



PLANNING PROPOSAL

SCHEDULE 5 AMENDMENTS
TO COWRA LEP 2012

Prepared For:

NSW Department of Planning & Environment
Western Regional Office
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1.0

Introduction

This following section provides an introduction to the Planning Proposal and outlines the approach used by Cowra to amend Cowra Local Environmental Plan 2012.

1.1. Background

To commence the plan making process, Cowra Council prepared an Issues Paper for the Review of Cowra Local Environmental Plan 2012 (the Issues Paper).

The purpose of the Issues Paper was to review the effectiveness of the existing land-use planning framework under Cowra Local Environmental Plan 2012, identify relevant planning issues and recommend appropriate actions for consideration as part of the preparation of a Local Environmental Plan amendment.

The Issues Paper was also prepared as the primary guiding document for Council as part of the preparation of an amendment, or series of amendments to Cowra Local Environmental Plan 2012.

The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

1.2. Approach

The Issues Paper identified the need to amend Cowra Local Environmental Plan 2012 in a variety of ways. Owing to the varying nature and complexities of the proposed amendments, NSW Planning & Environment have recommended to Cowra Council that 5 separate Planning Proposals be prepared, with each one intending to address amendments that are of a similar nature.

A description of the issues to be addressed by the five Planning Proposals are included below:

- Planning Proposal – Clause Amendments.
- Planning Proposal – Land-use Table Amendments.
- Planning Proposal – Rezoning.
- Planning Proposal – Public Land Reclassifications.
- Planning Proposal – Heritage Listings.

This particular paper relates to heritage listings.

1.3. Issues Paper Findings

Section 7.1 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 included a review of Schedule 5 of Cowra Local Environmental Plan 2012, which lists the known items of environmental heritage in the Cowra Shire.

For ease of reference, a summary of the main discussion points is listed below:

- The commencement of the current LEP brought about a number of significant improvements to the planning framework for heritage in the Cowra Shire. Most notably, the number of items or places listed as being of heritage significance was increased from 6 (in Cowra LEP 1990) to 69 under the current LEP.
- The current LEP also adopts the NSW Department of Planning & Environment's model clause for heritage conservation (Clause 5.10), which contains a robust set of provisions that enables Council to properly consider the potential impact of new development on listed heritage items or places before work is commenced.
- The 69 items and places currently listed in Schedule 5 of the LEP were recommended for heritage listing as part of the Cowra Shire Heritage Inventory Review.
- The Cowra Shire Heritage Inventory Review was commenced in 2010 under resolution and guidance from Council.
- The Cowra Shire Heritage Inventory Review was never intended to be a project that would comprehensively identify the full range of heritage items, places and assets in the Cowra Shire that should be listed in Schedule 5 of the LEP. Instead, the aim of the project was to use the findings of a previously drafted (but never finalised or adopted) Community Based Heritage Study from 2003 as a basis to develop a preliminary inventory of heritage items suitable for inclusion in Schedule 5 of the new LEP.
- The Cowra Shire Heritage Inventory Review was completed by Environmental Services staff with assistance from the Heritage Advisor and the Cowra & District Historical Society. A thorough consultation process with affected landowners was implemented by Council at the time.
- The Cowra Shire Heritage Inventory Review identified 69 items that were subsequently drafted into Schedule 5 of the LEP. Whilst this list captures many of the important heritage assets known to exist in the Cowra Shire, the current list is far from complete. In fact, similarly sized neighbouring LGA's such as Blayney, have upwards of 350 heritage listed items or places, and there is likely to be a similar amount in the Cowra Shire.
- Further work to update Schedule 5 of the LEP could only be properly carried out once Council has an adopted Community Based Heritage Study. The completion of a Community Based Heritage Study is a major project for Council and one that falls outside of the scope of this LEP review process. It is however considered necessary that Council completes a study as a high priority project.
- Since the LEP commenced operation in 2013, Council planners have however discovered a number of errors in the way certain heritage items have been either described in Schedule 5 of the LEP, or mapped in the LEP. The following listings were found to contain errors, or listing details that need to be updated:
 - o Item 22 – John Grants Grave
 - o Item 1 – Former ANZ Bank
 - o Item 65 – Cliefdon Caves
 - o Item 30 – St Raphael's School & Church
- Several other properties were the subject of public submissions, which if supported by Council, would require amendment to Schedule 5 of Cowra Local Environmental Plan 2012. These properties included:
 - o 41 Lachlan Street, Cowra
 - o Woodstock Memorial Park
 - o Walli Memorial Hall

1.4. Introduction

This Planning Proposal has been prepared by Cowra Shire Council in accordance with the requirements of Section 55 of the Environmental Planning & Assessment Act 1979 and the NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals.

The Planning Proposal seeks to amend Schedule 5 of Cowra Local Environmental Plan 2012. The amendments primarily relate to drafting errors discovered in some of the listing descriptions, however there are number of items which require removal from the list.

A Gateway Determination is requested from the Department in accordance with Section 56 of the Environmental Planning & Assessment Act 1979.

2.0

The Proposal

This Section of the Planning Proposal explains and justifies the proposal to amend Cowra Local Environmental Plan 2012 in a way that better facilitates the existing and likely future use of land in Ranken Street, Cowra for residential purposes.

2.1. The Proposal

Item 22 – John Grant’s Grave

Item 22 in Schedule 5 of Cowra Local Environmental Plan 2012 is described as follows.

- Grave of John Grant, Lachlan Valley Way (“Merrigano Way”), Lot 1 DP 611961.

There are number of errors with this listing that are intended to be addressed as part of this Planning Proposal:

- There is a typographical error with the property description. Instead of “Merrigano Way”, the correct property description is “Merriganowry”.
- The Grave of John Grant is not located on Lot 1 DP 611961 as described in the listing. Further investigation by Council staff has confirmed that the grave is instead located on the parcel of land directly to the north of Lot 1 DP 611961, being Lot 2 DP 777730.

The map below shows the land that is currently mapped as containing the Grave of John Grant, compared to the actual physical location of the item.

The proposal to update the listing description for Item 22 is supported by the Council’s Heritage Advisor. See Appendix 3.



Item 1 – Former ANZ Bank

Item 1 in Schedule 5 of Cowra Local Environmental Plan 2012 is described as follows.

- ANZ Bank, 125 Kendal Street, Lot 1 DP 977165.

The item has been described correctly in Schedule 5 of the LEP, however there has been an error in identifying the correct property on Map Sheet HER_002C relating to the LEP.

On Map Sheet HER_002C, Item 1 is incorrectly mapped as being located on Lot 4 DP 701848, which is the property address of 119 Kendal Street. The former ANZ building is in fact located on the property immediately adjacent, being Lot 1 DP 977165.

The map to the right of page shows the land that is currently mapped as containing the ANZ Bank, compared to the actual physical location of the item.

The proposal to update the listing description for Item 1 is supported by the Council's Heritage Advisor. See Appendix 3.



Item 65 – Cliefdon Caves

Item 65 in Schedule 5 of Cowra Local Environmental Plan 2012 is described as follows:

- Cliefden Caves and Needles Gap Area, 460 Davies Creek Road and 531 Boonderoo Road, Lot 2 DP 1091287; Lot 3 DP 795356.

Since the preparation of the Issues Paper for the Review of Cowra Local Environmental Plan 2012, the Cliefden Caves has been added to the State Heritage Register. The map attached to the State Heritage Register listing shows a curtilage of the natural and cultural landscape that comprises the Cliefden Caves. This area is more expansive than the properties currently listed in Schedule 5 of Cowra Local Environmental Plan 2012 and shown on Map Sheet HER_003.

This Planning Proposal intends to update the listing in Schedule 5 of the LEP and mapping on Map Sheet HER_003 to match the State Heritage Register.

A copy of the map attached to the State Heritage Register listing is included to the right of page, and in finer detail in Appendix 1 to this Planning Proposal.

The proposal to update the listing description for Item 65 is supported by the Council's Heritage Advisor. See Appendix 3.



Item 30 - St Raphael's School & Church

Item 30 in Schedule 5 of Cowra Local Environmental Plan 2012 is described as follows:

- St Raphael's Church and Brigidine Convent, 7-9 Lachlan Street, Lot 2 DP 1091287; Lots 1, 2 and 15, Section 16, DP 758300; Lot 4, DP 219354; Lot 1, DP 1149483; Lot 5, DP 826380

The issue with this heritage listing is that land on which the St Raphael's Church and Brigidine Convent is located also accommodates part of the St Raphael's Catholic School (and associated buildings and infrastructure). The school and associated buildings and infrastructure are not of any particular heritage significance, however the land is currently heritage listed and subject to heritage planning considerations because it shares land title with the Church and Convent.

The issue has been the subject of communications between Council planners and the School administrators. The School supports the proposal to separate the distinct uses of site and remove heritage controls from the School curtilage. The agreed approach is to amend the LEP Heritage Map to show only the part of the property containing the Church / Convent as being heritage listed.

A map showing an indicative layout that would achieve the objectives of the Planning Proposal in relation to the School, Church and Convent is shown to the right of page.

The proposal to update the listing description for Item 30 is supported by the Council's Heritage Advisor. See Appendix 3.



Item 35 - 41 Lachlan St Cowra

Item 35 in Schedule 5 of Cowra Local Environmental Plan 2012 is described as follows:

- “Myoorie”, 41 Lachlan Street, Lot 20 DP 602422.

The current owner of the land has made a submission to Cowra Council requesting the removal of the property from Schedule 5 of the LEP.

The submission was given consideration by Council as part of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (see Section 10.1.1).

In summary, it was considered appropriate by Council to accede to the property owners request and remove the heritage listing for Lot 20 DP 602422. The reasons for Council’s decision included:

- Until such time as Council has completed a Shire Wide Community Based Heritage Study, Schedule 5 of the LEP remains a work in progress.
- If the current landowner is displeased about the listing, it would seem unreasonable in the circumstances of the case to retain the property in Schedule 5 as part of the current LEP review process.
- Further consultation with the property owner would be appropriate as part of the future Community Based Heritage Study, to determine the merits of re-listing the property in Schedule 5 of the LEP at a later time.
- In the context of the current LEP, the removal of the property from Schedule 5 is considered to be of minor strategic significance.

The following comments have been received from the NSW Department of Planning & Environment in relation to this matter:

- The amendment to remove the item from Schedule 5 requires further justification.
- It is advised that Council either delay the assessment of the removal of item 35 until Council has completed a Shire wide heritage study, or if Council wish to pursue the removal of Item 35, it is to be supported by a Statement of Heritage Significance prepared by an appropriately qualified person.
- The proposed amendment should also be supported by advice from Council’s Heritage Advisor.

As per the Department’s request, Council has invited comment from its Heritage Advisor in relation to this matter. A copy of the Advisors comments are included in Appendix 3 to this report. In summary, the Advisor has acknowledged Council’s decision to remove the heritage listing, but maintains the view that the property does satisfy the criteria for listing and should therefore not be removed from Schedule 5 of the LEP. In the event that the heritage listed is removed from the property, the Advisor has recommended that the details on the significance of the property be retained on the Heritage Inventory and should there be a change of mind on the part of the present owner, and should the owner seek professional advice on the condition then the listing could proceed at a future date.

Council acknowledges the view of the Heritage Advisor and the Department in relation to this matter, however intends to pursue the removal of the item as part of this LEP review process.

The unique circumstances of the matter, and in particular the timing of the listing and lost opportunity for the current owner to participate in the public consultation process with Council, is the reason why Council has formed the view that the listing should be removed as an interim measure, before the merits of relisting is explored as part of the completion of a Shire wide Community Based Heritage Study. The situation has caused the current owner some stress, who has threatened legal action if the property is not removed from the LEP. This leaves Council in a difficult situation whereby the property has some heritage value, but the owner was not aware of the Council’s consultation with the previous owner and listing proposal when the sale transaction occurred.

In addition, Council will not be providing any additional studies at the expense of the Cowra Community to justify the removal of the item from Schedule 5 of the LEP. Whilst the Shire Wide Heritage Study may confirm the property’s heritage value, Council does not plan to make the listing process mandatory.

The removal of the item from Schedule 5 of Cowra LEP 2012 is a matter of local planning significance. The views of the local community in relation to this matter will be properly considered by Council as part of the public exhibition process.

Woodstock Soldiers Memorial Park

Woodstock Soldiers Memorial Park is formally comprised on the following titles and is shown in the Map to the right of page:

- Lot 1 Section 6 DP 759112,
- Lot 7003 DP 1017297,
- Lot 1 Section 7 DP 759112 and
- Lot 701 DP 1019790.

In Section 10.1.2 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012, Council considered the merits of listing the Park in Schedule 5 of Cowra Local Environmental Plan 2012. The listing was requested by a public submission and was supported by Council as part of the LEP review for various reasons including:

- The site is of historical significance given that it includes a Memorial Avenue of Trees established in approximately 1922 that commemorates 66 soldiers from Woodstock who served in World War 1.
- The Trust is formed by an active and enthusiastic group of local people who have invested a significant amount of time, labour and money towards the maintenance and restoration of the Park. A masterplanning exercise is currently being undertaken by the Trust with aim of setting a longer term vision for the area, and better positioning themselves to apply for grant funding.
- Listing the Park in Schedule 5 of the LEP would significantly enhance the Trust's ability to attract the grant funding they need to progress new projects at the Park.

The proposal to add the Woodstock Soldiers Memorial Park to Schedule 5 of the LEP is supported by the Council's Heritage Advisor. See Appendix 3.



Walli Memorial Hall

The Walli Memorial Hall is physically located on the land at the Woodstock Showground, being Lot 1 Sec 27 DP 759112. A map is included to the right of page that shows the location of the Walli Memorial Hall.

In Section 10.1.6 of the Issues Paper for the Review of Cowra Local Environmental Plan 2012, Council considered the merits of listing the Hall in Schedule 5 of Cowra Local Environmental Plan 2012. The listing was requested by a member of the Hall Trust and was supported by Council as part of the LEP review for various reasons including:

- The heritage value of the building is embodied in the values and sacrifices made by a small community in the Great War and the ingenuity and commitment of a community to fashion and source local materials for its erection. Today, the Walli locale is within the footprint of the Woodstock Community and it is appropriate that the building after nearly a century still serves the community.
- The Woodstock Show Society is formed by an active and enthusiastic group of local people who have invested a significant amount of time, labour and money towards the maintenance and restoration of the Walli Memorial Hall. To date, almost \$15,000 has been spent on the building.
- Listing the Hall in Schedule 5 of the LEP would significantly enhance the Woodstock Show Society's ability to attract the grant funding they need to progress new projects associated with the Hall.

The proposal to add the Walli Memorial Hall to Schedule 5 of the LEP is supported by the Council's Heritage Advisor. See Appendix 3.



Cowra Japanese Gardens

The Cowra Japanese Gardens is located on Binni Creek Road, approximately 2km north-west of the CBD of the Cowra Township. A map is included below that shows the location of the Gardens.

The garden is situated high above the town of Cowra on Bellevue Hill. This is in proximity to the only Japanese War Cemetery outside of Japan, and geographically located next to the State Heritage Listed Old Prisoner of War (POW) Camp, offering a landscape sprinkled with remnants of wartime state-controlled relics. The Gardens are located on Crown Land, under a 99 year lease agreement, with the boundary of the site confined to a fenced area.

Council has received written representation from the Cowra Japanese Gardens seeking listing of the site in Schedule 5 of Cowra Local Environmental Plan 2012. There are many reasons why the Cowra Japanese Gardens qualifies for local heritage listing, however the timing of the written request from the Gardens means that this proposal was not explored as part of the Issues Paper for the Review of Cowra LEP 2012. In this regard, a summary of the main justifications are listed below:

- The Gardens were established to recognise and develop the relationship between the people of the Cowra Shire and the people of Japan. A relationship that has its origins in the Prisoner of War Camp which housed the Japanese P.O.W's during World War II and the decision in 1960 by the Japanese Government to bring all their war dead from other parts of Australia to be re-buried at the Cowra Japanese War Cemetery, near the site of the infamous Cowra Break out in 1944 – a story of great courage, spirit and futility.
- The Gardens define the strong relationship between Australia and Japan, how it was forged and the current and ongoing relationships with the Japanese Government and its people.
- The Gardens are a one of a kind World War II Memorial to fallen soldiers.
- The Gardens were designed by Ken Nakajima in 1975, an acclaimed Japanese Landscape Architect.
- The Gardens are the largest in the Southern Hemisphere.
- The Gardens are significant because of the connection and proximity of the site to other significant and linked areas of heritage

significance, being the P.O.W Camp, Japanese War Cemetery, Peace Precinct and World Peace Bell.

- The Gardens satisfy social, historical, scientific, aesthetic and spiritual value requirements for local heritage listing, and are an outstanding example of particular aesthetic characteristics of a garden type valued by both Japanese and Australians.
- The Cultural Centre at the Gardens houses over 300 items of moveable cultural heritage items on display at any one time. Ninety percent of the items on exhibition have been donated by Japanese Individuals and Japanese Companies. The collection of Japanese Ceramics are world class.

Further information pertaining to the heritage significance of the Gardens can be found in the document 'The Heritage Values of the Cowra Japanese Gardens' (2015, University of Canberra, Olga Blacha. This is available from Council on request.

It is proposed to add the Cowra Japanese Gardens to Schedule 5 of Cowra Local Environmental Plan 2012.

The proposal to add the Japanese Gardens to Schedule 5 of the LEP is supported by the Council's Heritage Advisor. See Appendix 3.



2.2. Objectives

Section 55(2)(a) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include a statement of the objectives or intended outcomes of the proposed amendments.

In relation to Schedule 5 of the LEP, the objectives of this Planning Proposal are to:

To amend Schedule 5 of Cowra Local Environmental Plan 2012 and associated map detail to correct known drafting errors and update listing details.

2.3. Explanation of Provisions

Section 55(2)(b) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include an explanation of the provisions that are to be included in the proposed amending instrument. The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending Cowra Local Environmental Plan 2012.

The objective (detailed in Section 2.2) will be achieved by:

- Amending the listing description for Item 22 (John Grant's Grave) in Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012, and amending the mapped property location shown on Map Sheet HER_001.
- Amending the mapped property location for Item 1 (Former ANZ Bank) shown on Map Sheet HER_002C.
- Amending the listing detail for Item 65 (Cliefdon Caves) in Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012, and amending the mapped property location shown on Map Sheet HER_003 to match the recent inclusion of the site on the State Heritage Register.
- Amending the listing description for Item 30 (St Raphael's School and Church) in Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012, and amending the mapped property location shown on Map Sheet HER_002C.
- Removing Item 35 from Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 and Map Sheet HER_002C.
- Adding the Woodstock Soldiers Memorial Park (local significance) to Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 and Map Sheet HER_003A.
- Adding the Walli Memorial Hall (local significance) to Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 and Map Sheet HER_003A.

2.4. Justification

Section 55(2)(c) of the Environmental Planning & Assessment Act 1979 requires the Planning Proposal to include justification for the objectives, outcomes and provisions and the process for the implementation (including whether the proposed instrument will comply with relevant directions under Section 9.1. The Justification sets out the case for making the proposed LEP amendment.

The NSW Department of Planning & Environment's guidelines for the preparation of Planning Proposals requires the proposed LEP amendment to be justified against a number of considerations. These justifications are included as follows:

2.4.1. Need for the Planning Proposal

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

The Planning Proposal is a result of the recommendations contained in the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (Issues Paper).

The Issues Paper was endorsed for the purposes of public exhibition by Council at the Ordinary Meeting held 24 July 2017. The public exhibition occurred from Tuesday 1 August 2017 to Monday 28 August 2017. All submissions were considered by Council at the Ordinary Meeting on 23 October 2017.

Further strategic evaluation of the issues addressed in this Planning Proposal is considered to be unnecessary.

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

Amending Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 and associated mapping is the only way to achieve the objectives of the Planning Proposal.

The drafting errors in Schedule 5 and errors on the HER Map series can only be rectified by way of an LEP amendment.

Adding new items to Schedule 5 is the only way to provide statutory recognition of the heritage

significance of those items. Similarly, removal of items from Schedule 5 is the only way to remove statutory heritage controls from those items.

2.4.2. Consistency with Regional Plan

The Planning Proposal is generally consistent with the Central West Orange Regional Plan 2036 (Regional Plan), which was released by the NSW Department of Planning & Environment in June 2017.

The proposal to amend Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 aligns particularly with Strategy Direction No. 17. As assessment of the proposal against this Strategy Direction is included as follows:

Direction No. 17 – Conserve and adaptively re-use heritage assets

The Central West Orana Regional Plan 2036 recognises that heritage enriches the character of places and can generate economic value, particularly through tourism, which can in turn sustain smaller communities. The Regional Plan also recognises that early investment to protect and conserve heritage at the strategic planning stage will provide greater certainty for stakeholders.

The Regional Plan proposes to conserve heritage assets through a number of actions, one of which is to:

- Prepare, review and update heritage studies in consultation with the wider community to recognise and conserve heritage assets and items, and include appropriate planning controls.

The Planning Proposal is necessary to ensure that the listing detail in Schedule 5 of the written instrument to Cowra LEP 2012 and associated mapping detail is correct and up to date. Whilst the current LEP review process does not include scope to complete a Shire wide Community Based Heritage Study, the proposed updates are necessary to ensure that the current range of identified heritage items and places are adequately protected by existing heritage controls. The Planning Proposal does however involve the listing of a number of new locally significant sites, which is a positive action in terms of conserving local heritage. The proposal to remove a currently listing item has been justified in this report.

2.4.3. Consistency with Local Strategy

Cowra Local Environmental Plan 2012 was prepared based on the strategic recommendations contained in the Cowra Shire Land-use Strategy and the Cowra LEP Justification Report.

The Planning Proposal is generally consistent with the strategic directions for heritage planning set by the Cowra Shire Land-use Strategy. The need to protect and enhance heritage was identified as key planning principle for most land-use bases across the Cowra Shire including, rural, residential, village and commercial land-use.

Cowra Council has not yet completed and adopted a shire wide Community Based Heritage Study. Whilst this is a key project for the future, there is no scope for this Planning Proposal to expand the list of items in Schedule 5 of Cowra Local Environmental Plan 2012. The Planning Proposal instead aims to rectify a number of known drafting and mapping errors in Cowra Local Environmental Plan 2012. This is still consistent with the planning principle in the Cowra Shire Land-use Strategy to protect and enhance heritage.

2.4.4. Consistency with relevant SEPPs

The following State Environmental Planning Policies are assessed as not applying to the Cowra Local Government area:

- SEPP No. 14 – Coast Wetlands
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 19 – Bushland in Urban Areas
- SEPP No. 26 – Littoral Rainforests
- SEPP No. 44 – Koala Habitat Protection
- SEPP No. 47 – Moore Park Showground
- SEPP No. 52 – Farm Dams and Other Works
- SEPP No. 70 – Affordable Housing
- SEPP No. 71 – Coastal Protection
- SEPP (Kosciuszko National Park – Alpine Resorts) 2007
- SEPP (Kurnell Peninsula) 1989
- SEPP (Penrith Lakes Scheme) 1989

- SEPP (Sydney Drinking Water Catchment) 2011
- SEPP (Sydney Region Growth Centres) 2006
- SEPP (Three Ports) 2013
- SEPP (Urban Renewal) 2010
- SEPP (Western Sydney Employment Area) 2009
- SEPP (Western Sydney Parklands) 2009

The following State Environmental Planning Policies apply to the Cowra Local Government Area, but do not contain provisions which are particularly relevant or inconsistent with the proposed amendment to permissible uses in the B5 Business Development zone.

- SEPP No. 1 – Development Standards
- SEPP No. 21 – Caravan Parks
- SEPP No. 30 – Intensive Agriculture
- SEPP No. 33 – Hazardous & Offensive Dev.
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 50 – Canal Estate Development
- SEPP No. 55 – Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design of Quality Res. Apartments
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Educational Establishments & Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP (Integration & Repeals) 2016
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Miscellaneous Consent Provisions) 2007
- SEPP (Rural Lands) 2008
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017.

Having regard to above, there are no State Environmental Planning Policies applying to the Cowra

Local Government Area that are considered to be particularly to the Planning Proposal. Further consideration is considered unwarranted.

2.4.5. Consistency with Section 9.1 Directions

The following Section 9.1 Ministerial Directions are assessed as not applying to the Planning Proposal.

- Direction 1.1 – Business and Industrial Zones
- Direction 1.2 – Rural Zones
- Direction 1.3 – Mining, Petroleum Production and Extractive Industries
- Direction 1.4 – Oyster Aquaculture
- Direction 1.5 – Rural Lands
- Direction 2.1 – Environment Protection Zones
- Direction 2.2 – Coastal Protection
- Direction 2.4 – Recreation Vehicle Areas
- Direction 2.5 – Application of E2 and E3 Zones
- Direction 3.1 – Residential Zones
- Direction 3.2 – Caravan Parks and Manufactured Home Estates
- Direction 3.3 – Home Occupations
- Direction 3.4 – Integrated Land Use and Transport
- Direction 3.5 – Development Near Licensed Aerodromes
- Direction 3.6 – Shooting Ranges
- Direction 4.1 – Acid Sulphate Soils
- Direction 4.2 – Mine Subsidence and Unstable Land
- Direction 4.3 – Flood Prone Land
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.1 – Implementation of Regional Strategies
- Direction 5.2 – Sydney Drinking Water Catchments
- Direction 5.3 – Farmland of State and Regional Significance
- Direction 5.4 – Commercial and Retail Development along the Pacific Hwy

- Direction 5.5 – Development in the vicinity of Ellalong, Paxton & Millfield
- Direction 5.6 – Sydney to Canberra Corridor
- Direction 5.7 – Central Coast
- Direction 5.8 – Second Sydney Airport: Badgerys Creek
- Direction 5.9 – North West Rail Link Corridor Strategy
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 – Approval and Referral Requirements
- Direction 6.2 – Reserving Land for Public Purposes
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney
- Direction 7.2 – Implementation of Greater Macarthur Land Release Inv.
- Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy
- Direction 7.4 – Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan.
- Direction 7.5 – Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.
- Direction 7.6 – Implementation of Wilton Priority Growth Area Land Use and Infrastructure Implementation Plan.

The following Section 9.1 Ministerial Directions apply to the Planning Proposal. An assessment has been carried out to ensure consistency with the terms of the direction.

Direction 2.3 – Heritage Conservation

This Ministerial Direction applies as the Planning Proposal affects items of known heritage significance.

The Ministerial Direction requires the Planning Proposal to contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental or Aboriginal cultural heritage significance.

The Planning Proposal does not propose radical alteration to the current list of items in Schedule 5 of

the written instrument to Cowra Local Environmental Plan 2012, and does not propose to remove or alter existing planning controls which facilitate the conservation of heritage items in the Cowra Shire. The proposed changes are limited to the rectification of known drafting and mapping areas. These changes will provide more certainty to landowners, and the broader community, regarding the listing description, and location of heritage items in the Cowra Shire.

The exception to the above is that the Planning Proposal will result in the removal of Item 35 from Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012 and Map Sheet HER_002C.

The removal of Item 35 was considered by Council as part of the preparation of the Issues Paper for the Review of Cowra Local Environmental Plan 2012 (see Section 10.1.1). An overview of Council's assessment is included below:

- Item 35 relates to the property at 41 Lachlan Street, Cowra being Lot 20 DP 602422.
- The property contains the dwelling 'Myoori' and is significant because it represents one of the early homesteads in the Cowra Shire, at one point being owned by the Ousby family who are known to have contributed greatly to the agricultural activities and development of the Cowra Shire.
- On 25 May 2016 and 7 November 2016, Cowra Council received written submissions from the property owner requesting the removal of the property from Schedule 5 of the LEP.
- Following consideration of all relevant issues, Council considered it appropriate to remove the property listing from Schedule 5 of the written instrument to Cowra Local Environmental Plan 2012. The removal is considered appropriate, at least as part of this LEP review, because Schedule 5 of the LEP remains a work in progress until such time as Council completes a Shire wide Community Based Heritage Study.

The removal of Item 35 from Schedule 5 of the LEP creates an issue of inconsistency with the requirements of Ministerial Direction 2.3. The inconsistency is considered justified for the following reasons:

- The original listing of the property was considered appropriate by Council at the time, but was not underpinned by the findings of an adopted Community Based Heritage Study.

- A reasonable approach to this matter would be for Council to complete a Community Based Heritage Study and as part of this study process, further investigate the local significance of the property. The merits of re-listing the property in Schedule 5 of the LEP could then be explored after Council has properly consulted with the owner(s) of the land.

2.4.6. Environmental, Social & Economic Impact Assessment

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?

Detailed assessment is unwarranted due to the nature of the Planning Proposal. Adverse impacts are considered unlikely.

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

The changes to Cowra Local Environmental Plan 2012 resulting from this Planning Proposal are administrative only. For this reason, a strategic evaluation of likely environmental impacts is considered unnecessary.

Has the planning proposal adequately addressed any social and economic impacts?

There is recognition by Council that the protection and conservation of heritage in the Cowra Shire is an important issue for the Cowra community. Past experience shows that interest in heritage matters is significant when development matters affects properties with local or state significance. This reinforces the need for Council to ensure that Schedule 5 of the LEP remains up-to-date and relevant, as listing triggers community consultation procedures for Development Application's proposed in relation to this items.

The Planning Proposal is likely to have a positive social impact by providing the community with more certainty around the listing detail and locations of significant items and places in the Cowra Shire.

Removing Item 35 from Schedule 5 is unlikely to favour the interests of the wider community. It is likely that many in the community may still feel that the property at 41 Lachlan Street “Myoori” is worthy of being heritage listed because of its likely historical, social, aesthetic and architectural significance. These issues will however be explored in detail as part of a future Community Based Heritage Study. Justification for the removal of Item 35 from Schedule 5 has been provided in Section 4.4.5 of this report as part of the assessment of relevant Section 9.1 Ministerial Directions.

There likely economic consequences of the Planning Proposal are not significant and do not justify further assessment.

2.4.7. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

There are no public infrastructure requirements associated with the Planning Proposal.

What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with relevant government agencies will occur as part of the public exhibition of the Planning Proposal. The Planning Proposal addresses issues related to local heritage and is therefore likely to be of interest to the NSW Office of Environment and Heritage.

2.5. Mapping

The Planning Proposal will require an amendment to the HER Map Sheet series in Cowra Local Environmental Plan 2012.

In particular, the following Map Sheets will require amendment:

- Map Sheet HER_001.
- Map Sheet HER_002C.
- Map Sheet HER_003.
- Map Sheet HER_003A.

Draft maps are included in Appendix 2.

Following public exhibition, and as part of the drafting of the LEP amendment, Council will arrange for the mapping to be prepared in accordance with the Standard Technical Requirements for Spatial Datasets and Maps.

3.0

Community Consultation

This section outlines the Community Consultation that is to be undertaken for the Planning Proposal.

3.1. Community Consultation

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority (Cowra Council).

The following consultation strategy will be adopted by Cowra Council for the Planning Proposal.

- Advertisement on Council's website for 28 days.
- Advertisement in the Cowra Guardian on at least two occasions.

The following material will be made available for inspection throughout the exhibition period:

- Issues Paper for the Review of Cowra Local Environmental Plan 2012 – July 2017
- Issues Paper for the Review of Cowra Local Environmental Plan 2012 – July 2017 – Summary of Recommendations.
- Planning Proposal.
- Gateway Determination, as issued by NSW Department of Planning & Environment.

Council will consult with relevant state government authorities if this is deemed necessary by the NSW Department of Planning & Environment as part of the issue of the Gateway Determination. The NSW Office of Environment and Heritage will likely have an interest in this Planning Proposal.

Council will also consult in accordance with the requirements of the Cowra Shire Council's Aboriginal Consultation Policy.

4.0

Project Timeline

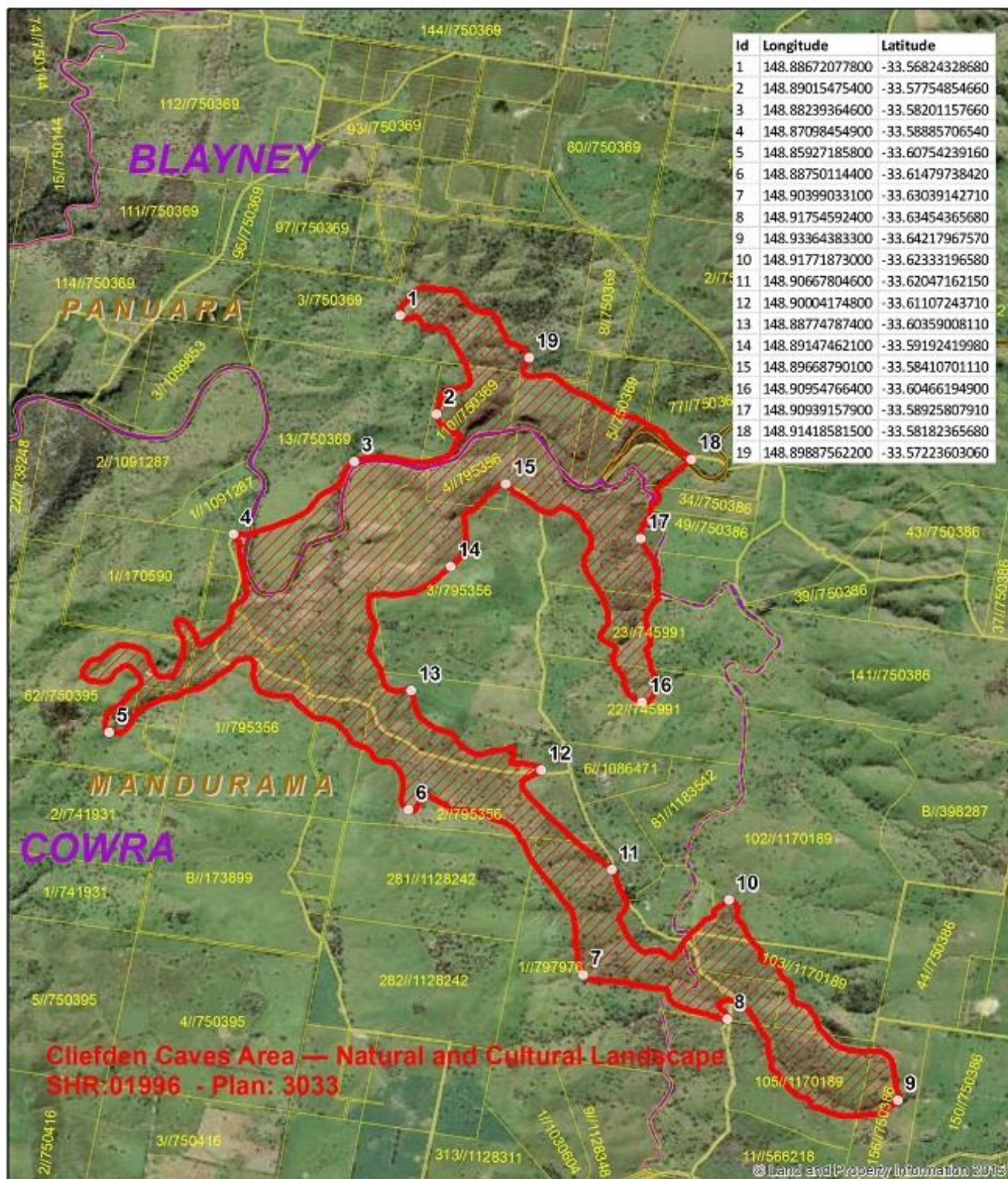
This section outlines the expected timeframes required to complete the Planning Proposal relating to the clause amendments to Cowra Local Environmental Plan 2012.

4.1. Project Timeline

Description	Milestone	Anticipated Completion Date	Status
Issues Paper for Review of Cowra Local Environmental Plan 2012	Preparation	April 2017	Completed
	Report to Council	July 2017	Completed
	Public Exhibition	August 2017	Completed
	Consideration of Submissions	September 2017	Completed
	Report to Council for Endorsement	October 2017	Completed
Planning Proposal	Resolution to Prepare	October 2017	Completed
	Preparation	November 2017	Completed
	Report to Council	February 2018	Completed
	Submission to Gateway	February 2018	Completed
	Additional Information Request	April 2018	Completed
	Council response to Add. Info Request	June	In progress
Public Exhibition	Issue of Gateway Determination	July 2018	To be completed
	Advertisement of Planning Proposal	Aug 2018	To be completed
	Public Hearing	N/A	N/A
Consideration of Submissions	Consideration of Submissions	Sept 2018	To be completed
	Report to Council	Sept 2018	To be completed
	Resolution to prepare LEP	Sept 2018	To be completed
Preparation of LEP	Preparation of Written Instrument	Oct 2018	To be completed
	Preparation of Mapping	Oct 2018	To be completed.
	Parliamentary Counsel Opinion	Nov 2018	To be completed
Making of LEP	Ministerial signature	Dec 2018	To be completed

Appendix 1.0

Included in Appendix 1 is
a copy of the State
Heritage Listing Map
relating to Cliefden
Caves.



State Heritage Register - SHR 01996, Plan: 3033
 Cliefden Caves Area — Natural and Cultural Landscape
 Mandurama

Gazettal Date: 30 August 2017

0 1,000 2,000 3,000 Metres

Scale: 1:55,000@A4

Datum/Projection: GCS GDA 1994



Legend

- SHR Curtilage
- Land Parcels
- Railways
- Roads
- LGAs
- Suburbs



Appendix 2.0

Included in Appendix 2 is
a copy of the Draft
Heritage Maps.


note: this map only shows proposed map alterations. Existing heritage listed properties are not shown.



WOODSTOCK SOLDIERS
MEMORIAL PARK
NEW ITEM

WOODSTOCK SHOWGROUND
(WALL MEMORIAL HALL)
NEW ITEM

LEGEND

 Proposed Map Alterations


0 200 400m



note: this map only shows proposed map alterations. Existing heritage listed properties are not shown.



LEGEND


 Proposed Map Alterations

0 450 950m



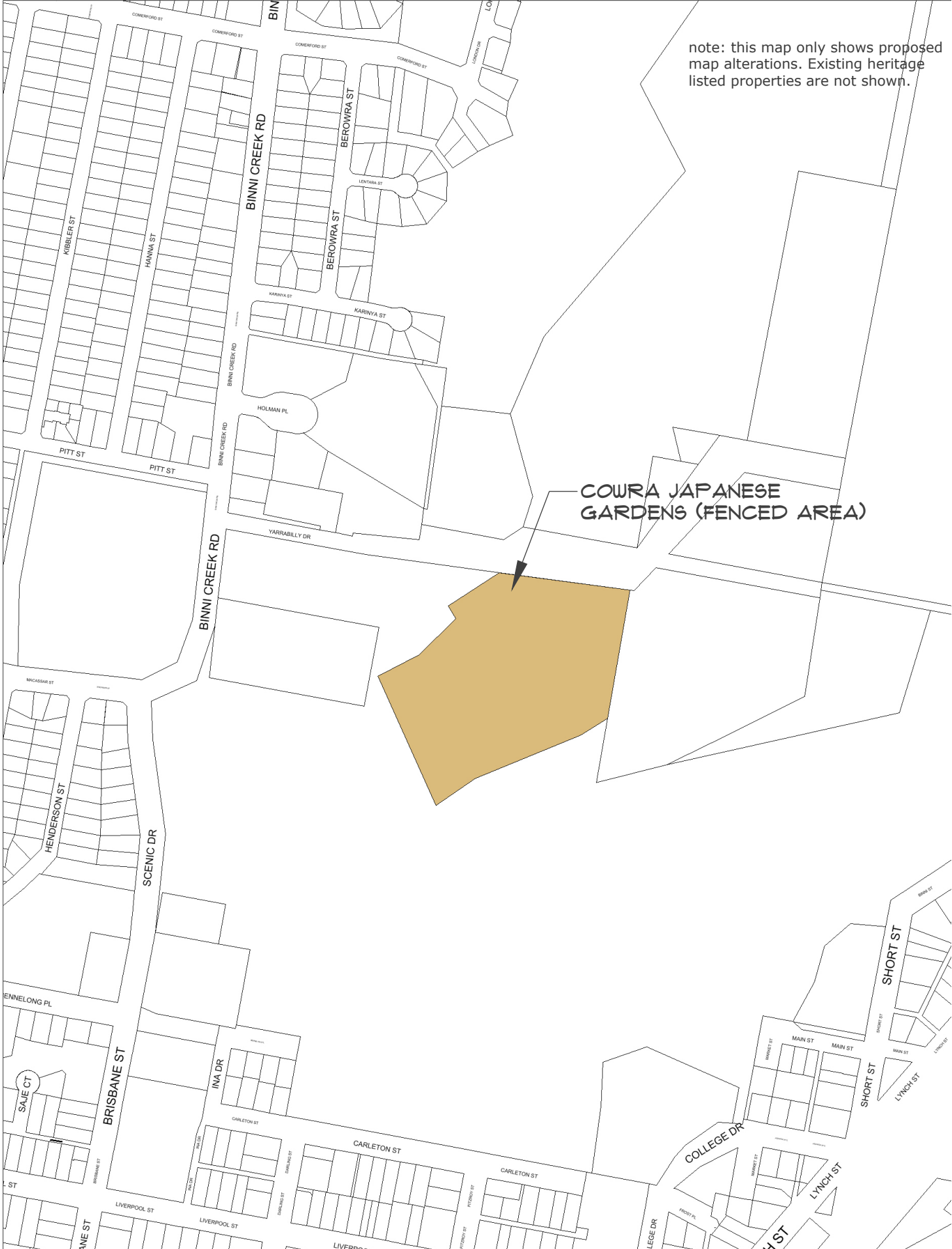


LEGEND

 Proposed Map Alterations

0 150 300m





note: this map only shows proposed map alterations. Existing heritage listed properties are not shown.

COWRA JAPANESE GARDENS (FENCED AREA)

LEGEND

 Proposed Map Alterations



Appendix 3.0

Included in Appendix 3 is a copy of the advice received by Council's Heritage Advisor in support of the proposed amendments to Schedule 5 of Cowra Local Environmental Plan 2012.

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Planning Proposal – Schedule 5 Amendments

June 2018

A planning proposal has been prepared February 2018 to amend Schedule 5 of the Cowra LEP in relation to items with heritage significance.

The issues were canvassed in the public domain by public exhibition in August 2017.

The proposals in relation to heritage matters seek to amend Schedule 5 in relation to minor matters while two items are proposed for removal from the Schedule.

- Item 22 - John Grant's Grave: The corrections relate to a typographical error in the spelling of Merriganowry Way and the correction of the map to indicate the site on which the grave is located. The proposed amendment is supported by the Advisor.
- Item 1 - Former ANZ Bank: The correction provides the correct property description and Map for the item. The proposed amendment is supported by the Advisor.
- Item 65 - Cliefden Caves: The correction updates the listing description and map so that it matches the details provided by the similar Listing on the State Heritage Register. The proposed amendment is supported by the Advisor.
- Item 30 - St. Raphael's Roman Catholic Church and School: The proposal is to amend the LEP HER Map series so that only the part of the site containing the significant Church and Convent are mapped, which would have the effect of removing any heritage controls from applying to non-significant buildings and spaces on the site. The proposed amendment is supported by the Advisor.
- Item 35 - 41 Lachlan Street, Cowra: Council has acceded to a request from the property owner to have the residence removed from the Listing on the basis that the public consultation process at the time of the listing was not adequate. The Heritage Advisor has discussed the issues with the property owner and with Council staff and formed the view that there has now been sufficient consultation in relation to best practice and the requirements specified by the Department. It would appear that the objection to heritage listing is made out of a principle of not wishing an additional compliance process involved in the property. The Advisor is of the view, having visited the site and reviewed the heritage significance, that it does satisfy the criteria for being listed as a heritage item on the LEP. The Advisor is of the view that the condition of the property is poor in parts with substantial work being required in order that the significance is retained and does not remain under threat. This issue of condition further underlies the benefits to the property and the owner from heritage listing and the threat should the site not be listed as a heritage item. In summary the Heritage Advisor does not support the proposal and recommends to Council that the property be listed on the LEP. Should Council decide to support the proposal and not list the property on the LEP then the Heritage Advisor would recommend that the details on the significance of the property be retained on the Heritage Inventory and should there be change of mind on the part of the present owner, should the owner seek professional advice on the condition then the listing could proceed at a future date. The risk to the property should it not be listed, is that a future owner would purchase the property unaware of the heritage significance and proceed with a range of works which may detract from the heritage value.
- Woodstock Soldiers Memorial Park. The site consists of three contiguous Lots between the Railway and Sheet of Bark Road. The site meets the Historic, Historic-Association and Social criteria for heritage listing with significance at the local level and has been nominated by the local community in the form of a Trust responsible for the site management. The inclusion of this property in Schedule 5 of the LEP is supported by the Advisor.
- Walli Memorial Hall. The site is a building structure located within the Woodstock showground. The site was nominated for listing by a member of the Hall Trust. The site meets the Historic, Historic-Association and Social criteria for heritage listing with significance at the local level. The inclusion of this property in Schedule 5 of the LEP is supported by the Advisor.

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Planning Proposal – Schedule 5 Amendments

June 2018

- The Japanese Garden and Cultural Centre. The 5 hectare site has local heritage value in relation to the social and Historic – Associative value which the community ascribes to the relationship between the Australian and Japanese people developed in 1971 from a 1960 initiative of the Japanese Government following the development of the Japanese War Cemetery while the gardens designed by Ken Nakajima in the style of the Edo period have a high level of aesthetic value related to the layout and planting. The inclusion of this property in Schedule 5 of the LEP is supported by the Advisor.

David Scobie
Heritage Advisor
Cowra Shire Council

Dean Steward

From: David Scobie <scobiearchitect@optusnet.com.au>
Sent: Wednesday, 27 June 2018 4:26 PM
To: Dean Steward
Subject: RE: Planning Proposal - Schedule 5 Amendments

Dear Dean

Thanks for that.

I have reviewed the document and it is fine.
I support the current document as it stands in relation to heritage matters.

Regards

David Scobie
HA to CSC

*David Scobie Architects
177 A Sailors Bay Road
Northbridge
NSW 2063*

From: Dean Steward [<mailto:DSteward@cowra.nsw.gov.au>]
Sent: Wednesday, 27 June 2018 4:07 PM
To: David Scobie <scobiearchitect@optusnet.com.au>
Subject: Planning Proposal - Schedule 5 Amendments

Hi David,

I am just in the final stages of addressing the Department's additional information request relating to the 5 Planning Proposals that Council is progressing at the moment.

I know we have spoken about the Schedule 5 amendments on your prior visits, and you have previously drafted various reports for me on this matter.

Rather than submit various monthly reports, I would like to submit the attached report as a tidy and succinct Appendix to the Planning Proposal. It is a compilation of your comments on the various different items, but importantly I have added the words 'The amendment is supported by the advisor' as this is what the Department wants to see.

Would you mind reviewing this quickly and giving me the ok to submit.

I would appreciate it a lot.

Regards

Dean Steward
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Cowra Shire Council

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