

Planning Services

Gateway Determination Report

LGA	Blue Mountains
RPA	Blue Mountains City Council
NAME	Period Housing to Heritage Conservation Areas (0 homes, 0 jobs)
NUMBER	PP_2018_BLUEM_001_00
LEP TO BE AMENDED	Blue Mountains Local Environmental Plan 2015
ADDRESS	Blue Mountains LGA
DESCRIPTION	Blue Mountains LGA
RECEIVED	17 March 2018 (additional information received on 19 April 2018)
FILE NO.	IRF18/1480
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal (**Attachment B**) seeks to amend the Blue Mountains Local Environmental Plan (LEP) 2015 by identifying existing period housing areas as local heritage conservation areas. The proposal will not amend other current development controls for these areas and will not facilitate any additional dwellings.

This proposal aims to provide statutory protection for these heritage areas to replace the existing period housing area controls in clause 6.18 of the Blue Mountains LEP 2015, which will cease to have effect by 19 February 2019.

Site description

The proposal applies to land identified as 'Period Housing Areas' within the Built Character Map in the Blue Mountains LEP 2015.

Land identified as period housing areas include buildings that contribute to the traditional town and streetscape character of the Blue Mountains LGA (clause 6.18), such as:

- traditional streetscape and character of residential areas incorporating Victorian, Edwardian, Federation, Inter-war or Art Deco building styles; and
- housing stock erected before 1946.

Summary of recommendation

It is recommended that the proposal proceed with conditions as it will provide continued protection for period housing areas within the Blue Mountains local government area (LGA).

In addition, it will standardise these protection controls in accordance with the requirements of the Standard Instrument.

PROPOSAL

Objectives or intended outcomes

The objectives of this proposal are:

- the retention of existing protections for 'Period Housing Areas' by identifying these sites within a heritage conservation area;
- the recognition and clarification of heritage significance; and
- the long-term conservation of the cultural heritage of the Blue Mountains.

The objectives of this proposal are considered to be clear and adequate, subject to recommended conditions.

Explanation of provisions

The proposal seeks to amend the Blue Mountains LEP 2015 and LEP 2005 by:

1. Period Housing Areas:

- removing clause 6.18 from the 2015 LEP and all land identified as 'Period Housing Area' in the Built Character Maps.

2. Heritage Conservation Areas:

- introducing seventeen (17) new local heritage conservation areas (refer to Sites 1-17 in Table 1, following and overleaf) in Schedule 5 Environmental Heritage and the Heritage Maps;
- including additional land identified as period housing areas to two (2) existing local heritage conservation areas (refer to Sites 18-19 in Table 2 overleaf); and
- amending the titles of two (2) existing local heritage conservation areas in Schedule 5 as follows:
 - from 'Macquarie Road' to 'Macquarie Road East' (refer to Site 18 in Table 2 overleaf); and
 - from 'Railway Parade' to 'Railway Parade West' (refer to Site 20 in Table 2 overleaf).

Table 1: New Heritage Conservation Areas

Site	Proposed Heritage Conservation Area	Identification on Map	Significance	Map Tile
1	Blackheath Village and Setting (north and south end)	Refer to red hatched area marked 'BH212'	Local	002E & 002FA
2	Hat Hill Road	Refer to red hatched area marked 'BH213'	Local	002E

Table 1 continued.....

Site	Proposed Heritage Conservation Area	Identification on Map	Significance	Map Tile
3	Blackheath West (north and south end)	Refer to red hatched area marked 'BH214'	Local	002FA
4	Lookout Hill	Refer to red hatched area marked 'BH215'	Local	002FA
5	Katoomba South (north and south end)	Refer to red hatched area marked 'K168'	Local	002G, 002GA & 003BA
6	Crown Village	Refer to red hatched area marked 'K169'	Local	002G & 002GA
7	Grimley Estate	Refer to red hatched area marked 'K170'	Local	002GA
8	Norths Estate	Refer to red hatched area marked 'K171'	Local	002G & 002GA
9	Leura North	Refer to red hatched area marked 'LA105'	Local	002GA
10	Leura South	Refer to red hatched area marked 'LA106'	Local	002GA
11	Village of Brasfort	Refer to red hatched area marked 'WF119'	Local	002H
12	Westbourne Avenue	Refer to red hatched area marked 'WF120'	Local	002H
13	Hays Nature Reserve Link	Refer to red hatched area marked 'LN084'	Local	005BA
14	Railway Parade East	Refer to red hatched area marked 'H028'	Local	006A
15	Moorecourt Avenue	Refer to red hatched area marked 'SP071'	Local	005EA
16	Macquarie Road West	Refer to red hatched area marked 'SP072'	Local	005EA
17	Glenbrook	Refer to red hatched area marked 'G061'	Local	006D

Table 2: Amendments to Existing Heritage Conservation Areas

Site	Existing Heritage Conservation Area	Identification on Map	Significance	Map Tile
18	Macquarie Road <u>East</u>	Shown in red hatching and marked 'SP056'	Local	005EA
19	Central Mount Victoria	Shown in red hatching and marked 'MV023'	Local	002B
20	Railway Parade <u>West</u>	Shown in red hatching and marked 'H008'	Local	

Refer to **Attachment E** for the site identification maps and proposed mapping amendments.

The proposal will not amend the current zoning or development controls for the period housing areas and it will not facilitate the provision of any additional housing in the Blue Mountains LGA.

Furthermore, the proposed heritage conservation areas will not include lots that are not currently identified as period housing areas. Therefore, no additional heritage provisions will be applied to other properties within the Blue Mountains LGA.

3. Road Reserves

It is proposed that some heritage conservation areas include certain road reserves adjacent to the period housing areas, as these have been identified as significant streetscapes that contribute to the character of the conservation areas.

4. Deferred Land

The proposal identifies certain deferred land from the Blue Mountains LEP 2015 within the proposed heritage conservation areas (i.e. Site 5 – Katoomba South and Site 10 – Leura South). Refer to **Attachment F** for a map of the deferred land.

For clarity, it is recommended that Council amends the proposal (prior to exhibition) to include an explanatory note and supporting maps, identifying the location of the deferred land subject to this proposal and the proposed heritage conservation area that will apply [see condition 1.(b)].

It is also noted that this deferred land is subject to a planning proposal (i.e. Amendment No. 1 - PP_2015_BLUEM_001_00), which will rezone these deferred matters under the Blue Mountains LEP 2015. This planning proposal is currently being finalised by the Department.

There is no objection to this proposal being exhibited i.e. agency/community consultation, with the proposal applying to the deferred sites on the expectation that amendment no.1 will be made prior to this planning proposal being finalised. To ensure that this matter is clearly addressed in the proposal, however, it is recommended that the following [see condition 1.(e)] be included in the planning proposal after the paragraph under the heading: *Land Deferred from LEP 2015 (Amendment 1)* – p. 7:

Should amendment no.1 not be made prior to the finalisation of the planning proposal by council, deferred sites will be removed from the planning proposal and amending plan.

5. Proposed R6 Zone

The Department also recommends an amendment be made to the reference to Amendment 2, i.e. a planning proposal which sought to introduce a new 'R6 Residential Character' zone within the Blue Mountains LEP 2015. The Department decided that this proposal should not proceed to Gateway as a planning proposal cannot legally amend the Standard Instrument (Local Environmental Plans) Order 2006 (the Standard Instrument). Further, any amendment to the Standard Instrument would require consultation across the State (**Attachment G**). Therefore, as Amendment 2 is no longer proceeding, an amendment to the planning proposal is necessary to clarify the status of Amendment 2. A determination condition is recommended [see condition 1.(f)].

6. Amendment of Clauses

An assessment of the proposal has indicated that Council has not included the need to amend associated clauses 4.3A(4) and 7.6(11) of Blue Mountains LEP 2015.

Clause 4.3A(4) provides for the exceedance of the maximum building height for land within a 'Period Housing Area' in certain circumstances (extract at **Attachment E2**). Clause 7.6(11) also refers to a 'Period Housing Area' (extract at **Attachment E3**).

With the proposed removal of period housing areas, these clauses should be amended to refer to heritage conservation areas. A determination condition is recommended [see condition 1.(g)].

7. Remaining Period Housing Areas

There are a number of period housing areas in the Built Character Maps that will not be included in the proposed heritage conservation areas, as these are currently identified in existing conservation areas. Therefore, these period housing areas will only be removed from the Built Character Maps.

For clarity, it is recommended that the planning proposal be amended (prior to exhibition) by Council to include an explanation that some of the existing period housing areas are currently included in existing heritage conservation areas and will not be converted [see condition 1.(c)].

In addition, Council will not convert two period housing areas as these do not contain a period house on the lot. One is currently a car park (i.e. 194 Great Western Highway, Hazelbrook – BCH_005B) and the other is a sliver of land in Springwood which is a garden associated with a larger property that is deferred from the Blue Mountain LEP 2015 (10A Railway Parade, Springwood – BCH_005EA). Council has advised that the heritage matter of the Springwood property will be subject to a future planning proposal. Refer to **Attachment H** for a map of the two subject period housing areas [see condition 1.d)].

It is recommended that this matter be addressed in the planning proposal to provide clarity. The recommended condition will require Council to identify, by a suitable diagram(s), the two existing period housing areas that will not be included in the proposed heritage conservation areas and provide an explanatory note.

8. Supporting Heritage Inventory Areas

The proposal also includes the preparation of seventeen (17) new heritage inventory sheets for each new conservation area to support the heritage listing. In addition, the heritage inventory sheets for the three (3) existing conservation areas will be altered in accordance with the proposed amendments. Refer to **Attachment I** for the heritage inventory sheets.

Department Comment

The proposed amendments are considered to be justified as it will ensure the heritage protection provisions, under the Blue Mountains LEP 2015, are consistent with the requirements of the Standard Instrument.

Mapping

The current and proposed maps are provided in Part 4 and Appendix 3 of the planning proposal. The planning proposal will amend the following maps:

- Built Character Maps; and
- Heritage Maps.

Refer to **Attachment E** for the current and proposed maps.

Department Comment

Subject to the inclusion of the additional supporting maps – recommended before – maps proposed for exhibition purposes are considered to be suitable.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of a strategic study or report. However, the proposed amendment stems from the need to convert the existing period housing areas to heritage conservation areas to comply with the requirements of the Standard Instrument.

As a result of this requirement, Council commissioned two Heritage Assessments (**Attachment J1 and J2**) which confirmed that the existing period housing areas met the assessment criteria for conversion to heritage conservation areas. This will ensure that these heritage significant dwellings (and garden settings) and the surrounding streetscapes, will continue to be preserved and considered carefully in any future development.

It is noted that the planning proposal is the best and most appropriate means of achieving the Council's intended outcome. A proposal is the only means available to achieve the conversion of period housing areas to heritage conservation areas under the Blue Mountains LEP 2015.

STRATEGIC ASSESSMENT

Regional / District

Greater Sydney Region Plan (March 2018)

The proposal is consistent with the objectives and actions of the Greater Sydney Region Plan as it only proposes to standardise statutory provisions for existing protected heritage areas.

Western City District Plan (March 2018)

The proposal is consistent with 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 of period housing areas within the Blue Mountains LGA.

Department Comment

The Department recommends that the proposal is amended to address its consistency with the final Greater Sydney Region Plan and the final Western City District Plan instead of the draft plans [see condition 1.(a)].

Local

Blue Mountains Community Strategic Plan 2035 (June 2017)

The Blue Mountains Community Strategic Plan 2035 is the local strategic plan for the Blue Mountains LGA. The proposal is consistent with the objectives and strategies of the Plan as it seeks to protect the heritage of the unique village and town character.

Section 9.1 Ministerial Directions

The consistency of the planning proposal with the relevant Section 9.1 Directions is addressed below.

Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental and indigenous heritage significance. The proposal will introduce seventeen (17) new heritage conservation areas and amend three (3) other conservation areas, therefore this Direction applies.

The proposal is consistent with this Direction as it will convert existing statutory provisions that protect the heritage value of period housing areas to the standard heritage conservation area provision. This will standardise the heritage protection provisions in the Blue Mountains LEP 2015 and comply with the requirements of the Standard Instrument. In addition, the proposed heritage conservation areas supported by two Heritage Assessments (**Attachment J1 and J2**).

In addition, Council will consult the NSW Heritage Council of the Office of Environment and Heritage in relation to the proposed heritage conservation areas.

Direction 4.4 Planning for Bushfire Protection

This Direction aims to protect life, property and the environment from bushfire hazards. The proposal includes period housing areas identified as bushfire prone land, therefore this Direction applies.

The consistency of the proposal with this Direction cannot be determined or resolved until after consultation with the Commissioner of NSW Rural Fire Service has been undertaken.

Therefore, it is recommended that the delegate of the Secretary notes the need to further address the consistency of the proposal with this Direction.

State Environmental Planning Policies

The proposal is considered to be consistent with all State Policies as 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 requirements of the Standard Instrument.

SITE-SPECIFIC ASSESSMENT

Social

The proposal will have minimal social and economic impacts as it proposes to continue to protect period housing areas by converting the existing provisions (i.e. clause 6.18 and period housing area mapping) to the standard heritage conservation area provisions under the Blue Mountains LEP 2015.

Environmental

The proposal will not have significant environmental impacts as the subject sites contain existing dwellings and are within established urban areas.

Economic

The period housing areas are established areas and currently serviced by the necessary infrastructure and utilities.

Heritage

As noted previously, the proposal affects twenty (20) heritage conservation areas under the Blue Mountains LEP 2015 (refer to Table 1 and 2). The proposed amendment is supported by two Heritage Assessments (**Attachment J1 and J2**) and Council advises that the NSW Heritage Council will be consulted on the matter.

Department Comment

It is recommended that Council consults the NSW Heritage Council in relation to heritage impacts associated with the proposal. A determination condition is recommended.

Infrastructure

The subject sites are currently serviced by the necessary infrastructure and utilities.

CONSULTATION

Community

Council proposes to undertake a community consultation period of 28 days. A community consultation period of 28 days is considered an appropriate amount of time to gauge the response by the community.

Agencies

Council proposes to consult the NSW Heritage Council in relation to the proposed local heritage conservation areas in the Blue Mountains LGA.

Should the NSW Heritage Council require any additional information, or specify any additional matters to be addressed, the proposal is to be updated to respond to the submission, a copy of which is to be included with the updated proposal.

TIME FRAME

Council proposes a timeframe of 11-months to finalise this planning proposal. Given the nature of the proposal and the need to implement the local heritage conservation areas by February 2019, a 12-month timeframe is considered appropriate.

LOCAL PLAN-MAKING AUTHORITY

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

CONCLUSION

It is recommended that the proposal proceed with conditions given that it will convert the existing period housing area provisions to standard heritage conservation areas in accordance with the requirements of the Standard Instrument.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. Prior to community consultation, Council is to amend the planning proposal to:
 - a. address the consistency with the final Greater Sydney Region Plan and the final Western City District Plan;
 - b. identify the location of the deferred land subject to this proposal and indicate the applicable proposed heritage conservation areas;
 - c. include an explanatory note that some of the existing period housing areas are currently included in existing heritage conservation areas and these areas will not subject to this proposal;
 - d. identify the two existing period housing areas that will not be included in the proposed heritage conservation areas and explain Council's intentions;
 - e. include the following after the paragraph under the heading: Land Deferred from LEP 2015 (Amendment 1) – p. 7: Should amendment no.1 not be made prior to the finalisation of the planning proposal by Council, deferred sites will be removed from the planning proposal and amending plan.
 - f. amend reference to Amendment 2 – Proposed R6 zone;
 - g. include the necessary amendment of clauses 4.3A(4) and 7.6(11) of Blue Mountains LEP 2015;
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Office of Environment and Heritage – NSW Heritage Council; and
 - prior to community consultation, the NSW Rural Fire Service.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council not be authorised to be the local plan-making authority to make this plan.



17/05/2018

Terry Doran
Team Leader, Sydney Region West

Ann-Maree Carruthers
Director, Sydney Region West
Planning Services

Contact Officer: Chantelle Chow
Senior Planner, Sydney Region West
Phone: 9860 1548