

## Planning and Assessment

### Plan finalisation report

IRF18/7161

**Local government area:** Blue Mountains City

#### 1. NAME OF DRAFT LEP

Blue Mountains Local Environmental Plan 2015 (Amendment No 6).

#### 2. SITE DESCRIPTION

The planning proposal applies to areas identified by heritage identification numbers as shown in Table 1 (below).

The proposal comprises 20 heritage conservation areas (HCA), i.e. three existing and 17 proposed HCAs.

Table 1: Heritage conservation areas

No.	Heritage conservation area (HCA)	Identification on heritage map	Amendment
1	Central Mount Victoria	MV023	Extension of existing HCA
2	Blackheath Village and Setting	BH212	New HCA
3	Hat Hill Road, Blackheath	BH213	New HCA
4	Blackheath West, Blackheath	BH214	New HCA
5	Lookout Hill, Blackheath	BH215	New HCA
6	Katoomba South, Katoomba	K168	New HCA
7	Crown Village, Katoomba	K169	New HCA
8	Grimley Estate, Katoomba	K170	New HCA
9	Norths Estate, Katoomba	K171	New HCA
10	Leura North, Leura	LA105	New HCA
11	Leura South, Leura	LA106	New HCA
12	Village of Brasfort, Wentworth Falls	WF119	New HCA
13	Westbourne Ave, Wentworth Falls	WF120	New HCA
14	Hays Nature Reserve Link, Lawson	LN083	New HCA
15	Railway Parade West, Hazelbrook	H008	Change the name of the HCA from Railway Parade to Railway Parade West

16	Railway Parade East, Hazelbrook	H028	New HCA
17	Moorecourt Avenue, Springwood	SP071	New HCA
18	Macquarie Road East, Springwood	SP056	Change the name of the HCA from Macquarie Road to Macquarie Road East; and Extend the area of the HCA SP056
19	Macquarie Road West, Springwood	SP072	New HCA
20	Glenbrook	G061	New HCA

### 3. PURPOSE OF PLAN

#### 3.1 Introduction

The Blue Mountains local government area (LGA) contains a large number of heritage-significant properties, with 893 heritage items and 19 HCAs.

Since 2005, areas of housing stock identified as from the Victorian, Edwardian, Federation and inter-war periods have been considered a distinctive character element, with protection provided under Council's period housing area clauses in the Blue Mountains LEP 2005.

During the preparation of the Blue Mountains Standard Instrument LEP, it was necessary to convert period housing areas into HCAs. Owing to the extent of work required, this conversion could not occur with the making of the Standard Instrument, i.e. the Blue Mountains LEP 2015. Consequently, the period housing clauses were carried over into the new Standard Instrument.

#### 3.2 Planning proposal

The draft LEP seeks to convert period housing areas under the Blue Mountains LEP 2015 to HCAs. As indicated above, conversion was necessary to comply with the Standard Instrument format. To ensure this was undertaken in a timely manner and to provide Council with sufficient time to complete this undertaking, a sunset clause was included in the Blue Mountains LEP 2015. This will remove period housing provisions from the LEP on 31 July 2019.

The proposed amendments are as follows:

##### Written amendments

- Removing Clause 6.18 *Period housing area* from the Blue Mountains LEP 2015.
- Amending Schedule 5 *Environmental heritage* to:
  - include 17 new HCAs;
  - amend the title of two existing HCAs from *Macquarie Road* to *Macquarie Road East* and *Railway Parade* to *Railway Parade West*.
- Amend clause 4.3A subclause (4) to remove the term 'period housing' and replace with:
  - 'on land in a heritage conservation area zoned R1 General Residential, R2 Low Density Residential or E4 Environmental Living'.

- Amend Clause 7.6 *Katoomba Precinct* to:
  - remove the reference to period housing in subclause (11)(a).

### Mapping amendments

The amending plan seeks to amend 33 maps by:

- removing the areas identified as period housing areas (shaded in brown fill) from the built character maps;
- amending the relevant heritage maps to include the 17 new HCAs;
- amending the mapped extent of two HCAs, i.e. Central Mount Victoria MV023 and Macquarie Road East SP056, to include the land identified as period housing areas;
- removing one lot that was identified as period housing on Built Character Map BCH\_005B in error;
- removing a sliver of land in Springwood, identified as period housing on Built Character Map BCH\_005EA in error;
- removing 41 lots identified as not holding sufficient heritage attributes and therefore not meeting the criteria for inclusion within an HCA; and
- amending the height of building map to ensure the 41 lots that are not being included within an HCA have building heights consistent with the maximum building height of the surrounding lots. Table 2 (below) outlines the proposed building height amendments:

Table 2. Height of building map amendments

Site no.	Site name	Map tile	No of lots	Existing	Proposed
7	Crown Village, Katoomba	HOB_002GA	1	10m	10m
11	Leura South, Leura	HOB_002GA	2	6.5m	8m
16	Railway Parade East, Hazelbrook	HOB_006A	10	6.5m	8m
18	Macquarie Road East, Springwood	HOB_005EA	1	6.5m	8m
18	Macquarie Road East, Springwood	HOB_005EA	4	6.5m	8m
19	Macquarie Road West, Springwood	HOB_005EA	22	6.5m	8m
20	Glenbrook	HOB_BCH_006D	1	6.5m	8m

### Clause 6.18 Period housing area and Clause 5.10 Heritage conservation provisions

A comparison of these clauses indicates they both two clauses conserve heritage items and conservation areas, including the associated fabric, view and settings (**Attachment C**).

The Standard Instrument clause 5.10 *Heritage conservation* is less prescriptive than clause 6.18. Prescriptive heritage conditions are included in Council's development control plan (DCP). Blue Mountains DCP – Part D Heritage Management contains provisions that guide development of heritage properties. This approach is considered to be suitable and will adequately protect the identified items and conservation areas.



Council's report (pg.134, **Attachment D**) notes Council will amend the DCP to delete Part D2 Period Housing, and part D1 Heritage will be amended to ensure the DCP includes reference to the new HCAs.

#### Road reserves

Some road reserves have been identified as holding significant streetscapes that contribute to the character of the HCAs and have been included in the HCAs.

#### Heritage inventory sheets

Heritage inventory sheets are provided to support the proposed HCAs. Council will amend the sheets for existing HCAs in accordance with the proposed amendments.

#### Zoning and other development controls

The proposal will not amend the current zone or other development controls for lots in localities to be converted from period housing areas to HCAs.

The amending plan does not seek to convert any lots not currently identified as period housing, and no heritage provisions will be applied to any other properties within the Blue Mountains LGA.

The plan-making process will not facilitate the provision of any additional housing or employment in the Blue Mountains LGA.

### **4. STATE ELECTORATE AND LOCAL MEMBER**

The site falls within the Blue Mountains State Electorate. Ms Trish Doyle MP is the State Member for Blue Mountains.

The site falls within the Macquarie Federal Electorate. Ms Susan Templeman MP is the Federal Member for Macquarie.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal.
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<b>NSW Government reportable political donation:</b> There are no donations or gifts to disclose and a political donation disclosure is not required.
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### **5. GATEWAY DETERMINATION**

The Gateway determination issued on 17 May 2018 (**Attachment B**) determined that the proposal should proceed subject to conditions, including a finalisation date of 10 February 2019. The Minister's delegate subsequently extended the completion date until 31 July 2019 (**Attachment B1**).

### **6. PUBLIC EXHIBITION**

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 30 May to 11 July 2018.

Twenty-six submissions were received from the community. Six of these submissions supported the proposal. Two submissions were received from public authorities.

#### **6.1 Community submissions**

Council has satisfactorily addressed the community concerns in the submissions report (**Attachment E**).



The key issues raised in community submissions are as follows:

#### Removal of land from proposed HCAs

Several landowners requested their land be removed from the proposed HCAs.

##### *Council comment*

Where an area or street is of heritage significance, individual properties generally cannot be excluded when located within the broader area identified as being of heritage significance. Only properties located on a corner or a protruding edge of an HCA can be excluded.

Where owners requested their land be removed from the proposed HCAs, Council reviewed each of these on a site-by-site basis. Several sites were identified as being located on the edge of an HCA and not possessing satisfactory heritage attributes to warrant inclusion in an HCA. Accordingly, these lots have been removed from the proposed HCAs.

##### *Department comment*

The Department is satisfied Council has appropriately reviewed and addressed submissions seeking the removal of land from proposed HCAs. Where it has been demonstrated that a site does not possess heritage attributes and can be excised, the properties have been excluded. Forty-one properties are no longer proposed to be included in HCAs.

#### Submission of additional heritage information

Several submissions provided further historical information or suggested some sites held heritage significance, warranting further consideration.

##### *Council comment*

Council welcomed additional, confirmed, documentary evidence in relation to heritage details. Where confirmed historical information was provided, inventory sheets were corrected and updated.

##### *Department comment*

The acceptance of confirmed documentary heritage evidence seeks to capture and preserve local historical knowledge and ensures historical records and inventory sheets are accurate. This is supported.

#### Deferred land

Submissions commented that historical sites located on deferred land were not identified in the proposal.

##### *Council comment*

To avoid confusion, items of historical value located on deferred land were not addressed as part of this proposal. These sites will remain protected under the provisions of the Blue Mountains LEP 2005 and will be considered and addressed as part of a future planning proposal.

##### *Department comment*

The Department supports this approach. Large tracts of land are deferred under the Blue Mountains LEP 2015. The inclusion of items within that instrument needs to be undertaken as part of a holistic process taking into consideration all the relevant planning controls applying to these sites.

Any historical items located on land deferred under the Blue Mountains LEP 2015 will remain protected under the Blue Mountains LEP 2005, i.e. Division 4 *Heritage conservation*, which contains appropriate provisions.

#### Increase in restrictive planning controls

Several submissions were concerned that the proposed HCA provisions are more restrictive than the current period housing controls.



#### *Council comment*

Council prepared fact sheets providing general information about the conversion process and answers to frequently asked questions to accompany the exhibition (**Attachment F**). These were sent to all affected property owners and enquirers.

Council noted that heritage planning controls seek to preserve character and may require that proposed development be sympathetic to the character of the HCAs. However, the proposed HCA controls are generally consistent with the current period housing area provisions.

#### *Department comment*

The Department agrees with Council's comments. This matter is discussed in detail in **Attachment C**.

#### Land at 29-41 and 43 Honour Avenue and 26 Waratah Street, Lawson

The land located at 29-41 and 43 Honour Avenue (also known as 28 Waratah Street) and 26 Waratah Street, Lawson comprises nine allotments. Seven of the nine allotments were subject to submissions objecting to the inclusion of the land in the proposed conservation area. These submissions are primarily from landowners or on behalf of landowners. These submissions included advice from Stephen Davis of Urbis and Conomos Legal, Development and Planning Lawyers. No formal heritage report was submitted by the land owners. The allotments in contention are identified in Figure 1 (below).



Figure 1: Aerial photo: allotments subject to objections.

In summary, the submissions raised the following:

- the validity of the heritage values of these sites warranting inclusion in the proposed HCA; and
- the loss of development potential on land at 29-41 Honour Avenue, Lawson.

#### *Council comment*

Council's submissions report includes a detailed discussion of the heritage values of the land at 43 Honour Avenue (28 Waratah Street) and 26 Waratah Street, Lawson. An extract is provided at **Attachment H**.



In response to these submissions, Council reviewed the sites in contention and supporting 2014 and 2017 heritage studies (**Attachments I–I1**).

Council was of the view that these properties should remain within the proposed HCA, taking into consideration that:

- all seven subjects lots were included within the boundaries of the Lawson Village layout, a design adopted in 1881;
- these lots were recommended to be included in the National Trust-proposed urban conservation area and have been recommended for inclusion in several heritage studies;
- the 2014 and 2017 studies found these sites met the NSW Heritage Council criteria for inclusion within an HCA;
- the 2014 heritage study found the dwellings had contributory values as 'intact in their form';
- these lots are historically associated with David Wilson, who built Fontainebleau, which adjoins 26 Waratah Street and 43 Honour Avenue (28 Waratah Street) to the north and 29-41 Honour Avenue to the east;
- the two dwelling houses have a cleared appearance, giving them a rural village aesthetic, and the sites comprise exotic mature trees; and
- the lots have historical association, contributory values and some aesthetic values.

During the process, representations were made to the Department by a landowner and an agent acting on behalf of landowners raising concerns over:

- the validity of the heritage values of these sites; and
- the loss of development potential on the land at 29-41 Honour Avenue, Lawson.

Owing to the varying opinions about the heritage values of these allotments, and in the absence of an independent heritage report, the Department engaged a qualified heritage consultant (City Plan) to provide advice for its consideration.

#### Validity of heritage values

In supporting the inclusion of the subject land in the proposed HCA, City Plan's heritage review report (**Attachment L**) highlighted the following:

- the dwellings at 26 and 43 Honour Avenue (28 Waratah Street), although simple in form and design, are representative of inter-war/post-war timber cottages seen throughout the Blue Mountains and belong to a significant period of housing development in the Blue Mountains LGA generally, and specifically in the Lawson area. The dwellings reflect the modest nature of the construction and difficulties in obtaining resources following World War I and demonstrate key architectural characteristics of the period. The integrity of the subject houses is considered high, contributing to the inter-war period building stock of the locality;
- while the dwellings are not directly visible from the street, it is not just the streetscape contribution of these properties that warrants their inclusion in the HCA, but rather their association with the development of an area and their intactness, as well as being part of the rural landscape of their immediate locality;
- the southern side of Lawson, especially along Honour Avenue and Benang, New, Adelaide and Waratah Streets, offers glimpses of the valley and the greater Blue Mountains landscaping/forest and hilltops. This is typical rural character of Lawson, which gives special and unique character to the town; and
- the properties at 29-41 Waratah Street have predominantly retained their rural landscaped characteristics associated with the early settlement period of Lawson. These



attributes are of significance to the area as the rural characteristics of the Lawson area are considered to have diminished over time. Consequently, the rural characteristics of the allotments at 29-41 Honour Avenue are considered rare and endangered.

#### *Department comment*

The Department has considered the relevant documentation in regard to the land at 29-41 and 43 Honour Avenue and 26 Waratah Street, Lawson including landowner submissions, Council's assessment and undertaken a site inspection and, in view of the consultant's findings, is satisfied the subject sites demonstrate heritage attributes justifying inclusion of the land within the proposed HCA.

In reaching this view, the Department considered the following:

- the subjects lots were identified as being within the original Lawson Village layout as early as 1886;
- the sites were identified as being of significance in studies undertaken as part of the preparation for the Blue Mountains LEP 2005 and were subsequently included in the period housing area under the LEP;
- heritage and period housing areas were reviewed as part of the Standard Instrument LEP conversion and these lots were recommended for inclusion in the proposed HCA in the 2014 and 2017 heritage studies;
- the 2014 and 2017 heritage studies demonstrate that the proposed HCA for Lawson meets the NSW Heritage Council criteria for conversion to HCAs;
- the Office of Environment and Heritage (OEH) – Heritage Division was consulted as part of the plan-making process, which raised no objections and recommended the heritage provisions of the LEP be reviewed to ensure environmental heritage is adequately protected;
- the two dwelling houses on 26 Waratah Street and 43 Honour Avenue (28 Waratah Street), Lawson were built prior to 1946, which is the housing stock Council has sought, and continues to seek, to retain as contributing to traditional character;
- the sites adjoin several heritage items, predominantly along the northern boundary, supporting a historical association and contributory values;
- the site inspection confirms the cottages appear to represent a rural village aesthetic; and
- the sites and supporting documentation have been independently reviewed and were found to comprise heritage attributes justifying their inclusion in the proposed HCA.

#### Potential loss of development potential

The issue of limiting development opportunities because of the imposition of heritage provisions has been raised in a submission to Council and by a landowner with the Department.

HCAs do not negate the permissibility to carry out development. Proposed development would be subject to a development application and would undergo a merit-based assessment of the attributes of the site and other statutory considerations.

The objection made to the Department included concerns over the imposition of a 6.5m maximum building height for the subject land. The objector was under the impression that an 8m height limit would prevail. Council has imposed a 6.5m height limit as a post-exhibition alteration (see section 8 of this report for further details).

The Department notes that a 6.5m height limit currently applies to the land and that a proposed clause would allow this limit to be exceeded. Clause 4.3A(4) of the Blue Mountains

LEP 2015 allows an exemption to the 6.5m maximum building height should these sites comply with the criteria specified under the clause and other relevant controls in the LEP.

The Department considers that the concerns raised have been adequately and suitably addressed.

### Conclusion

The Department has carefully considered all the submissions received and undertaken a site inspection to better understand the nature of the site and its attributes. The Department is satisfied the conversion to an HCA will not significantly restrict development opportunities at 29-41 Honour Avenue given the site's zoning, development controls and site constraints.

The Department is also satisfied that all the allotments have an established and ongoing historical narrative. The lots are identified as being in a period housing area and the retention and protection of these values, via the conversion to an HCA, is supported.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

Council was required to consult with the Office of Environment and Heritage – Heritage Division and the NSW Rural Fire Service in accordance with the Gateway determination.

Council has consulted these authorities (**Attachment D**).

### The Office of Environment and Heritage (OEH) – Heritage Division

OEH raised no objections to the proposal and recommended that a suitably qualified and experienced heritage professional be engaged to review the heritage provisions of the LEP to ensure environmental heritage is adequately protected (**Attachment D2**).

The post-exhibition planning proposal (page 24 of **Attachment A**) provides a detailed discussion of OEH's comments, particularly in relation to the protection of heritage items and localities.

Council noted that heritage protection under the LEP is limited to heritage provision Clause 5.10 *Heritage conservation*. As this is a model provision under the Standard Instrument, it cannot be altered. Council advises its DCP has detailed provisions for HCAs to provide heritage protection and ongoing strategic work includes a review of the DCP's heritage provisions.

### NSW Rural Fire Service (RFS)

RFS raised no objections to the proposal and noted any development on areas converted to HCAs on bushfire-prone land will be required to demonstrate compliance with *Planning for Bush Fire Protection* (**Attachment D1**).

### Department comment

Consultation has been undertaken with the relevant public agencies in accordance with the Gateway determination. The Department notes no objections were raised by these agencies and is satisfied Council has satisfactorily addressed any relevant comments.

## **8. POST-EXHIBITION CHANGES**

### Building height

A building height of 6.5m is applied to lots within the period housing areas. Clause 4.3A provides for exceptions to the maximum floor space ratio and height of buildings.

Subclause 4.3A(4) allows for an increase in the maximum building height on land within period housing areas subject to meeting parts (a) to (d) of the clause as follows:

- (4) Development consent may be granted to a building on land identified as "Period housing area" on the Built Character Map that exceeds the maximum height shown



for the land on the Height of Buildings Map if the consent authority is satisfied that the building:

- (a) is located within an area that has a predominant presence of 2-storey dwelling houses, and
- (b) incorporates a design that minimises its apparent bulk when viewed from a public road, and
- (c) provides for a roof form and pitch that is consistent with the predominant form of traditional housing stock within the surrounding area, and
- (d) has a height of no more than 8 metres.

In the exhibited planning proposal, it was proposed that clause 4.3(4) be deleted, with no exceptions necessary, as the height of buildings within the new HCAs would be amended on the height of buildings mapping to be consistent with the surrounding land.

Council reviewed current development applications where 8m heights are proposed using this exceptions clause. Council considered it was more appropriate to retain the lower 6.5m maximum height of buildings on the mapping, and therefore retain the accompanying role and function of the flexibility of clause 4.3(4).

The proposed amended clause converts the words 'period housing area' to a reference to the HCAs. The impacts are anticipated to be minimal and this post-exhibition change is recommended.

For the 41 lots to be removed as not demonstrating heritage attributes, the building height is proposed to revert to that of the surrounding development. The only exception is 92 Camp Street, Katoomba, which will retain its building height of 10m.

It is recommended that this post-exhibition change be supported as the proposed 6.5m is consistent with the building height applying to these sites, and the retention of this building height was supported by the majority of submissions. It is noted that clause 4.3(4) allows the building height to be exceeded in specified circumstances.

#### Hays Nature Reserve

The planning proposal lists this HCA as 'LN084', while it is listed as 'LN083' on the heritage map.

Council initially advised it was proposing two separate HCAs for Lawson: Lawson North 'LN083'; and Lawson South 'LN084'. These areas were merged to create one HCA identified as 'LN083'. The reference to 'LN084' was left in the proposal in error.

This is a minor error and does not result in any changes to planning outcomes. The amendment is supported.

#### Road Reserve in HCA SP072 – Macquarie Road West

The mapping in the planning proposal shows the road reserve is part of an HCA. However, the map submitted as part of the finalisation process does not include the road reserve.

Council advised that the road reserve was included in the proposal in error. It does not significantly contribute to the streetscape or character of the HCA and should not have been included.

The post-exhibition removal of the road reserve is a minor matter and will not comprise the surrounding HCA and is recommended.



### Inclusion of Heritage Item WF018 – Grand View Hotel and Garages on Heritage Map (HER\_002H)

The Grand View Hotel site is mostly deferred under the Blue Mountains LEP 2015; however, a small portion of the site is owned by Roads and Maritime Services and is a road reserve. The small portion is listed under Schedule 5 *Environmental heritage* of the LEP; however, this portion was not mapped.

Council advised that the listing of this item under schedule 5 is an error and will need to be amended. The item wasn't mapped on the heritage map as a result of this error. To ensure a consistent approach, it is recommended the item listed under schedule 5 also be mapped.

### Lawson heritage items

Heritage Map sheet - HER\_006A identifies two heritage items as Local item LN057 Bangalore (refer to Figure 2). However, these are two separate items. The item on the right 'LN057 Bangalore' is correctly labelled. However, the item on the left should be identified as item 'LN058 Kiera'.

The items are listed correctly in Schedule 5 *Environmental heritage* under the Blue Mountains LEP 2015 and the corresponding map tile, HER\_005BA, shows the two items and their correct references (refer to Figure 3).



Figure 2: Heritage Map Sheet HER\_006A.

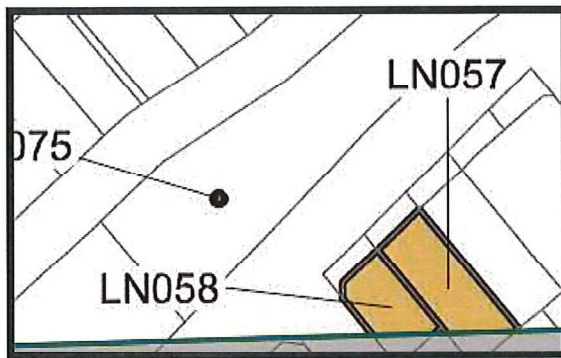


Figure 3: Heritage Map Sheet HER\_005BA.

As this is a minor mapping anomaly, it will not affect the outcome of this proposal or change the planning outcomes for this site and seeks to ensure the map is accurate. It is recommended that this minor amendment proceeds.

The post exhibition changes are generally minor mapping errors or in response to submissions. These changes seek to improve accuracy and legibility of the Blue Mountains LEP and are recommended to be supported.

It is not considered that any of the past exhibition changes require further exhibition of the proposal.

## **9. ASSESSMENT**

The plan is recommended to proceed as it seeks to retain the period housing area provisions by converting these areas to HCAs by:

- removing Clause 6.18 *Period housing area* and any references to period housing from the Blue Mountains LEP 2015 by amending Schedule 5 *Environmental heritage* to include 17 new HCAs and by expanding the mapped extent of two HCAs;
- the proposal is underpinned by two heritage studies: a preliminary study dated January 2014; and a more detailed study undertaken in 2017. Both studies were prepared by Paul Davies Heritage Architects;

- all proposed new HCAs have a draft heritage inventory sheet to support the listing. Heritage inventory sheets for existing HCAs will be updated in line with the proposed changes;
- the Gateway determination conditions and relevant community and public agency submissions have been satisfactorily addressed;
- the plan is consistent with the relevant section 9.1 Directions and state environmental planning policies;
- the amending plan is consistent with the liveability objectives in the Western City District Plan as it will continue to protect heritage values within the Blue Mountains LGA. It is therefore considered that the proposal gives effect to the district plan; and
- the proposal was subject to several post-exhibition changes. These amendments were made in response to a site review and submissions. These minor amendments are supported as reasonable and appropriate responses to the issues raised.

### **9.1 Local planning panel**

The planning proposal was submitted to the Department in March 2018 and predates the establishment of the local planning panels. Consequently, the planning proposal was not referred to the local planning panel under section 2.19(1)(b) of the *Environmental Planning and Assessment Act 1979*.

### **9.2 Section 9.1 Directions**

The amending plan is consistent with section 9.1 Directions 2.3 Heritage Conservation and 4.4 Planning for Bushfire Protection. The NSW Rural Fire Service was consulted prior to public exhibition as specified in the Gateway determination. No objections were raised by the consulted authorities.

No further approval is required in relation to these Directions.

### **9.3 State environmental planning policies**

The proposal is considered to be consistent with all state policies. It is a routine amendment that aims to standardise the heritage provisions for period housing areas under the Blue Mountains LEP 2015 in accordance with the Standard Instrument.

### **9.4 Western City District Plan**

The proposal gives effect to the District Plan in accordance with section 3.8 of the Act. Specifically, the proposal gives effect to Planning Priority W6 'Creating and renewing great places and local centres and respecting the District's heritage' of the Western City District Plan, as it will continue to protect the heritage values within the Blue Mountains LGA.

## **10. MAPPING**

The amendment comprises several map amendments involving 33 map tiles. A table outlining the sites, map tile, map type, and current and proposed provisions is at **Attachment N**.

The maps and map cover sheet (**Attachment MCS**) have been satisfactorily reviewed by the Department's ePlanning Team and sent to Parliamentary Counsel on 11 January 2019.

## **11. CONSULTATION WITH COUNCIL**

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment M**). Council confirmed on 21 January 2019 it was happy with the draft and the plan should be made (**Attachment M1**).

## **12. PARLIAMENTARY COUNSEL OPINION**

On 23 January 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.



### 13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- the amending plan retains heritage protections currently identified as 'period housing' by converting these areas to HCAs;
- the amending plan is underpinned by two studies supporting the amendments;
- the Gateway determination conditions and relevant community and public agency submissions have been satisfactorily addressed;
- the plan is consistent with the relevant section 9.1 Directions, state environmental planning policies and the Western City District Plan;
- the heritage attributes of the seven contested lots at 29-41 and 43 Honour Avenue (28 Waratah Street) and 26 Waratah Street, Lawson have been independently reviewed and were found to comprise heritage attributes justifying inclusion in the proposed HCA; and
- appropriate post-exhibition changes were made in response to submissions and investigation, which were generally minor in nature and seek to ensure clarity and accuracy.



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