 13 Environmental Heritage, of the Draft Greater Sydney Region Plan as the proposal seeks to identify and conserve heritage items in the Blue Mountains.

It is noted that the proposal does seek to delete a number of items, however, the removal of these items is supported by studies and will either remove duplications or consolidate items. The proposal should also be updated prior to consultation to include reference to the Draft Greater Sydney Region Plan.

Draft Western City District Plan (2017)

The planning proposal is consistent with the objectives and actions of the Draft West District Plan, specifically the proposal is consistent with Planning Priority 6. Priority 6

acknowledges the importance of heritage and history and seeks to respect the District's heritage through conserving and enhancing environmental heritage including Aboriginal, European and natural heritage values. The proposal is also considered consistent with Draft Western City District Plan. Prior to consultation the proposal is to be updated to include reference to the Draft Western City District Plan.

Local

The Blue Mountains Community Strategic Plan (Sustainable Blue Mountains 2025)

The aim of the Blue Mountains Community Strategic Plan (the Plan) is to provide a long-term framework for all stakeholders to achieve the vision for a more sustainable Blue Mountains. The Plan identifies the distinctive heritage of the region and seeks to maintain heritage characterises.

The planning proposal is consistent with the objectives of the Plan as it will contribute to the conservation of the cultural heritage of recognised heritage places.

Section 117(2) Ministerial Directions

The proposal is considered to be consistent with all applicable s117 Directions except in relation to the following:

2.3 Heritage Conservation

The direction requires the planning proposal to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The planning proposal is generally consistent with this direction, as the proposal seeks to conserve and protect items, areas and places of heritage significance. However, the proposal also aims to remove 33 heritage items from Schedule 5 of Blue Mountains LEP 2015.

Council has advised that only those items have been proposed to be removed from the Schedule, are of local significance and the existing heritage items proposed to be deleted were generally a result of a new item superseding the existing item.

The planning proposal also proposes to include 67 new heritage items in Heritage Schedule.

In these circumstances, it is recommended that the delegate of the Secretary notes that any inconsistency of the planning proposal with this direction has not been determined and consultation with the Office of Heritage and Environment is required to clarify the matter.

4.4 Planning for Bushfire Protection

The proposal includes items that are located on bushfire prone land. The consistency of the proposal with this direction cannot be determined or resolved until after consultation with the Commissioner of NSW Rural Fire Service has been undertaken.

State Environmental Planning Policies

The planning proposal is consistent with all applicable State policies.

SITE SPECIFIC ASSESSMENT

Social

The planning proposal is expected to result in positive social effects as it proposes to accurately recognise and protect local cultural heritage.

Environmental

No environmental effects are expected, as the planning proposal is for inclusion, amendment or deletion of the identified items in Schedule 5 of the LEP 2015.

Infrastructure

The sites are currently serviced by necessary infrastructure and utilities.

CONSULTATION

Community

Council proposes to undertake a community consultation period of 28 days. Given the wide-ranging nature of the proposal, this period is considered to appropriate.

Agencies

Council has advised that the Gateway determination will specify any additional required consultation.

Given the nature of the planning proposal it is recommended that Council consult with the Office of Environmental and Heritage (OEH). Consultation is also required to consult with the Rural Bushfire Service to satisfy s117 Direction 4.4 Planning for Bushfire Protection.

The planning proposal indicates all property owners will be notified, which will include relevant State agencies. It is recommended that the NSW Aboriginal Land Council and the Local Aboriginal Land Councils also be consulted.

TIMEFRAME

Council has provided a timeline indicating the proposal will be completed by December 2018. In the circumstances, it is considered that a 12 month period to complete the proposal is sufficient.

DELEGATION

Council has not requested delegation of the plan making function be issued to it in relation to this planning proposal. Given that the planning proposal contains Council owned land, authorisation to exercise delegation cannot be issued to Council.

CONCLUSION

It is recommended that the planning proposal proceeds with conditions, as it will ensure Schedule 5 Environmental heritage of BLEP 2015 is accurate. an appropriate level of heritage protection is applied to relevant items across the LGA

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Note that the proposal is potentially inconsistent with Section 117 Directions 2.3 Heritage and 4.4 Planning for Bushfire Protection and that these inconsistencies remain unresolved at the present time.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to agency or community consultation, the planning proposal is to be amended to:
 - arrange the mapping in suburb groups that are accompanied by the relevant heritage schedules;
 - each map is to include a reference to the corresponding BMLEP 2015 map tile number;
 - clarify that the 31 items contained in BMLEP 2015 (draft Amendment No.1) are not currently listed in BMLEP 2015 and how Council intends to proceed with these heritage listings in the event of draft Amendment No.1 not being finalised; and
 - include reference to the Draft Greater Sydney Region Plan and the Draft Western City District Plan.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (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 and Environment 2016)*; and
 - (c) Any mapping material must meet the specifications in the current *Standard Technical Requirements for Spatial Datasets and Maps* (Department of Planning and Environment 2017).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage – Heritage Branch
 - NSW Rural Fire Service
 - NSW Aboriginal Land Council
 - Local Aboriginal Land Councils

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. 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).
5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.



3/11/17

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