

PLANNING PROPOSAL

Blue Mountains
Local Environmental Plan 2015
(Draft Amendment 4)



Housekeeping Amendment

Draft for Council endorsement

June 2016

Prepared by Blue Mountains City Council

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PART 1 OBJECTIVES OR INTENDED OUTCOMES

The purpose of this planning proposal is to make a housekeeping amendment to LEP 2015. The proposal seeks to rectify issues identified since that making of the LEP by improving the wording of clauses and correcting minor errors. This draft amendment proposes to make modifications to the following parts of the LEP, outlined further below:

- Improving the wording of Clause 4.4A & 6.1(5) to remove ambiguity between 'lot', 'area' and 'site' so that site coverage and landscaped area provisions are applied as intended
- Clarifying the operation of Clause 6.28 Rural and nature based tourist facilities
- Restoring heritage listings mistakenly omitted from the final version of the LEP
- Correcting an erroneous Lot & DP reference in Schedule 1
- Adding map KYS_005EA to capture information formally contained (during public exhibition) on map FSR_005EA

Site coverage and landscaped area in environmental zones (clause 4.4A and 6.1(5))

This clause concerns site coverage and landscaped areas provisions. The proposed amendments remove any ambiguity that the intention of sub clauses 4.4A (1)-(5) is to limit site coverage calculation to the land zoned E3 or E4. Wording changes prior to the finalisation of the LEP created that potential ambiguity, the intention of which was clear in the exhibited version of the LEP.

Subclause (7) controls landscaped (pervious) area, and is intended to be calculated on the entire site area including all zones. However, currently, because clause 4.4A only applies to land in zones E3 Environmental Management and E4 Environmental Living, the subclause is not operating as intended. The structure of the clause or the location of the subclause should be altered to correct this. Council is seeking the Department's advice as to the best means of achieving the intended outcome within the standard instrument framework for subclause 4.4A(7).

Rural and nature based tourism facilities (clause 6.28)

The clause contains reference to small tourist facilities being run solely by either an 'owner or site manager' residing on site. The reference to 'solely' would prohibit operations that employ ancillary personnel, and is not the intention of the clause.

Schedule 5 Environmental Heritage

A number of heritage items which are shown on the LEP 2015 heritage maps and which were contained in Schedule 5 of the DLEP adopted by Council and submitted to the Department are missing from the made version of LEP 2015, despite being mapped and contained in the schedule of the version of the DLEP adopted by Council and submitted to the Department. This draft amendment proposes to reinstate the following Heritage Items into Schedule 5:

- Fibro House (BX009)
- Little Zig Zag (MV017)
- Lockyer's Pass (MY006)
- Rossmoyne (MV040)

Due to areas of the LGA being deferred from LEP 2015, another heritage item, Strathmore WF012, was erroneously removed from the schedule by Council prior to submitting to the Department due to part of the lot being deferred from LEP 2015. However, because part of the lot remains within LEP 2015, it should still be listed in Schedule 5. This draft amendment proposes to correct this error and reinstate Strathmore WF012 to Schedule 5.

There is also one Heritage Conservation Area (HCA), LA029 Leura Railway Parade Precinct, listed in Schedule 5 that does not appear on the heritage maps because it is within an area wholly deferred from LEP 2015. This draft amendment proposes to remove this HCA from Schedule 5 to correctly reflect its deferral from LEP 2015.

Schedule 1 Additional permitted uses

It has been identified that one of the items, (13), in Schedule 1 contains reference to a lot and DP that does not exist. Because the subclause requires consolidation of all listed lots Council has sought legal advice which has confirmed that because the erroneously listed lot and DP is not actually a lot it is therefore not called up by the subclause. However it is proposed to remove the erroneous reference to Lots 77–79, DP 839262 to avoid any confusion.

Additional Key Site map - KYS_005EA

This map does not currently exist in the suite of LEP 2015 maps but is required to capture mapping information that was intended to be part of LEP 2015.

In accordance with the Department's mapping guidelines, individual map tiles only exist for each map set where they contain any information for that map set i.e. map tiles which would be blank are not included. So for the Land Zone map set, every map tile exists, but for map sets such as Key Sites, only those tiles that contain areas identified as key sites exist.

During public exhibition of the LEP, map KYS_005EA did not exist because there were no key sites identified in that area covered by that map. Following exhibition, information that was on the FSR map set was required by the Department to be moved to the Key Site map set. This change required the creation on a new map, KYS_005EA, to cover information transferred from the FSR map set to the Key Site map set. This was not identified at the time, and whilst the data which is used to generate the maps was correctly altered, a new map tile was not created, and thus was not made as part of LEP 2015.

This planning proposal proposes to amend this error by creating map KYS_005EA to capture the information that was mapped in the publically exhibited version of the LEP on map FSR_005EA.

PART 2 EXPLANATION OF PROVISIONS

Written instrument changes

The following changes (highlighted) are proposed to the written instrument as part of this draft housekeeping amendment.

4.4A Site coverage and landscaped area

- (1) The objective of this clause is to manage **the proportion of** site coverage **to lot size** for the purpose of retaining landscaped areas that contribute to the landscape setting and catchment health of the area.
- (2) This clause applies to land in the following zones:
 - (a) Zone E3 Environmental Management,
 - (b) Zone E4 Environmental Living.
- (3) The maximum site coverage for **a lot land** to which this clause applies that has an area of less than 1,000 square metres is 30% or 160 square metres, whichever is greater.
- (4) The maximum site coverage for **a lot land** to which this clause applies that has an area of at least 1,000 square metres, but less than 2,000 square metres is:
 - (a) 300 square metres, and
 - (b) an additional number of square metres equal to 10% of the amount by which the **site area of land in Zone E3 and Zone E4** exceeds 1,000 square metres, but not exceeding an additional 100 square metres.
- (5) The maximum site coverage for **a lot land to** which this clause applies that has an area of 2,000 square metres or more is:
 - (a) 400 square metres, and
 - (b) an additional number of square metres equal to 5% of the amount by which the **site area of land in Zone E3 and Zone E4** exceeds 2,000 square metres, but not exceeding a site coverage of 2,500 square metres.
- (6) Despite subclauses (3) and (4), development consent may be granted for development that exceeds the maximum site coverage permitted by those subclauses if a report prepared by a suitably qualified person demonstrates that the development would have a beneficial effect on stormwater management by incorporating measures such as infiltration and detention systems.
- (7) Development consent must not be granted to development on **land in Zone E4 Environmental Living unless the landscaped area of the land is at least 60% a lot which includes land in Zone E4 Environmental Living unless, following the completion of the proposed development, either**
 - (a) the pervious surface of the lot will not be reduced; or
 - (b) at least 60% of the lot, including any part of the lot in Zone E2 Environmental Conservation, will comprise pervious surfaces or landscaped areas.
- (8) For the purposes of this clause 4.4A, the term 'pervious surface' means a land surface which allows water to infiltrate into the sub-soil but also includes the area of any land covered by rainwater tanks, swimming pools and unroofed areas of spaced decking (where the timber flooring on that decking allows water to pass through the decking onto soil below the decking).

6.1 Impact on environmentally sensitive land

- (5) **Development on environmentally sensitive land in Zone E3 or Zone E4**

Development consent must not be granted for development (other than development for the purpose of public utility services) on **land within a** lot created under this Plan being land in Zone E3 Environmental Management or Zone E4 Environmental Living that contains environmentally sensitive land unless the consent authority is satisfied that the proposed development, including any clearing required for an asset protection zone, would be designed, sited and managed to avoid any adverse environmental impact on the environmentally sensitive land.

6.28 Rural and nature-based tourist facilities

(4) In this clause:

small tourist facility means a tourist facility that is managed and operated **solely** by the owner or a site manager who resides on the land.

tourist facility means any development where services or facilities are provided for visitors to the area and includes, but is not limited to, camping grounds, eco-tourist facilities, hotel or motel accommodation, information and education facilities and restaurants or cafes.

Schedule 1 Additional permitted uses

13 Use of certain land at 80–104 Railway Parade, Wentworth Falls

- (1) This clause applies to land at 80–104 Railway Parade, Wentworth Falls, being Lots 1–67, 73–89 and 90–91, DP 7988, **and** Lot 92, DP 7988 (formerly Mary, King and George Streets) **and Lots 77–79, DP 839262**.
- (2) Development for the purpose of a dwelling house is permitted with development consent if all the lots are consolidated into a single lot.

Schedule 5 Environmental heritage

Part 1 Heritage items

Add the following items:

Suburb	Item Name	Address	Property Description	Significance	Local ID
BLAXLAND	Fibro house	167 Great Western Highway	Lt 1 DP715166	Local	BX009
MOUNT VICTORIA	Little Zig Zag	Kanimbla Valley Road	O. RD R11197.1603	Local	MV017
MOUNT VICTORIA	Rossmoyne	26-28 Selsdon Street	L 7 Sec. 3 DP 569; L 201 DP 1034536; L 1 DP 369659; L 6 Sec. 3 DP 569	Local	MV040
MOUNT VICTORIA	Lockyer's Pass	On unformed road within Crown Reserve 50415		Local	MY006
WENTWORTH FALLS	Strathmore	74 Falls Road	L 6 DP 20496	Local	WF012

Part 2 Heritage conservation areas

Remove the following item:

Name of Heritage Conservation Area	Identification on Heritage Map	Significance
Leura Railway Parade Precinct Conservation Area	Shown in red hatching and marked "LA029"	Local

Mapping changes

KYS_005EA is proposed to be created to capture the affordable rental housing areas which were contained on the FSR map set during public exhibition of the LEP. Following is the exhibited FSR_005EA map showing the affordable rental housing areas to be included on the proposed map KYS_005EA (to be notated as 'clause 6.22' on the key site map).

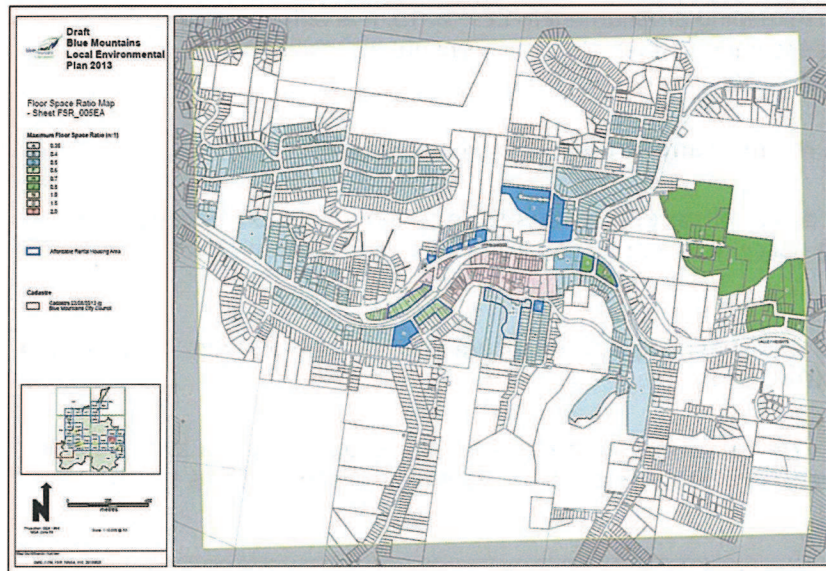


Figure 1: Map FSR_005EA as exhibited

PART 3 JUSTIFICATION

Section A - A Need for the Planning Proposal

This planning proposal is for a housekeeping amendment to LEP 2015. It is only seeking to correct errors and reword particular clauses to improve their clarity and ensure that they operate as intended. It is not intended to change planning policy.

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. It is simply to improve the operation and clarity of existing clauses, and correct errors.

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

Yes, an amendment to the LEP to clarify the operation of the subject clauses and to correct errors is the best means of ensuring the LEP operates as intended and provides for consistent interpretation of provisions.

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 only seeks to make a housekeeping amendment to LEP and is not inconsistent with the Sydney Metropolitan Strategy. The amendment is only to correct minor errors and improve the wording of existing clauses.

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 and is not inconsistent with the Sustainable Blue Mountains 2025 and other adopted local strategic planning policies. The amendment is only to correct errors and improve the wording of existing clauses.

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 4 with all State Environmental Planning Policies (SEPPs) and relevant Sydney Regional Environmental Plans (SREPs).

Note:

- ¹ **Not Relevant:** This SEPP or SREP does not apply to land within LEP 2015 Draft Amendment 4
- ² **Consistent:** This SEPP or SREP applies; LEP 2015 Draft Amendment 4 meets the relevant requirements and is in accordance with the SEPP or SREP.
- ³ **Justifiably Inconsistent:** This SEPP or SREP applies; LEP 2015 Draft Amendment 4 does not meet all the requirements or may be inconsistent with this SEPP or SREP as outlined following the table

State Environmental Planning Policies in force		NOT RELEVANT¹	CONSISTENT²	JUSTIFIABLY INCONSISTENT³
SEPP 1	Development Standards	✓		
SEPP 14	Coastal Wetlands	✓		
SEPP 15	Rural Landsharing Communities	✓		
SEPP 19	Bushland in Urban Areas	✓		
SEPP 21	Caravan Parks	✓		
SEPP 26	Littoral Rainforests	✓		
SEPP 29	Western Sydney Recreation Area	✓		
SEPP 30	Intensive Agriculture	✓		
SEPP 32	Urban Consolidation (Redevelopment of Urban Land)	✓		
SEPP 33	Hazardous and Offensive Development	✓		
SEPP 36	Manufactured Home Estates	✓		
SEPP 39	Spit Island Bird Habitat	✓		
SEPP 44	Koala Habitat Protection		✓	
SEPP 47	Moore Park Showground	✓		
SEPP 50	Canal Estate Development	✓		
SEPP 52	Farm Dams and Other Works in Land and Water Management Plan Areas	✓		
SEPP 55	Remediation of Land	✓		
SEPP 59	Central Western Sydney Economic and Employment Area	✓		
SEPP 62	Sustainable Aquaculture	✓		
SEPP 64	Advertising and Signage	✓		
SEPP 65	Design quality of Residential Flat Development	✓		
DSEPP 66	Integration of Land Use and Transport	✓		
SEPP 70	Affordable Housing (Revised Schemes)	✓		
SEPP 71	Coastal Protection	✓		
SEPP	(Affordable Rental Housing) 2009	✓		
SEPP	(Building Sustainability Index: BASIX) 2004	✓		
SEPP	(Exempt and Complying Development Codes) 2008	✓		
SEPP	(Housing for Seniors or People with a Disability) 2004	✓		
SEPP	(Infrastructure) 2007	✓		
SEPP	(Kosciuszko National Park – Alpine Resorts) 2007	✓		
SEPP	(Kurnell Peninsula) 1989	✓		
SEPP	(Major Development) 2005	✓		
SEPP	(Mining, Petroleum Production and Extractive Industries) 2007	✓		
SEPP	(Penrith Lakes Scheme) 1989	✓		
SEPP	(Port Botany and Port Kembla) 2013	✓		
SEPP	(Rural Lands) 2008	✓		
SEPP	(SEPP 53 Transitional Provisions) 2011	✓		
SEPP	(State and Regional Development) 2011	✓		
SEPP	(Sydney Drinking Water Catchment) 2011		✓	
SEPP	(Sydney Region Growth Centres) 2006	✓		
SEPP	(Three Ports) 2013	✓		
SEPP	(Temporary Structures) 2007	✓		
SEPP	(Urban Renewal) 2011	✓		
SEPP	(Western Sydney Employment Area) 2009	✓		
SEPP	(Western Sydney Parklands) 2009	✓		
SREP	Sydney Regional Environmental Plan No. 20 Hawkesbury – Nepean River (No. 2 – 1997)		✓	
DSEPP	(Application of Development Standards) 2004	✓		
DSEPP	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. It only proposes to make a housekeeping amendment to LEP 2015. Nothing in this planning proposal seeks to contradict or diminish the operation of the Koala Habitat SEPP.

SEPP (Sydney Drinking Water Catchment) 2011

- This planning proposal is consistent with the Drinking Water Catchment SEPP. It only proposes to make a housekeeping amendment 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.

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

- This planning proposal is consistent with the SREP 20. It only proposes to make a housekeeping amendment 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 Ministerial (s.117) Directions

The following table provides a summary of the application and consistency with Section 117 Directions.

Note:

¹ **Not Relevant:** This direction does not apply to land within LEP 2015 Draft Amendment 4

² **Consistent:** This direction applies; LEP 2015 Draft Amendment 4 meets the relevant requirements and is in accordance with the direction.

³ **Justifiably Inconsistent:** This direction applies, but LEP 2015 Draft Amendment 4 does not meet all the requirements or may be inconsistent with this direction as outlined following the table.

Directions under Section 117(2)		NOT RELEVANT 1	CONSISTENT 2	JUSTIFIABLY INCONSISTENT 3
1. EMPLOYMENT AND RESOURCES				
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		✓		
2. ENVIRONMENT AND HERITAGE				
2.1 Environmental Protection Zones		✓		
2.2 Coastal Protection		✓		
2.3 Heritage Conservation			✓	
2.4 Recreation Vehicle Areas		✓		
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT				
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		✓		
4. HAZARD AND RISK				
4.1 Acid Sulfate Soils		✓		
4.2 Mine Subsidence and Unstable Land			✓	
4.3 Flood Prone Land			✓	
4.4 Planning for Bushfire Protection			✓	
5. REGIONAL PLANNING				
5.1 Implementation of Regional Strategies		✓		
5.2 Sydney Drinking Water Catchments		✓		

Directions under Section 117(2)		NOT RELEVANT 1	CONSISTENT 2	JUSTIFIABLY INCONSISTENT 3
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	✓		
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	✓		
6.	LOCAL PLAN MAKING			
6.1	Approval and Referral Requirements	✓		
6.2	Reserving Land for Public Purposes	✓		
6.3	Site Specific Provisions		✓	
7.	METROPOLITAN PLANNING			
7.1	Implementation of A Plan for Growing Sydney		✓	

This planning proposal is consistent with all relevant Section 117(2) Ministerial Directions as detailed below.

117 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

This draft amendment is consistent with Ministerial Direction 2.3 Heritage Conservation. This planning proposal seeks to correct errors in the heritage schedule of the LEP to ensure that a number of items are duly protected.

117 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 draft amendment is consistent with Ministerial Direction 4.2 Mine Subsidence and Unstable Land. It is only seeking to translate existing planning provisions for an established residential area, and is not proposing to increase residential development potential.

117 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. It is not proposing to increase residential development potential on any flood prone land, or impose flood related development controls.

117 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 as per the Gateway

Determination. This planning proposal is not seeking to increase housing or development opportunities. It is only proposing to make a housekeeping amendment to LEP 2015.

117 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:*

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

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

- 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 site coverage and landscape area controls which are proposed

to be improved by this draft amendment, concern minimisation of stormwater runoff. By ensuring that these provisions operate as intended, the impact of development on stormwater runoff into waterways, especially drinking water catchments, is minimised while permitting a reasonable level of development.

117 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. The City of the Blue Mountains is situated in a world heritage national park and many properties, of varying sizes, adjoin the national park and surrounding natural areas. These properties will have varying levels of environmental significance which is recognised in their zoning under LEP 2015. The site coverage and landscaped area provisions in the LEP which this planning proposal seeks to improve, amongst other minor amendments, attempt to establish development standards which apply to the broad range of environmentally zoned land in the Blue Mountains, without relying upon site specific provisions. This approach is consistent with Direction 6.3, and the amendments proposed by this planning proposal aim to ensure this approach continues to achieve the best possible outcome.

117 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 LEP 2015. No changes to planning policy are proposed in this amendment. Following the preparation of the District Plan by the GSC, local planning policy for the Blue Mountains will be reviewed to ensure consistency with the Plan for Growing Sydney and the District Plan.

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 only seeks to make a housekeeping amendment. 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 effect 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

This proposed amendment seeks to create a new map KYS_005EA to capture information that was exhibited on the map FSR_005EA and which was intended to be included in the LEP but was unintentionally omitted.

PART 5 COMMUNITY CONSULTATION

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:

28 June 2016	Planning Proposal reported to the Council
July 2016	Submission of planning proposal to DP&E (or GSC) for 'gateway review' of draft Amendment 4 to LEP 2015
August 2016	Gateway determination issued
September 2016	Public exhibition of draft Amendment 4 to LEP 2015
October 2016	Council review of submissions to draft Amendment 4 to LEP 2015
November 2016	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 DP&E (GSC) for final review.
December 2016	The Minister (or GSC) considers the final draft of draft Amendment 4 to LEP 2015 and determines if the instrument can be made. Plan is notified.

PART 7 ATTACHMENTS

There are no attachments to this planning proposal: