

# PLANNING PROPOSAL

Blue Mountains  
Local Environmental Plan 2015  
(Draft Amendment 10)



## Housekeeping Amendment 2 Clause 4.1G & Schedule 1

**As prepared for Council endorsement**

**May 2018**

**Prepared by Blue Mountains City Council**

## TABLE OF CONTENTS

<b>PART 1 OBJECTIVES OR INTENDED OUTCOMES</b>	<b>2</b>
<b>PART 2 EXPLANATION OF PROVISIONS</b>	<b>2</b>
<b>PART 3 JUSTIFICATION</b>	<b>7</b>
<b>SECTION A - A NEED FOR THE PLANNING PROPOSAL</b>	<b>7</b>
1. IS THE PLANNING PROPOSAL A RESULT OF ANY STRATEGIC STUDY OR REPORT?	7
2. IS THE PLANNING PROPOSAL THE BEST MEANS OF ACHIEVING THE OBJECTIVES OR INTENDED OUTCOMES, OR IS THERE A BETTER WAY?	7
<b>SECTION B - RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK</b>	<b>7</b>
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)?	7
4. IS THE PLANNING PROPOSAL CONSISTENT WITH THE LOCAL COUNCIL’S STRATEGY, OR OTHER LOCAL STRATEGIC PLAN?	7
5. IS THE PLANNING PROPOSAL CONSISTENT WITH APPLICABLE STATE ENVIRONMENTAL PLANNING POLICIES?	7
6. IS THE PLANNING PROPOSAL CONSISTENT WITH APPLICABLE MINISTERIAL (S.117) DIRECTIONS	10
<b>SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT</b>	<b>18</b>
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?	18
8. ARE THERE ANY OTHER LIKELY ENVIRONMENTAL EFFECTS AS A RESULT OF THE PLANNING PROPOSAL AND HOW ARE THEY PROPOSED TO BE MANAGED?	18
9. HAS THE PLANNING PROPOSAL ADEQUATELY ADDRESSED ANY SOCIAL AND ECONOMIC EFFECTS?	18
<b>SECTION D - STATE AND COMMONWEALTH INTERESTS</b>	<b>19</b>
10. IS THERE ADEQUATE PUBLIC INFRASTRUCTURE FOR THE PLANNING PROPOSAL?	19
11. WHAT ARE THE VIEWS OF STATE AND COMMONWEALTH PUBLIC AUTHORITIES CONSULTED IN ACCORDANCE WITH THE GATEWAY DETERMINATION?	19
<b>PART 4 MAPPING</b>	<b>20</b>
<b>PART 5 COMMUNITY CONSULTATION</b>	<b>21</b>
<b>PART 6 PROJECT TIMELINE</b>	<b>22</b>
<b>PART 7 ATTACHMENTS</b>	<b>23</b>

## PART 1 OBJECTIVES OR INTENDED OUTCOMES

The purpose of this planning proposal is to make a housekeeping amendment to LEP 2015. The planning proposal seeks an amendment to Clause 4.1G *Lot Consolidation in certain environmental protection zones* of Blue Mountains Local Environmental Plan 2015 and to include 2 additional clauses into Schedule 1 *Additional permitted uses*.

The objective of this amendment is to make minor alterations to this clause to reinstate provisions and outcomes that were present in LEP 1991 and LEP 2005 but were unintentionally removed in the drafting of LEP 2015. There are two amendments proposed to this clause:

- Including land in zone E2 Environmental Conservation in the clause and in the area calculations; and
- Include land in zone IN1 General Industrial.

Consequential additional clauses, which maintain development potential for two sites are also proposed to be added to Schedule 1.

The proposed amendments to clause 4.1G and consequential additional clauses to Schedule 1 are intended to reinstate development opportunity where it was inadvertently removed due to an oversight in the translation of provisions in LEP 1991 and LEP 2005 into LEP 2015.

## PART 2 EXPLANATION OF PROVISIONS

### **Background**

The sites captured by Clause 4.1G are generally historically created premature or “paper subdivisions” predominantly remote from town centres. At the time the lots were created it was thought this land would be suitable for future development as towns expanded. However, since that time, planning has become more refined and issues such as protection of the environment, access to services and managing bushfire impacts have increased in significance.

In LEP 1991 a more strategic approach was taken to planning and development within the Blue Mountains with the outcome that the smaller subdivisions were reviewed in detail. Consequently, certain parcels were given a consolidation or minimum lot size subscript in recognition of environmental attributes of these sites. The consolidation subscript or alternate minimum lot size provision acknowledged the individual sites characteristics and development capacity. In LEP 1991 the consolidation provision is prescribed in Clause 29 and the alternate minimum lot size provision is prescribed in Clause 34.3 and 34.4. The same planning principle was included in LEP 2005 through Clause 39.

Council intended to transfer these development provisions that existed in LEP 1991 and LEP 2005 into LEP 2015 through Clause 4.1G however it has been revealed that this has not occurred for a number of sites.

The consolidation and alternate minimum lot size provisions in LEP 1991 and LEP 2005 were created to correct historic development patterns, it is very unlikely that these provisions will be applied to lots in the future as alternate regulating options are now available.

### **Clause 4.1G Lot consolidation in certain environmental protection zones**

The objective of this amendment is to make minor alterations to this clause to reinstate the provision and outcome that were present in LEP 1991 and LEP 2005 but were unintentionally removed in the drafting of LEP 2015.

There are two issues that, when amended, will restore development potential as it existed in LEP 1991 and LEP 2005. The separate issues proposed to be amended are explained in detail below.

#### 1. Including land in zone E2 Environmental Conservation.

The objective of clause 4.1G is to manage subdivision of certain environmentally sensitive land through the consolidation or alternate minimum lot size requirement. The consolidation

provision was introduced in LEP 1991 and included in LEP 2005, where it applied to land with a zone equivalent to E3 Environmental Management or E4 Environmental Living.

The consolidation provision in LEP 1991 and LEP 2005 required that all land within a mapped border was to be consolidated prior to development, irrespective of the zone or any protected area designation, and irrespective of zone-based minimum lot size requirement. The translation approach to LEP 2015 also involved the transfer of mapped areas from these earlier planning instruments into LEP 2015.

Clause 4.1G as currently written applies to land in zones E3 Environmental Management and E4 Environmental Living. Clause 4.1G of LEP 2015 does not reference land in zone E2 Environmental Conservation and therefore such land is not included in area calculations. Further, under LEP 2015, land with a consolidation requirement also has a minimum lot size provision. Clause 4.1G requires the land to be consolidated to also comply with the minimum lot size requirement.

In LEP 2015, land with a consolidation requirement also has a minimum lot size provision shown on the Lot Size Map. Clause 4.1G(3) and (4) require the land to be consolidated to comply with the minimum lot size requirement. In a number of cases this has resulted in an unintended loss of development opportunity, either reducing the number of potential lots in a subdivision or removing development potential completely. The discrepancy has arisen where zones other than E3 Environmental Management and E4 Environmental Living, principally the E2 Environmental Conservation zone, are included in the subject area on the Lot Size Map but not specified within the clause as written. This is because the previous mapped areas under LEP 1991 and LEP 2005 were delineated by lot boundaries and not zone boundaries, as the previous clauses made no specific mention of zones, only area.

Additionally, several of the parcels with the consolidation provision have two minimum lot sizes and this situation is not covered by the existing wording of Clause 4.1G provisions. Council is proposing to insert additional clauses into Schedule 1 to rectify this situation and this addition is detailed later in this planning proposal.

Council has undertaken a thorough review of all land identified where clause 4.1G is applicable. Overall, this clause affects 704 individual lots with the current wording of the clause having affected development potential of 28 holdings.

The proposed amendment to include land in zone E2 Environmental Conservation in the area calculations will reinstate development potential where it was removed by the translation of the consolidation provision.

## 2. Extending Clause 4.1G to include land in zone IN1 General Industrial

One holding located on land in zone IN1 General Industrial has the clause 4.1G reference on the Lot Size map however this clause does not apply to this zone. Council is seeking to rectify this oversight by including reference to land zoned IN1 General Industrial in clause 4.1G.

The proposed amendments to clause 4.1G are intended to reinstate development opportunity where it was inadvertently removed due to an oversight in the translation of the provision into LEP 2015.

The following changes (~~struck through~~ for removal and underlined for additions) are proposed to the written instrument as part of this draft housekeeping amendment.

### **4.1G Lot consolidation in certain environment protection zones**

- (1) The objectives of this clause are as follows:
  - (a) to require the consolidation of certain lots on environmentally sensitive land,
  - (b) to manage premature subdivisions on the urban and bushland interface,
  - (c) to protect and manage areas of high ecological or scenic landscape value by preventing development on parcels of an inadequate size that may compromise those values.
  
- (2) This clause applies to land shown edged blue on the Lot Size Map that is in the following:
  - (a) Zone E2 Environmental Conservation;

- (b) Zone E3 Environmental Management;
  - (c) Zone E4 Environmental Living;
  - (d) Zone IN1 General Industrial.
- (3) Development consent must not be granted to development on land to which this clause applies that is in Zone E3 Environmental Management and E2 Environmental Conservation unless the land (including drainage reserves and unformed roads adjoining any lots) has been or will be consolidated such that the to create a lot that has an area of land edged in the blue line (whether or not this area contains land zoned E2 Environmental Conservation) Zone E3 Environmental Management that is at least the minimum lot size shown for the land on the Lot Size Map.
- (4) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies that is in Zone E4 Environmental Living unless the land has been or will be consolidated such that the to create a lot that has an area of land edged in the blue line (whether or not this area contains land zoned E2 Environmental Conservation) in that zone that is at least the minimum lot size shown for the land on the Lot Size Map.
- (5) Development consent must not be granted under subclause (3) or (4) unless:
- (a) no dwelling house has been erected on the land, or
  - (b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, or
  - (c) if development consent has been granted in relation to any such application—the consent has been surrendered or it has lapsed.
- (6) Despite subclauses (3)–(5), development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.
- (7) Development consent must not be granted to development on land to which this clause applies that is in Zone IN1 General Industrial and Zone E2 Environmental Conservation unless the land (including drainage reserves and unformed roads adjoining any lots) has been or will be consolidated such that the area of land edged in the blue line (whether or not this area includes land zoned E2 Environmental Protection) is at least the minimum lot size shown for the land on the Lot Size Map.
- (8) Despite subclauses (3)–(7), development consent may be granted to the subdivision of land to which this clause applies if the subdivision:
- (a) is a realignment of boundaries that does not create an additional lot, or
  - (b) is for the purpose of creating or widening a public road or public reserve or for another public purpose.

The following text is clause 4.1G as proposed in the Housekeeping Amendment without any formatting

**4.1G Lot consolidation in certain environment protection zones**

- (1) The objectives of this clause are as follows:
- (a) to require the consolidation of certain lots on environmentally sensitive land,
  - (b) to manage premature subdivisions on the urban and bushland interface,
  - (c) to protect and manage areas of high ecological or scenic landscape value by preventing development on parcels of an inadequate size that may compromise those values.
- (2) This clause applies to land shown edged blue on the Lot Size Map that is in the following:
- (a) Zone E2 Environmental Conservation;
  - (b) Zone E3 Environmental Management;
  - (c) Zone E4 Environmental Living;
  - (d) Zone IN1 General Industrial.
- (3) Development consent must not be granted to development on land to which this clause applies that is in Zone E3 Environmental Management and E2 Environmental

Conservation unless the land (including drainage reserves and unformed roads adjoining any lots) has been or will be consolidated such that the area of land edged in the blue line (whether or not this area contains land zoned E2 Environmental Conservation) is at least the minimum lot size shown for the land on the Lot Size Map.

- (4) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies that is in Zone E4 Environmental Living unless the land has been or will be consolidated such that the area of land edged in the blue line (whether or not this area contains land zoned E2 Environmental Conservation) is at least the minimum lot size shown for the land on the Lot Size Map.
- (5) Development consent must not be granted under subclause (3) or (4) unless:
  - (a) no dwelling house has been erected on the land, or
  - (b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, or
  - (c) if development consent has been granted in relation to any such application—the consent has been surrendered or it has lapsed.
- (6) Despite subclauses (3)–(5), development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.
- (7) Development consent must not be granted to development on land to which this clause applies that is in Zone IN1 General Industrial and Zone E2 Environmental Conservation unless the land (including drainage reserves and unformed roads adjoining any lots) has been or will be consolidated such that the area of land edged in the blue line (whether or not this area includes land zoned E2 Environmental Protection) is at least the minimum lot size shown for the land on the Lot Size Map.
- (8) Despite subclauses (3)–(7), development consent may be granted to the subdivision of land to which this clause applies if the subdivision:
  - (a) is a realignment of boundaries that does not create an additional lot, or
  - (b) is for the purpose of creating or widening a public road or public reserve or for another public purpose.

#### **Schedule 1 Additional permitted uses**

A comprehensive review of each of the sites affected by Clause 4.1G included 2 land parcels which contain two minimum lot sizes. The sites are:

- 396 – 406 Great Western Highway and 16 Explorers Road Katoomba; and
- 28 – 30 Powerhouse Lane Katoomba

The properties are owned by Blue Mountains City Council and classified “operational”. In accordance with Minute No. 277 of the Extraordinary Council Meeting on 17 July 2014, publicly owned land in zone E2 Environmental Conservation shall have a 200Ha minimum lot size. This results in these properties having two minimum lot sizes, and inhibits the application of clause 4.1G. The most efficient method to address this situation is to add these 2 sites to Schedule 1 of LEP 2015. The proposed provision seeks to retain the development potential that existed, prior to the introduction of LEP 2015. The proposed provision does not increase development potential.

#### **Schedule 1 – additional provisions**

Use of certain land at 396 – 406 Great Western Highway and 16 Explorers Road, Katoomba

- (1) This clause applies to land at 396 – 406 Great Western Highway and 16 Explorers Road Katoomba, being Lots 6 – 12, DP 10148.
- (2) Development for the purpose of subdivision to create 4 lots is permitted with development if resulting lots are no less than 1ha in area.

Use of certain land at 28 – 30 Powerhouse Lane, Katoomba

- (1) This clause applies to land at 28 – 30 Powerhouse Lane, Katoomba, being Lots 6 and 7, DP 711773.

- (2) Development for the purpose of a permissible use is permitted with development consent if all lots are consolidated into a single lot.

## PART 3 JUSTIFICATION

### Section A - A Need for the Planning Proposal

This planning proposal is for a housekeeping amendment to LEP 2015. It is seeking only to correct errors and reword particular clauses to improve the clarity and ensure that they operate as intended. It is not intended to change planning policy. The proposed amendments to clause 4.1G and consequential additions to Schedule 1 are intended to reinstate development opportunity where it was inadvertently removed due to an oversight in the translation of the provision into LEP 2015.

#### 1. Is the planning proposal a result of any strategic study or report?

No, this planning proposal does not necessitate a strategic study or report because it is not seeking to change planning policy. The proposed amendments to clause 4.1G and consequential additions to Schedule 1 are intended to reinstate development opportunity where it was inadvertently removed due to an oversight in the translation of the provision into LEP 2015.

#### 2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the proposed amendments to the clauses in the LEP are intended to reinstate development opportunity where it was reduced as an unintended consequence of the translation of the equivalent provision in earlier LEPs, into LEP 2015.

### 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)?

This planning proposal seeks only to make a housekeeping amendment to LEP 2015 and is not inconsistent with the Sydney Metropolitan Strategy or Western City District Plan. The amendment seeks to correct an error which reinstates development opportunities where it was inadvertently removed due to an oversight in the translation of the provision into LEP 2015.

#### 4. Is the planning proposal consistent with the local council's strategy, or other local strategic plan?

This planning proposal only seeks to make a housekeeping amendment to LEP 2015 and is not inconsistent with the Sustainable Blue Mountains 2025 and other adopted local strategic planning policies. The amendment seeks to correct minor errors which reinstate development opportunities where it was inadvertently removed due to an oversight in the translation of the provision into LEP 2015.

#### 5. Is the planning proposal consistent with applicable state environmental planning policies?

The following table documents the analysis undertaken of the application and consistency of LEP 2015 Draft Amendment 10 with all State Environmental Planning Policies (SEPPs) and relevant Sydney Regional Environmental Plans (SREPs).

Note:

<sup>1</sup> **Not Relevant:** This SEPP or SREP does not apply to land within LEP 2015 Draft Amendment 10

<sup>2</sup> **Consistent:** This SEPP or SREP applies; LEP 2015 Draft Amendment 10 meets the relevant requirements and is in accordance with the SEPP or SREP.

<sup>3</sup> **Justifiably Inconsistent:** This SEPP or SREP applies; LEP 2015 Draft Amendment 10 does not meet all the requirements or may be inconsistent with this SEPP or SREP as outlined following the table



<b>State Environmental Planning Policies in force</b>		<b>NOT RELEVANT<sup>1</sup></b>	<b>CONSISTENT<sup>2</sup></b>	<b>JUSTIFIABLY INCONSISTENT<sup>3</sup></b>
<b>SEPP 1</b>	Development Standards	✓		
<b>SEPP 19</b>	Bushland in Urban Areas	✓		
<b>SEPP 21</b>	Caravan Parks	✓		
<b>SEPP 30</b>	Intensive Agriculture	✓		
<b>SEPP 33</b>	Hazardous and Offensive Development	✓		
<b>SEPP 36</b>	Manufactured Home Estates	✓		
<b>SEPP 44</b>	Koala Habitat Protection		✓	
<b>SEPP 47</b>	Moore Park Showground	✓		
<b>SEPP 50</b>	Canal Estate Development	✓		
<b>SEPP 52</b>	Farm Dams and Other Works in Land and Water Management Plan Areas	✓		
<b>SEPP 55</b>	Remediation of Land	✓		
<b>DSEPP55</b>	Remediation of Land	✓		
<b>SEPP 62</b>	Sustainable Aquaculture	✓		
<b>SEPP 64</b>	Advertising and Signage	✓		
<b>SEPP 65</b>	Design quality of Residential Flat Development	✓		
<b>DSEPP 66</b>	Integration of Land Use and Transport	✓		
<b>SEPP 70</b>	Affordable Housing (Revised Schemes)	✓		
<b>SEPP</b>	(Affordable Rental Housing) 2009	✓		
<b>SEPP</b>	(Building Sustainability Index: BASIX) 2004	✓		
<b>SEPP</b>	(Coastal Management) 2018	✓		
<b>SEPP</b>	(Educational Establishments and Child Care Facilities) 2017	✓		
<b>SEPP</b>	(Exempt and Complying Development Codes) 2008	✓		
<b>SEPP</b>	(Housing for Seniors or People with a Disability) 2004	✓		
<b>SEPP</b>	(Infrastructure) 2007	✓		
<b>SEPP</b>	(Integration and Repeals) 2016	✓		
<b>SEPP</b>	(Kosciuszko National Park – Alpine Resorts) 2007	✓		
<b>SEPP</b>	(Kurnell Peninsula) 1989	✓		
<b>SEPP</b>	(Mining, Petroleum Production and Extractive Industries) 2007	✓		
<b>SEPP</b>	(Miscellaneous Consent Provisions) 2007	✓		
<b>SEPP</b>	(Penrith Lakes Scheme) 1989	✓		
<b>SEPP</b>	(Rural Lands) 2008	✓		
<b>SEPP</b>	(State and Regional Development) 2011	✓		
<b>SEPP</b>	(State Significant Precincts) 2005	✓		
<b>SEPP</b>	(Sydney Drinking Water Catchment) 2011		✓	
<b>SEPP</b>	(Sydney Region Growth Centres) 2006	✓		
<b>SEPP</b>	(Three Ports) 2013	✓		
<b>SEPP</b>	(Urban Renewal) 2011	✓		
<b>SEPP</b>	(Vegetation in Non-Rural Areas) 2017	✓		
<b>SEPP</b>	(Western Sydney Employment Area) 2009	✓		
<b>SEPP</b>	(Western Sydney Parklands) 2009	✓		
<b>SREP</b>	Sydney Regional Environmental Plan No. 20 Hawkesbury – Nepean River (No. 2 – 1997)		✓	
<b>DSEPP</b>	(Application of Development Standards) 2004	✓		
<b>DSEPP</b>	Draft State Environmental Planning Policy (Competition) 2010	✓		

This planning proposal is consistent with all the relevant SEPPs as detailed below.

## SEPP 44 Koala Habitat Protection

This planning proposal is consistent with the Koala Habitat SEPP as nothing in this planning proposal seeks to contradict or diminish the operation of this SEPP. Koala habitat trees are identified as included to several vegetation communities found in the Blue Mountains, these habitat tree species are *Eucalyptus tereticornis*, *Eucalyptus punctata* and *Eucalyptus viminalis*.

The proposed amendments to Clause 4.1G and Schedule 1 will transfer certain entitlements present in LEP 1991 and LEP 2005 which were inadvertently removed in the drafting of LEP 2015.

The amendments proposed to this clause reinstate development potential on a maximum 28 additional lots where the provision has been inadvertently removed due to errors in translating provisions from LEP 1991 and LEP 2005 into LEP 2015.

Two vegetation communities, which may contain the koala habitat tree species *eucalyptus punctata*, have been identified in a desk-top review as occurring on certain land identified by Clause 4.1G. The vegetation communities of Open – Forest/Woodland *Eucalyptus piperita* – *Angophora costa* and Blue Mountains Shale Cap Forest (*Eucalyptus deanei*-*E. punctata*-*Syncarpia glomulifera*) may include the species *Eucalyptus punctata*.

The following tables show properties where vegetation communities that may include koala habitat trees and that occur on lots identified by Clause 4.1G.

Table showing properties identified as having (non-scheduled) vegetation 11B - Open – Forest/Woodland *Eucalyptus piperita* – *Angophora costa*

Address	Lot area	Area of vegetation and zone over veg.	Development on land
9 Heather Glen Rd Yellow Rock	2885m <sup>2</sup>	672m <sup>2</sup> – E4	Dwelling
15 Heather Glen Rd Yellow Rock	2001m <sup>2</sup>	440m <sup>2</sup> – E4	Dwelling
27-29 Heather Glen Rd Yellow Rock	1911m <sup>2</sup>	478m <sup>2</sup> – E4	Dwelling
31-33 Heather Glen Rd Yellow Rock	2178m <sup>2</sup>	206m <sup>2</sup> – E4	Dwelling
35-37 Heather Glen Rd Yellow Rock	1930m <sup>2</sup>	69m <sup>2</sup> – E4	Dwelling
47-49 Heather Glen Rd Yellow Rock	4324m <sup>2</sup>	1832m <sup>2</sup> – E4	Dwelling
48 Heather Glen Rd Yellow Rock	3045m <sup>2</sup>	926m <sup>2</sup> – E4	Dwelling
370 Macquarie Rd Springwood	1416m <sup>2</sup>	647m <sup>2</sup> – E2 & E4	Dwelling
783-789 Great Western Highway Linden	1.0929ha	3279m <sup>2</sup> – E4	Dwelling

Table showing the property identified as having (scheduled) vegetation 2(2) - Blue Mountains Shale Cap Forest (*Eucalyptus deanei*-*E. punctata*-*Syncarpia glomulifera*)

Address	Lot area	Area of vegetation and zone over veg.	Development on land
4 Eucalyptus Rd Springwood	899m <sup>2</sup>	607m <sup>2</sup> – E2	Dwelling

Council has undertaken a thorough review of all land identified as included in Cl.4.1G and where development potential once existed but has been inadvertently removed due to incorrect transfer of the provision into LEP 2015. None of the above properties have further subdivision potential and all are developed with a dwelling and ancillary uses, therefore there is no change to the current situation.

## SEPP (Sydney Drinking Water Catchment) 2011

This planning proposal is consistent with the Drinking Water Catchment SEPP. It proposes to make a housekeeping amendment to LEP 2015 by reinstating provisions inadvertently removed in the transfer to LEP 2015. A key element of LEP 2015 is the recognition and protection National Park and environment which surround the urban areas of the City, including the Sydney drinking water catchment. Nothing in this planning proposal seeks to diminish or contradict these provisions.

The proposed changes to clause 4.1G Lot consolidation in certain environmental protection zones will increase the number of developable lots where it applies. Proposed amendments reinstate development potential on a maximum of 28 lots on land in zones E3 Environmental

Management and E4 Environmental Living. Some of the affected lots occur in land subject to the Sydney Drinking Water Catchment Area and the current provisions will apply to any future development on this land. The intended outcome of this clause is to transfer developable rights that existed under LEP 2005 or LEP 1991 but due to the drafting of clause 4.1G these rights were removed in LEP 2015.

### SREPP No.20 Hawkesbury-Nepean River (No.2 – 1997)

This planning proposal is consistent with the SREP 20. It only proposes to make housekeeping amendments to LEP 2015. A key element of LEP 2015 is the recognition and protection of the National Park and environment which surround the urban areas of the City, including strong stormwater controls. Nothing in this planning proposal seeks to diminish or contradict these provisions.

## 6. Is the planning proposal consistent with applicable Directions by the Minister (previous s.117) Directions

The following table provides a summary of the application and consistency with Directions by the Minister.

**Note:**

<sup>1</sup> **Not Relevant:** This direction does not apply to land within LEP 2015 Draft Amendment 10

<sup>2</sup> **Consistent:** This direction applies; LEP 2015 Draft Amendment 10 meets the relevant requirements and is in accordance with the direction.

<sup>3</sup> **Justifiably Inconsistent:** This direction applies, but LEP 2015 Draft Amendment 10 does not meet all the requirements or may be inconsistent with this direction as outlined following the table.

<b>Directions by the Minister (previous s 117(2))</b>		<b>NOT RELEVANT 1</b>	<b>CONSISTENT 2</b>	<b>JUSTIFIABLY INCONSISTENT 3</b>
<b>1. EMPLOYMENT AND RESOURCES</b>				
1.1	Business and Industrial Zones	✓		
1.2	Rural Zones	✓		
1.3	Mining, Petroleum Production and Extractive Industries	✓		
1.4	Oyster Aquaculture	✓		
1.5	Rural Lands	✓		
<b>2. ENVIRONMENT AND HERITAGE</b>				
2.1	Environmental Protection Zones	✓		
2.2	Coastal Protection	✓		
2.3	Heritage Conservation		✓	
2.4	Recreation Vehicle Areas	✓		
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>				
3.1	Residential Zones	✓		
3.2	Caravan Parks and Manufactured Home Estates	✓		
3.3	Home Occupations	✓		
3.4	Integrating Land Use and Transport	✓		
3.5	Development Near Licensed Aerodromes	✓		
3.6	Shooting Ranges	✓		
<b>4. HAZARD AND RISK</b>				
4.1	Acid Sulfate Soils	✓		
4.2	Mine Subsidence and Unstable Land		✓	
4.3	Flood Prone Land		✓	
4.4	Planning for Bushfire Protection		✓	
<b>5. REGIONAL PLANNING</b>				
5.1	Implementation of Regional Strategies	✓		
5.2	Sydney Drinking Water Catchments	✓		
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	✓		
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	✓		

<b>Directions by the Minister (previous s 117(2))</b>		<b>NOT RELEVANT 1</b>	<b>CONSISTENT 2</b>	<b>JUSTIFIABLY INCONSISTENT 3</b>
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	✓		
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	✓		
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	✓		
5.8	Second Sydney Airport: Badgerys Creek	✓		
5.9	North West Rail Link Corridor Strategy	✓		
<b>6.</b>	<b>LOCAL PLAN MAKING</b>			
6.1	Approval and Referral Requirements	✓		
6.2	Reserving Land for Public Purposes	✓		
6.3	Site Specific Provisions		✓	
<b>7.</b>	<b>METROPOLITAN PLANNING</b>			
7.1	Implementation of A Plan for Growing Sydney		✓	

This planning proposal is consistent with all relevant Directions by the Minister as detailed below.

### **Direction 1.1 Business and Industrial Zones**

#### **Objectives**

- (1) *The objectives of this direction are to:*
- encourage employment growth in suitable locations,*
  - protect employment land in business and industrial zones, and*
  - support the viability of identified centres.*

#### **Where this direction applies**

- (2) *This direction applies to all relevant planning authorities.*

#### **When this direction applies**

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).*

#### **What a relevant planning authority must do if this direction applies**

- (4) *A planning proposal must:*
- give effect to the objectives of this direction,*
  - retain the areas and locations of existing business and industrial zones,*
  - not reduce the total potential floor space area for employment uses and related public services in business zones,*
  - not reduce the total potential floor space area for industrial uses in industrial zones, and*
  - ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.*

#### **Consistency**

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:*
- justified by a strategy which:*
    - gives consideration to the objective of this direction, and*
    - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
    - is approved by the Secretary of the Department of Planning and Environment, or*
  - justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or*
  - in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or*
  - of minor significance.*

### **Response**

This draft amendment is consistent with Ministerial Direction 1.1 Business and Industrial Zones as it is of minor significance. This planning proposal affects 2 areas of land in an industrial zone. The amendment seeks to correct minor inconsistencies between the mapped and written provisions for these 2 areas.

Land at 46-56 Woodlands Road Katoomba (Lots 7-12 DP 6499) is zoned part IN1 General Industrial and part E2 Environmental Conservation, has a total area of 1.2463 hectares and is mapped on the Lot Size Map with a blue border referencing Clause 4.1G. The land was previously in zones Employment General and Environmental Protection Private in LEP 2005 with a consolidation requirement over the whole of the site. Under Clause 39 LEP 2005, the whole of the site, irrespective of the zone, is to be consolidated prior to development approval. Clause 4.1G does not include land in zone IN1 General Industrial and this amendment is seeking to correct this oversight by including land in IN1 General Industrial and land in E2 Environmental Conservation in Clause 4.1G. The proposed correction will reinstate development opportunity inadvertently removed in the translation to LEP 2015.

The land at 28-30 Powerhouse Lane Katoomba (Lots 6 and 7 DP 711773) is zoned part IN2 Light Industrial and part E2 Environmental Conservation, has a total area of 1442m<sup>2</sup> and is mapped on the Lot Size map with a blue border referencing Clause 4.1G of LEP 2015. The land was previously in zones Employment Enterprise and Environmental Protection Private in LEP 2005 with a consolidation requirement over the whole of the site. This land is Council owned operational land and has 2 minimum lot sizes being 1200m<sup>2</sup> for land in zone IN2 Light Industrial and 200Ha for land in zone E2 Environmental Conservation. The most efficient means to address this circumstance is to include this land in a new clause in Schedule 1 of LEP 2015. The proposed clause will require consolidation prior to the land, irrespective of the zone and minimum lot size, prior to being developed for a permissible use.

The proposed amendment to Clause 4.1G and consequential additional clause in Schedule 1, seeks to remove ambiguity which exists between the consolidation provision noted on the Lot Size Map and the absence of reference to the IN1 and IN2 zones.

The proposed amendments in this Planning Proposal do not seek to alter the area of an employment zone or alter the zone objectives or permissible land uses.

### **Direction 1.3 Mining, Petroleum Production and Extractive Industries**

#### **Objective**

- (1) *The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.*

#### **Where this direction applies**

- (2) *This direction applies to all relevant planning authorities.*

#### **When this direction applies**

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of:*
- (a) *prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
  - (b) *restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.*

#### **What a relevant planning authority must do if this direction applies**

- (4) *In the preparation of a planning proposal affected by this direction, the relevant planning authority must:*
- (a) *consult the Director-General of the Department of Primary Industries (DPI) to identify any:*
    - (i) *resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and*
    - (ii) *existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal, and*
  - (b) *seek advice from the Director-General of DPI on the development potential of resources identified under (4)(a)(i), and*
  - (c) *identify and take into consideration issues likely to lead to land use conflict between other land uses and :*
    - (i) *development of resources identified under (4)(a)(i), or*
    - (ii) *existing development identified under (4)(a)(ii).*
- (5) *Where a planning proposal prohibits or restricts development of resources identified under (4)(a)(i), or proposes land uses that may create land use conflicts identified under (4)(c), the relevant planning authority must:*
- (a) *provide the Director-General of DPI with a copy of the planning proposal and notification of the relevant provisions,*
  - (b) *allow the Director-General of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and*
  - (c) *include a copy of any objection and supporting information received from the Director-General of DPI with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) before undertaking community consultation in satisfaction of section 57 of the Act.*

#### **Consistency**

- (6) A *planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the provisions of the planning proposal that are inconsistent are of minor significance.*

#### Response

This draft amendment does not apply to any land used or likely to be used to mining, petroleum or extractive industries. There are no properties within the Mine Transition Area affected by clause 4.1G.

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### **Direction 2.1 Environmental Protection Zones**

#### **Objective**

- (1) The objective of this direction is to protect and conserve environmentally sensitive areas.

#### **Where this direction applies**

- (2) This direction applies to all relevant planning authorities.

#### **When this direction applies**

- (3) This direction applies when a relevant planning authority prepares a planning proposal.

#### **What a relevant planning authority must do if this direction applies**

- (4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.
- (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".

#### **Consistency**

- (6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
- (a) justified by a strategy which:
- (i) gives consideration to the objectives of this direction,
  - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
  - (iii) is approved by the Director-General of the Department of Planning, or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) is of minor significance.

#### Response

This draft amendment is consistent with Ministerial Direction 2.1 Environmental Protection as it is of minor significance. Proposed changes include land in an Environmental Protection zone.

The amendment is proposed to correct an inconsistency that occurred when translating the consolidation provision from LEP 1991 and LEP 2005 into LEP 2015. The inconsistency can be corrected by amending Clause 4.1G to include land in zone E2 Environmental Conservation in the area calculations. The proposal will not result in the rezoning of any land or alteration to zone objectives or permissible land uses.

The intent of the consolidation provision in LEP 1991 and LEP 2005, and now encapsulated in Cl. 4.1G, was to vary zone based subdivision and development densities in response to individual site attributes. This provision was intended to be duplicated in LEP 2015 however minor errors have resulted in a loss of development opportunity for 28 properties. The errors occur at individual sites across the Blue Mountains. Any future development on these lots will be subject to assessment.

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### **Direction 2.3 Heritage Conservation**

#### **Objective**

- (1) *The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.*

#### **Where this direction applies**

- (2) *This direction applies to all relevant planning authorities.*

#### **When this direction applies**

- (3) *This direction applies when a relevant planning authority prepares a planning proposal.*

#### **What a relevant planning authority must do if this direction applies**

- (4) *A planning proposal must contain provisions that facilitate the conservation of:*

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

#### **Consistency**

- (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:
  - (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
  - (b) the provisions of the planning proposal that are inconsistent are of minor significance.

#### **Response**

The proposed amendment is consistent with Ministerial Direction 2.3 Heritage Conservation as it does not alter the conservation any heritage items, places, buildings, works, relics, moveable objects or precincts of environmental heritage.

Three (3) properties listed in Schedule 5 Environmental heritage are also included in the proposal to amend clause 4.1G. The properties are:

- LA025 “The Braes” 62-68 Grose Street Leura
- WF020 “Rhondda Valley” 106 Railway Parade Wentworth Falls
- LD009 “Linden Lodge” 783-789 Great Western Highway Linden

The heritage items will not be affected by the proposed changes to clause 4.1G. The land included in the consolidation provision for the above heritage properties are not disadvantaged by the current wording of Clause 4.1G and for each of these properties, this position will not change with the proposed change.

### **Direction 4.3 Flood Prone Land**

#### **Objectives**

- (1) The objectives of this direction are:
  - (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
  - (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

#### **Where this direction applies**

- (2) This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA.

#### **When this direction applies**

- (3) This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

#### **What a relevant planning authority must do if this direction applies**

- (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).
- (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.
- (6) A planning proposal must not contain provisions that apply to the flood planning areas which:
  - (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit a significant increase in the development of that land,
  - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
  - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.
- (7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

- (8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

**Consistency**

- (9) A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:
- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
  - (b) the provisions of the planning proposal that are inconsistent are of minor significance.

**Response**

This draft amendment is consistent with Ministerial Direction 4.3 Flood Prone Land as any changes to development on land as a result of this proposal will be of minor significance.

The proposed changes to Clause 4.1G is correcting an error which occurred in translating the existing provisions of LEP 1991 and LEP 2005. A desk-top review did not identify any land affected by clause 4.1G that is in a flood study area.

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**Direction 4.2 Mine Subsidence and Unstable Land**

**Objective**

- (9) The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

**Where this direction applies**

- (10) This direction applies to land that:
- (a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
  - (b) has been identified as unstable land.

**When this direction applies**

- (11) This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that:
- (a) is within a mine subsidence district, or
  - (b) has been identified as unstable in a study, strategy or other assessment undertaken:
    - (i) by or on behalf of the relevant planning authority, or
    - (ii) by or on behalf of a public authority and provided to the relevant planning authority.

**What a relevant planning authority must do if this direction applies**

- (12) When preparing a planning proposal that would permit development on land that is within a Mine Subsidence District a relevant planning authority must:
- (a) consult the Mine Subsidence Board to ascertain:
    - (i) if the Mine Subsidence Board has any objection to the draft Local Environmental Plan, and the reason for such an objection, and
    - (ii) the scale, density and type of development that is appropriate for the potential level of subsidence, and
  - (b) incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under (4)(a)(ii), and
  - (c) include a copy of any information received from the Mine Subsidence Board with the statement to the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.
- (13) A planning proposal must not permit development on unstable land referred to in paragraph 3(b).

**Consistency**

- (14) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
- (a) justified by a strategy which:
    - (i) gives consideration to the objective of this direction, and
    - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
    - (iii) is approved by the Director-General of the Department of Planning, or
  - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
  - (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
  - (d) of minor significance.



## Response

This Ministerial Direction does not apply to any land subject to this Planning Proposal. Blue Mountains LGA does not contain any land within a Mine Subsidence District.

Clause 4.1G only applies to those sites so identified on the Lot Size map and none are within the areas identified as Protected Area – landslip area.

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## **Direction 4.4 Planning for Bushfire Protection**

### **Objectives**

(1) *The objectives of this direction are:*

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

### **Where this direction applies**

(2) *This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 146 of the Environmental Planning and Assessment Act 1979 (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.*

### **What a relevant planning authority must do if this direction applies**

(4) *In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,*

(5) *A planning proposal must:*

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

(6) *A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:*

(a) *provide an Asset Protection Zone (APZ) incorporating at a minimum:*

- (i) *an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
- (ii) *an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*
- (b) *for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,*
- (c) *contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) *contain provisions for adequate water supply for fire fighting purposes,*
- (e) *minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) *introduce controls on the placement of combustible materials in the Inner Protection Area*

## Response

This draft amendment is consistent with Ministerial Direction 4.4 Planning for Bushfire Protection, and the Commissioner of the NSW RFS will be consulted if required as part of the Gateway Determination. This planning proposal is not seeking to increase housing or development opportunities beyond those available under LEP 1991 or LEP 2005.

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## **Direction 5.2 Sydney Drinking Water Catchment**

### **Objective**

(1) *The objective of this Direction is to protect water quality in the Sydney drinking water catchment.*

### **Where this Direction applies**

(2) *This Direction applies to the Sydney drinking water catchment in the following local government areas:*

<i>Blue Mountains</i>	<i>Kiama</i>	<i>Sutherland</i>
<i>Campbelltown</i>	<i>Lithgow</i>	<i>Upper Lachlan</i>
<i>Cooma Monaro</i>	<i>Oberon</i>	<i>Wingecarribee</i>
<i>Eurobodalla</i>	<i>Palerang</i>	<i>Wollondilly</i>
<i>Goulburn Mulwaree</i>	<i>Shoalhaven</i>	<i>Wollongong</i>

### **When this Direction applies**

(3) *This Direction applies when a relevant planning authority prepares a planning proposal that applies to land within the Sydney drinking water catchment.*

### **What a relevant planning authority must do if this Direction applies**

- (4) A planning proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected, and in accordance with the following specific principles:
- (a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality, and
  - (b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and
  - (c) the ecological values of land within a Special Area that is:
    - (i) reserved as national park, nature reserve or state conservation area under the National Parks and Wildlife Act 1974, or
    - (ii) declared as a wilderness area under the Wilderness Act 1987, or
    - (iii) owned or under the care control and management of the Sydney Catchment Authority, should be maintained.
- (5) When preparing a planning proposal that applies to land within the Sydney drinking water catchment, the relevant planning authority must:
- (a) ensure that the proposal is consistent with State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011, and
  - (b) give consideration to the outcomes of the Strategic Land and Water Capability Assessment prepared by the Sydney Catchment Authority, and
  - (c) zone land within the Special Areas owned or under the care control and management of Sydney Catchment Authority generally in accordance with the following:

Land	Zone under Standard Instrument (Local Environmental Plans) Order 2006
Land reserved under the National Parks and Wildlife Act 1974	E1 National Parks and Nature Reserves
Land in the ownership or under the care, control and management of the Sydney Catchment Authority located above the full water supply level	E2 Environmental Conservation
Land below the full water supply level (including water storage at dams and weirs) and operational land at dams, weirs, pumping stations etc.	SP2 Infrastructure (and marked "Water Supply Systems" on the Land Zoning Map)

- and
- (d) consult with the Sydney Catchment Authority, describing the means by which the planning proposal gives effect to the water quality protection principles set out in paragraph (4) of this Direction, and
  - (e) include a copy of any information received from the Sydney Catchment Authority as a result of the consultation process in its planning proposal prior to the issuing of a gateway determination under section 56 of the Environmental Planning and Assessment Act 1979.

**Consistency**

- (6) A planning proposal may be inconsistent with the terms of this Direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

**Response**

This draft amendment is consistent with Ministerial Direction 5.2 Sydney Drinking Water Catchment. A key element of LEP 2015 is the recognition and protection the National Park and environment which surround the urban areas of the City, including the Sydney drinking water catchment. These protections of the Sydney drinking water catchment will apply to the land subject to this planning proposal, and nothing in this planning proposal seeks to diminish or contradict these provisions.

The proposed changes to clause 4.1G Lot consolidation in certain environmental protection zones will increase the number of developable lots where it applies. Proposed amendments increases the number of developable lots on land is zones E3 Environmental Management and E4 Environmental Living by a maximum of 28 lots. Some of the affected lots occur in land subject to the Sydney Drinking Water Catchment Area and the current provisions will apply to any future development on this land. The intended outcome of this clause is to transfer developable rights that existed under LEP 2005 or LEP 1991 but, due to the drafting of clause 4.1G, were removed in LEP 2015.

**Direction 6.3 Site Specific Provisions**

**Objective**

- (1) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

**Where this direction applies**

- (2) This direction applies to all relevant planning authorities.

**When this direction applies**

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.*

**What a relevant planning authority must do if this direction applies**

- (4) *A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*
- (a) *allow that land use to be carried out in the zone the land is situated on, or*
  - (b) *rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
  - (c) *allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*
- (5) *A planning proposal must not contain or refer to drawings that show details of the development proposal.*

**Consistency**

- (6) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.*

Response

This draft amendment is consistent with Ministerial Direction 6.3 Site Specific Provisions.

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**Direction 7.1 Implementation of A Plan for Growing Sydney**

**Objective**

- (1) *The objective of this direction is to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.*

**When this direction applies**

- (3) *This direction applies when a Relevant Planning Authority prepares a planning proposal.*

**What a Relevant Planning Authority must do if this direction applies**

- (4) *Planning proposals shall be consistent with:*
- (a) *the NSW Government's A Plan for Growing Sydney published in December 2014.*

Response

This draft amendment is not inconsistent with Ministerial Direction 7.1 Implementation of A Plan for Growing Sydney. This planning proposal seeks to make a housekeeping amendment to reinstate provisions inadvertently removed in the translation to LEP 2015. No changes to planning policy are proposed in this amendment.

The proposal is not inconsistent with the Greater Sydney Region Plan and the Western City District Plan.

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**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?**

There is very little likelihood that critical habitat, threatened species, populations or ecological communities, or their habitats will be affected as a result of this Planning Proposal as it seeks only to make a housekeeping amendment reinstating provisions inadvertently removed in the translation to LEP 2015. LEP 2015 contains strong controls for the protection of the environment, and nothing in this draft amendment seeks to diminish or contradict these provisions.

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

LEP 2015 contains sufficient controls for the protection of the environment, and nothing in this draft housekeeping amendment seeks to diminish or contradict these provisions.

**9. Has the planning proposal adequately addressed any social and economic effects?**

This planning proposal only seeks to make a housekeeping amendment to LEP 2015. There will be no social or economic effects as a result of this planning proposal. It only seeks to correct minor errors and improve the operation and clarity of existing clauses.

#### **Section D - State and Commonwealth Interests**

##### **10. Is there adequate public infrastructure for the planning proposal?**

This planning proposal only seeks to make a housekeeping amendment to LEP 2015. Nothing proposed in this planning proposal would increase pressure on existing infrastructure or generate demand for additional public infrastructure.

##### **11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Consultation with State and Commonwealth public authorities will be undertaken in accordance with the gateway determination. It is not anticipated that there would be anything contained in the proposed housekeeping amendment that would concern any State or Commonwealth authorities.

## **PART 4 MAPPING**

There are no mapping changes included in the Planning Proposal.

## PART 5 COMMUNITY CONSULTATION

Council will consult with NSW Rural Fire Service as required by Ministerial Direction 4.4 Planning for Bushfire Protection and prior to public consultation.

Council also proposes to consult with the following agencies during community consultation:

- NSW Roads and Maritime Services
- Office of Environment and Heritage
- Sydney Catchment Authority

Written notification of the community consultation will be sent to land owners with land affected by Clause 4.1G. An advertisement will be placed in the local newspaper and material will be available on Council's *Have Your Say* section on Council's website for the duration of the community consultation.

The Planning Proposal is considered to be low impact and duration of the community consultation is therefore suggested to be 14 days.

The consultation and exhibition process will be conducted in accordance with the Gateway Determination.

## PART 6 PROJECT TIMELINE

Council does not anticipate any significant issues arising from community consultation that would affect the project timeline. A nominal time period for the preparation, exhibition, and making of the amendment is:

May 2018	Planning Proposal reported to the Council
June 2018	Submission of planning proposal to GSC (or delegate) for 'gateway review' of draft Amendment 10 to LEP 2015
July 2018	Gateway determination issued
August-September 2018	RFS consultation required by gateway determination
September 2018	Public exhibition of draft Amendment 10 to LEP 2015
October 2018	Council review of submissions to draft Amendment 10 to LEP 2015
November 2018	Report prepared for the Council to consider the result of the community consultation including any changes to this amendment.  Planning Proposal and relevant supporting information forwarded to PC to be made under delegation.
December 2018	Draft Amendment 10 to LEP 2015 to be made

## PART 7 ATTACHMENTS

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### Attachment

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1 Council business paper and endorsed minutes – 1 May 2018 (*to be attached*)

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