



Enclosures

Conversion of Period Housing to
Heritage Conservation Areas
(enclosure 1)

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| <p>Meeting: 27 February, 2018</p> |
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PLANNING PROPOSAL

Blue Mountains
Local Environmental Plan 2015
(Draft Amendment 6)

Period Housing to Heritage Conservation Areas



February 2018
Prepared by Blue Mountains City Council

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PART 1 INTRODUCTION AND OBJECTIVES OF THE PLANNING PROPOSAL

Introduction

The Blue Mountains local government area contains a large number of heritage significant properties, with 893 existing heritage items and 19 existing heritage conservation areas. The identification and protection of properties with heritage significance is important to the Blue Mountains community, with statutory protection being the primary mechanism to retain the established historic character of heritage-significant buildings and the village environments.

Blue Mountains City Council has had an ongoing program of reviewing its heritage since the early 1980s and updating relevant LEPs as required. Since 2005, areas of housing stock identified as from the Victorian, Edwardian, Federation, and Inter-War periods have been considered a distinctive character area element, with protection under Council's Period Housing Area clauses in LEP 2005. The Period Housing Area clauses were part of a suite of planning protections in LEP 2005 that sought to protect local established character.

During the preparation of the Standard Instrument LEP the Blue Mountains the Council was required by the Department of Planning and Environment (the Department) to convert existing Period Housing Areas into heritage conservation areas. However, due to the extent of work required for these areas to be meaningfully reviewed and the time limit to prepare the LEP, this conversion could not occur as part of LEP 2015. Consequently, the Period Housing Area clauses were carried over into LEP 2015, with a sunset clause that required the conversion of the Period Housing areas into heritage conservation areas by 16 February 2019.

Council has now completed a pair of complementary reports, commissioned in 2014 and 2017, to assess the heritage value of the existing Period Housing Areas. The 2014 report found that the existing Period Housing Areas had high values for conversion to heritage conservation areas. The 2017 report reviewed the previously-recommended boundaries to the recommended heritage conservation areas, and carried out extensive fieldwork to assess the contributory values of properties within the proposed boundaries. The 2017 report includes draft heritage inventory sheets to support the proposed new heritage conservation areas.

As a precautionary approach and due to the February 2019 deadline on the sunset clause, this planning proposal seeks only to convert existing Period Housing lots into heritage conservation areas where values have been confirmed. Extensions to the converted heritage conservation areas, as recommended in the consultant report, do not form part of this proposal and may be progressed at a future stage.

The identification and assessment of heritage significance has been established through assessments using the criteria contained in the document titled *Assessing Heritage Significance* produced by the Heritage Division in 2001 and which is part of the NSW Heritage Manual.

This planning proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (August 2016) and *A Guide to Preparing Local Environmental Plans* (August 2016).

The Period Housing conversion is limited to the immediate need to create new heritage conservation areas before the February 2019 deadline. Council has already prepared a Heritage Review which covers changes to existing and proposed heritage items. The Heritage Review planning proposal has progressed to a gateway determination and will

shortly be put on public exhibition, prior to exhibiting this Period Housing conversion planning proposal. The two heritage-related planning proposals are running concurrently and are not expected to impact each other.

The zoning applying to the sites is not proposed to change as a result of this planning proposal.

Objective

The objective of this planning proposal is to conserve the cultural heritage of the Blue Mountains, by amending Schedule 5 *Environmental heritage* (the heritage schedule) and the relevant maps – the Built Character maps and the Heritage Conservation maps - of the Blue Mountains Local Environmental Plan 2015 (LEP 2015).

The aims of the planning proposal are:

- The retention of existing protections for 'Period Housing Areas' through conversion to heritage conservation areas;
- The recognition and clarification of heritage significance; and
- The long-term conservation of the cultural heritage of the Blue Mountains.

PART 2 EXPLANATION OF PROVISIONS

LEP 2015

LEP 2015 Schedule

The objectives of the planning proposal will be achieved by amending Schedule 5 *Environmental heritage* of LEP 2015, by adding 17 new heritage conservation areas to Part 2 *Heritage conservation areas* of the Schedule.

Listing of a heritage conservation area occurs within Part 2 of Schedule 5 of the LEP. The format is prescribed by the standards of the Department and the changes will align with the format of the current LEP 2015 schedule.

Local or state significance is identified for each heritage conservation area. All proposed new and modified heritage conservation areas are of local significance.

All heritage items and heritage conservation areas in the Blue Mountains LGA have a local identifier which is included in the column in the heritage schedule of LEP 2015 that identifies its location on the heritage map.

The following 17 new heritage conservation areas are proposed:

| Name of Heritage Conservation Area | Identification on Heritage Map | Significance |
|-------------------------------------------|------------------------------------------|---------------------|
| Blackheath Village and Setting | Shown in red hatching and marked 'BH212' | Local |
| Hat Hill Road | Shown in red hatching and marked 'BH213' | Local |
| Blackheath West | Shown in red hatching and marked 'BH214' | Local |
| Lookout Hill | Shown in red hatching and marked 'BH215' | Local |

| | | |
|--------------------------|------------------------------------------|-------|
| Katoomba South | Shown in red hatching and marked 'K168' | Local |
| Crown Village | Shown in red hatching and marked 'K169' | Local |
| Grimley Estate | Shown in red hatching and marked 'K170' | Local |
| Norths Estate | Shown in red hatching and marked 'K171' | Local |
| Leura North | Shown in red hatching and marked 'LA105' | Local |
| Leura South | Shown in red hatching and marked 'LA106' | Local |
| Village of Brasfort | Shown in red hatching and marked 'WF119' | Local |
| Westbourne Avenue | Shown in red hatching and marked 'WF120' | Local |
| Hays Nature Reserve Link | Shown in red hatching and marked 'LN084' | Local |
| Railway Parade East | Shown in red hatching and marked 'H028' | Local |
| Moorecourt Avenue | Shown in red hatching and marked 'SP071' | Local |
| Macquarie Road West | Shown in red hatching and marked 'SP072' | Local |
| Glenbrook | Shown in red hatching and marked 'G061' | Local |

Two existing heritage conservation areas are proposed to be modified, by amending the name of the heritage conservation area. The name change is indicated below by underline text.

| Name of Heritage Conservation Area | Identification on Heritage Map | Significance |
|------------------------------------|------------------------------------------|--------------|
| Macquarie Road <u>East</u> | Shown in red hatching and marked 'SP056' | Local |
| Railway Parade <u>West</u> | Shown in red hatching and marked 'H008' | Local |

LEP 2015 mapping

The Built Character maps will be amended by the deletion of all Period Housing mapping (shaded in brown fill on the Built Character map). The Heritage Conservation maps will be amended by the addition of red hatching and red boundary polygons to the proposed new heritage conservation areas. Preliminary mapping has been prepared and is attached to this planning proposal (Attachment 3).

Two existing heritage conservation areas are proposed to be modified, by amending the mapping extents for the conservation area.

| Name of Heritage Conservation Area | Identification on Heritage Map | Significance |
|-------------------------------------------|------------------------------------------|---------------------|
| Central Mount Victoria | Shown in red hatching and marked 'MV023' | Local |
| Macquarie Road <u>East</u> | Shown in red hatching and marked 'SP056' | Local |

These changes are indicated on the preliminary mapping attached to this planning proposal (Attachment 3).

Road reserves

Road reserves may be included in heritage conservation areas depending upon the streetscape values. Various road reserves have been identified as significant streetscapes that contribute to the character of the proposed heritage conservation areas and are intended to be included in the conservation areas.

These road reserves have generally been included within the heritage conservation areas in this planning proposal. However, some road reserves are adjacent deferred land (zoned Living – Conservation and subject to the planning proposal currently with the DPE - Amendment 2 to LEP 2015). These road reserves will not be included in the current mapping boundaries of this planning proposal but are indicated for information as intended to form part of the future inclusion of the deferred land once Amendment 2 is resolved.

Supporting heritage inventory sheets

All proposed new heritage conservation areas included in the planning proposal have a draft heritage inventory sheet to support the heritage listing. Existing heritage inventory sheets for existing heritage conservation areas will be updated in line with proposed changes.

The information and assessment in the heritage inventory sheets has been carried out by a qualified heritage consultant with extensive experience in the heritage of the local area. The consultant carried out the preliminary study in 2014 which identified statements of significance for the proposed new HCAs, and the same consultant prepared full draft heritage inventory sheets based on the preliminary information gathered for the 2014 report, and finalised as part of the 2017 report following extensive field work.

The information and assessment in the heritage inventory sheets has been subject to peer review from Council's heritage specialist.

Heritage inventory sheets have been prepared for all 17 proposed new heritage conservation areas, (detailed in the table above) to be added to the Schedule (Attachment 4).

Three existing heritage conservation areas are proposed to be modified, by amending the heritage inventory sheets for the conservation area (Attachment 4). Although heritage inventory sheet changes are non-statutory, being information updates only, it is considered important to include these changes in the planning proposal and exhibition. These two heritage conservation areas also have minor statutory changes proposed to name and/or mapping.

| Name of Heritage Conservation Area | Identification on Heritage Map | Significance |
|-------------------------------------------|------------------------------------------|---------------------|
| Central Mount Victoria | Shown in red hatching and marked 'MV023' | Local |

| | |
|---------------------|--------------------------------------------------|
| Railway Parade West | Shown in red hatching and marked Local 'H008' |
| Macquarie Road East | Shown in red hatching and marked Local SP056' |

Sites deferred from LEP 2015

A large number of lots affected by the proposed conversion of existing Period Housing Areas to heritage conservation areas are currently deferred from LEP 2015. The approach proposed to manage the inclusion of these items is outlined below.

Land deferred from LEP 2015 (Amendment 1)

Certain lands which form part of this planning proposal are deferred from LEP 2015 until Amendment 1 to LEP 2015 is made. This means these lands continue to be regulated by LEP 2005, including Period Housing provisions in that instrument. Proposed Amendment 1 to LEP 2015 seeks to integrate these lands into LEP 2015. This amendment has been exhibited and at the time of writing is with the DPE for final review. It is anticipated that Amendment 1 will be finalised prior to this planning proposal, and that these affected lots under Amendment 1 will be reintegrated into LEP 2015. Thus those lots included in Amendment 1 which are also subject to this planning proposal have been included.

Land deferred from LEP 2015 (Amendment 2 - proposed R6 zone)

Land zoned Living – Conservation under LEP 2005 and proposed to be zoned R6 – Residential Character Conservation were deferred from LEP 2015. This means these lands continue to be regulated by LEP 2005, including Period Housing provisions in that instrument. Proposed Amendment 2 to LEP 2015 seeks to integrate these lands into LEP 2015, and the affected lots are intended to be part of the proposed new heritage conservation areas at that time. However, given that Amendment 2 has not proceeded to Gateway Determination, these properties do not form part of this planning proposal.

It is anticipated that when Amendment 2 to LEP 2015 is progressed, the conversion of these properties from Period Housing to heritage conservation areas will form part of the exhibition and resolution of that Amendment.

PART 3 JUSTIFICATION

Section A - Need for the planning proposal

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

Yes. The Department directed Blue Mountains City Council to convert existing Period Housing Areas to heritage conservation areas in 2012 as part of the translation of LEP 2005 into the Standard Instrument format. As a result of this requirement Council commissioned a preliminary study, the 'Review of Period Housing Areas in the Blue Mountains' by Paul Davies Heritage Architects dated January 2014. This study confirmed broadly that the existing Period Housing Areas met the assessment criteria for conversion.

However, the finalisation of the conversion of the Period Housing Areas was delayed due to timing constraints associated with the preparation of the new LEP. Strategic heritage work continued in parallel to the finalisation of the new LEP 2015, resulting in the Heritage Review (draft Amendment 5), which deals with heritage item changes, and this current planning proposal, draft Amendment 6 of LEP 2015, dealing with prioritised heritage conservation area changes.

In 2017 a more detailed study was carried out, building on and consolidating the work of the earlier report. The objective of this study was to clarify the 2014 recommended boundaries to the proposed new heritage conservation areas, and to carry out detailed contributory mapping of each affected lot. This second report was carried out by the same consultant to ensure efficiency and consistency of assessment, and involved intensive fieldwork to record values and ensure accuracy of recommendations.

The assessments and methodologies of the two reports are based on the heritage industry standards for assessment of heritage conservation areas (under the relevant state heritage assessment criteria), and current heritage best practice (which includes the identification and mapping of individual contributions). The research included comparison of existing conditions with the 1943 SIX map aerials where available, and identified the subdivision patterns of early estates.

Summary background – Period Housing Areas

Period Housing Areas are a form of protected area that evolved during the preparation of LEP 2005. The final LEP was supported by extensive background studies, commissioned to support a sophisticated suite of planning controls. These included new zonings unique to the Blue Mountains, protected areas (including Period Housing), town centre precinct controls and other detailed environmental provisions appropriate for the values of the LGA.

Character was the subject of a number of studies, including the Residential Character Studies of 2000 and 2002. Six residential character types were identified in the 2002 Residential Character Study: Bushland Dominant Areas; Visually Prominent Areas; Garden Setting; Dominant Landscape Setting; Visually Significant Streetscapes and Areas of Older Housing.

Areas of Older Housing were characterised as 'residential areas that are dominated by housing that pre-dates 1946'. Identified risks included demolition and unsympathetic infill. These areas were then recommended to become Period Housing Areas, part of a suite of protected areas, which were all environmentally-based (such as Slope, Vegetation Constraint, Ecological Buffer, Escarpment Area) with the exception of the Period Housing Areas.

Other character elements were given protection via zoning controls to ensure control of inappropriate redevelopment such as unsympathetic uses, subdivision and dwellings with large site coverage. The Living-Conservation zone was created to manage properties with an identified character of Garden Setting and Dominant Landscape Setting. The Living-Conservation zoning and the Period Housing Area protections ensured that historic built form, streetscape values, and landscape and garden settings were given due protection through the suite of controls.

The conversion of Period Housing Areas to heritage conservation areas will continue to ensure that heritage-significant areas, including dwellings, their garden settings and the established and mature streetscapes, continue to be preserved and considered carefully in any future development.

The studies of 2014 and 2017 have confirmed the heritage values of the proposed new heritage conservation areas, in terms of the standard assessment criteria of the state government, including their integrity and intactness. The draft heritage inventory sheets demonstrate the assessment and satisfaction of the various heritage criteria for each area.

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

The planning proposal is the best means of achieving the objectives. The existing Period Housing protections will become obsolete after 16 February 2019 due to the sunset clause built into Clause 6.18(7) of LEP 2015. The planning proposal seeks statutory protection in the form of heritage conservation areas to replace the Period Housing Area controls.

This strategic heritage planning is consistent with the broader objective of LEP 2015, to conserve the environmental heritage of the Blue Mountains. Reviewing and updating Council's heritage schedule in accordance with new information is the accepted method for protection of sites of heritage significance.

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)?*

Yes. The planning proposal is consistent with the objectives and actions of the relevant regional and sub–regional strategies.

A Plan for Growing Sydney, December 2014

A Plan for Growing Sydney is the relevant regional strategy. Heritage is an aspect considered under Goal 3 Direction 3.4, "To promote Sydney's heritage, arts and culture".

Local environmental plans are identified as the principal legal instrument to deliver the subregional plan, including the protection of local heritage. This planning proposal is consistent with the delivery framework for the regional plan.

Under Goal 3 Direction 3.4 Action 3.4.4, the Plan identifies the ongoing need for "heritage studies (to) identify buildings and places to be listed as heritage items or heritage conservation areas in a Local Environmental Plan to enable their ongoing protection and management". [p.93] This planning proposal is consistent with this Action.

Draft Greater Sydney Region Plan, October 2017

The Draft Greater Sydney Region Plan has objectives under Part 4 Liveability for the conservation and enhancement of environmental heritage. One of the ten directions for the Plan is 'A city of great places' and includes Objective 13, which seeks to ensure that "Environmental heritage is conserved and enhanced".

The planning proposal is consistent with Objective 13 of the Plan, as it seeks to ensure that the heritage-significant environments of Blue Mountains villages are protected and their character preserved. This is consistent with the Liveability directions, to make 'a city of great places' and 'a city for people'.

The planning proposal is part of the "heritage identification, management and interpretation ... so that heritage places can be experienced by current and future generations". [GSRP p.64]

Draft Western City District Plan, October 2017

The Draft Western City District Plan identifies at the outset the importance of the "World Heritage-listed landscapes, with a sprinkling of towns and centres that combine village charm and heritage character". [DWCDP p.3]

Part 3 Liveability of the Plan identifies planning priority W6, "Creating and renewing great places and local centres and respecting the District's heritage".

The planning proposal contributes to the identification of strong village character and heritage significance, with the intention of providing ongoing statutory protection for these areas. This protection will assist in preservation of heritage values, and allow for sympathetic change within the new HCAs.

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

Blue Mountains Community Strategic Plan 2035, June 2017

The Blue Mountains Community Strategic Plan 2035 is the local strategic plan. The values identified include heritage, with an outcome of "improving conservation and recognition of other cultural heritage assets in natural landscapes" ('other' refers to cultural heritage beyond the World Heritage Area and Aboriginal cultural heritage, that is the European built and landscape cultural heritage) [p.29].

The conservation of cultural heritage is identified within key direction "Live – a liveable city", which seeks to ensure that "places of natural, cultural and historical significance are retained and enhanced by the active use of appropriate conservation methods" [p.44-45].

'Live' Objective 4.3 includes Strategy 4.3.d, "to preserve, maintain and enhance the City's unique character, and its built, natural and cultural heritage and local history". This is accompanied by a Council response requirement to complete the Heritage Inventory Review for the Local Environment Plan. This planning proposal is consistent with the strategic heritage work of updating Council's Local Environmental Plan to ensure adequate protections for items and areas identified as of heritage significance.

Cultural heritage conservation is also identified as a key direction within 'Thrive – an economically sustainable city', which identifies the "heritage character within the Blue Mountains towns, villages, built and natural landscapes", and seeks to ensure that opportunities provided by the heritage character of the Blue Mountains towns are realised.

'Thrive' Objective 6.2 seeks to create for the Blue Mountains "a strong identity that builds on the natural and built heritage".

The planning proposal is consistent with the objectives and strategies of the Community Strategic Plan 2035 as it seeks to protect the heritage of the unique village and town character.

Blue Mountains Local Environmental Plan 2015

The planning proposal is consistent with the following aims of LEP 2015:

- (e) *to conserve and enhance, for current and future generations, the ecological integrity, environmental heritage and environmental significance of the Blue Mountains,*
- (f) *to identify and conserve the distinct Aboriginal and European cultural heritage of the built forms and landscapes of the Blue Mountains,*
- (j) *to identify and retain the diverse built and landscape elements that contribute to the character and image of the Blue Mountains,*

The planning proposal is consistent with these objectives as the updating of Schedule 5 of LEP 2015 will contribute to the conservation of the cultural heritage of recognised heritage places.

The planning proposal represents a conversion, or translation, of an 'additional local provision' under LEP 2015 to the standard protections available via the standard instrument format. There is no change in policy intent. In this way, the planning proposal is consistent with existing land use policy.

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

An analysis of the application and consistency of Amendment 6 to LEP 2015 with all State Environmental Planning Policies (SEPPs) has been undertaken below.

Note:

- ¹ **Not Relevant:** This provision or planning instrument does not apply to land within proposed Amendment 6 to LEP 2015
- ² **Consistent:** This provision or planning instrument applies to proposed Amendment 6 to LEP 2015 and meets the relevant requirements and is in accordance with the provision or planning instrument.
- ³ **Justifiably Inconsistent:** This provision or planning instrument applies, and is considered to be locally inappropriate.

| State Environmental Planning Policies in force | | NOT RELEVANT¹ | CONSISTENT² | JUSTIFIABLY INCONSISTENT³ |
|-------------------------------------------------------|-------------------------------------------------------------------|---------------------------------|-------------------------------|---------------------------------------------|
| SEPP 1 | Development Standards | ✓ | | |
| SEPP 14 | Coastal Wetlands | ✓ | | |
| SEPP 19 | Bushland in Urban Areas | ✓ | | |
| SEPP 21 | Caravan Parks | ✓ | | |
| SEPP 26 | Littoral Rainforests | ✓ | | |
| SEPP 30 | Intensive Agriculture | ✓ | | |
| SEPP 33 | Hazardous and Offensive Development | ✓ | | |
| SEPP 36 | Manufactured Home Estates | ✓ | | |
| 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 | | ✓ | |

| State Environmental Planning Policies in force | | NOT RELEVANT ¹ | CONSISTENT ² | JUSTIFIABLY INCONSISTENT ³ |
|------------------------------------------------|------------------------------------------------------------------------------------|---------------------------|-------------------------|---------------------------------------|
| SEPP 62 | Sustainable Aquaculture | ✓ | | |
| SEPP 64 | Advertising and Signage | ✓ | | |
| SEPP 65 | Design Quality of Residential Apartment Development | ✓ | | |
| 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 | (Mining, Petroleum Production and Extractive Industries) 2007 | ✓ | | |
| SEPP | (Miscellaneous Consent Provisions) 2007 | ✓ | | |
| SEPP | (Penrith Lakes Scheme) 1989 | ✓ | | |
| SEPP | (Rural Lands) 2008 | ✓ | | |
| SEPP | (State and Regional Development) 2011 | ✓ | | |
| SEPP | (State Significant Precincts) 2005 | ✓ | | |
| SEPP | (Sydney Drinking Water Catchment) 2011 | | ✓ | |
| SEPP | (Sydney Region Growth Centres) 2006 | ✓ | | |
| SEPP | (Three Ports) 2013 | ✓ | | |
| SEPP | (Urban Renewal) 2010 | ✓ | | |
| SEPP | (Western Sydney Employment Area) 2009 | ✓ | | |
| SEPP | (Western Sydney Parklands) 2009 | ✓ | | |
| SEPP | Sydney Regional Environmental Plan No. 20 Hawkesbury – Nepean River (No. 2 – 1997) | | ✓ | |
| SEPP | (Vegetation in Non-Rural Areas) 2017 | ✓ | | |
| DSEPP 66 | Integration of Land Use and Transport | ✓ | | |
| DSEPP | (Application of Development Standards) 2004 | ✓ | | |
| DSEPP | Draft State Environmental Planning Policy (Competition) 2010 | ✓ | | |
| DSEPP | Draft Education and Child Care | ✓ | | |
| DSEPP | Draft Infrastructure | ✓ | | |
| DSEPP | Advertising & Signage | ✓ | | |
| DSEPP | Coastal | ✓ | | |
| DSEPP | Amendment to Koala Habitat Protection | ✓ | | |
| DSEPP | Environment | ✓ | | |

This planning proposal is generally consistent with all relevant SEPPs. However, where a SEPP has been noted in the table above as either 'consistent' or 'justifiably inconsistent' a further explanation has been provided below detailing how the SEPP has been addressed.

SEPP 55 Remediation of Land

Objective

This SEPP aims to provide a state wide planning approach to the remediation of contaminated land by reducing risk of harm to human health and to the environment and requires that a planning authority considered whether the land is contaminated, and if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and if the land

requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used.

Response

The planning proposal is consistent with this SEPP as it does not seek to change the permissible land uses on the sites subject to this amendment.

SEPP Affordable Rental Housing 2009

Objective

This SEPP seeks to provide a consistent planning regime for the provision of affordable rental housing and is applicable to specified development for dual occupancies, multi dwelling housing or residential flat buildings, where permissible under the LEP.

Response

The planning proposal is not inconsistent with the aims of the SEPP. The designation of heritage status to properties within new heritage conservation areas reinstates protections under SEPP Affordable Rental Housing 2009 that were in place before the 16 February 2016 when LEP 2005 was in force.

Period Housing Areas had 'Protected Area' status under LEP 2005 thus restricting some forms of development otherwise available under SEPP Affordable Rental Housing 2009. When LEP 2015 came into force on 16 February 2016, the 'Protected Area' status was removed. This was a function of the limitations of the Standard Instrument format rather than a change in policy intent.

Reinstating the restrictions on development undertaken under the SEPP Affordable Rental Housing 2009 is appropriate, is consistent with policy intent and is consistent with the assessed heritage values of the new heritage conservation areas.

SEPP Exempt and Complying Development Codes 2008

Objective

This SEPP streamlines assessment processes for development that complies with specified development standards. The policy provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate.

Response

The planning proposal is not inconsistent with the aims of the SEPP. The designation of heritage status to properties within new heritage conservation areas reinstates protections under SEPP Exempt and Complying Development Codes 2008 that were in place before the 16 February 2016 when LEP 2005 was in force.

Period Housing Areas had 'Protected Area' status under LEP 2005 thus restricting some forms of development otherwise available under SEPP Exempt and Complying Development Codes 2008. When LEP 2015 came into force on 16 February 2016, the 'Protected Area' status was removed. This was a function of the limitations of the Standard Instrument format rather than a change in policy intent.

Reinstating the restrictions on development undertaken under the SEPP Exempt and Complying Development Codes 2008 is appropriate, is consistent with policy intent and is consistent with the assessed heritage values of the new heritage conservation areas.

SEPP (Housing for Seniors or People with a Disability) 2004

Objective

This policy seeks to encourage the development of high quality accommodation for an ageing population and for people who have disabilities.

Response

The planning proposal is consistent with the aims of this policy.

SEPP Infrastructure 2007

Objective

This policy seeks to provide a state wide planning approach to the management of land for various State Agencies and local authorities for uses that are seen as regular and maintenance related.

Response

The planning proposal is not inconsistent with the aims of the SEPP. The designation of heritage status to properties within new heritage conservation areas reinstates protections under SEPP Infrastructure 2007 that were in place before the 16 February 2016 when LEP 2005 was in force.

Period Housing Areas had 'Protected Area' status under LEP 2005 thus restricting some forms of development otherwise available under SEPP Infrastructure 2007. When LEP 2015 came into force on 16 February 2016, the 'Protected Area' status was removed. This was a function of the limitations of the Standard Instrument format rather than a change in policy intent.

Reinstating the restrictions on development undertaken under the SEPP Infrastructure 2007 is appropriate, is consistent with policy intent and is consistent with the assessed heritage values of the new heritage conservation areas.

SEPP Sydney Drinking Water Catchment 2011

Objective

The aims of this SEPP are to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal. The Policy provides that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality. The Policy also aims to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.

Response

The planning proposal does not seek to change the zoning or permissible land uses on the sites subject to this amendment. The planning proposal is consistent with the aims of this policy.

SEPP Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River

Objective

This SEPP integrates planning with catchment management to protect the river system. The impact of future land use is to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture, and urban and rural residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney Region (15 local government areas – including the Blue Mountains), except for land covered by Sydney REP No. 11 – Penrith Lakes Scheme.

Response

The planning proposal is consistent with the aims of the policy and will have no adverse impacts on the Hawkesbury-Nepean River.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)

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

Note:

- ¹ **Not Relevant:** This provision or planning instrument does not apply to land within proposed Draft Amendment 6 to DLEP 2015
- ² **Consistent:** This provision or planning instrument applies; Draft Amendment 6 to DLEP 2015 meets the relevant requirements and is in accordance with the provision or planning instrument.
- ³ **Justifiably Inconsistent:** This provision or planning instrument applies, and is considered to be locally inappropriate.

| 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 | | ✓ | | |
| 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs | | ✓ | | |
| 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 | | ✓ | | |

| Directions under Section 117(2) | | NOT RELEVANT 1 | CONSISTENT 2 | JUSTIFIABLY INCONSISTENT 3 |
|-----------------------------------------------------------------------------------------------------------------------|--|-----------------------|---------------------|-----------------------------------|
| 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 | | | ✓ | |
| 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 Revoked | | ✓ | | |
| 5.6 Revoked | | ✓ | | |
| 5.7 Revoked | | ✓ | | |
| 5.8 Second Sydney Airport: Badgerys Creek | | ✓ | | |
| 5.9 North West Rail Link Corridor Strategy | | ✓ | | |
| 5.10 Implementation of Regional Plans | | | ✓ | |
| 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 | | | ✓ | |
| 7.2 Implementation of Greater Macarthur Land Release Investigation | | ✓ | | |
| 7.3 Parramatta Road Corridor Urban Transformation Strategy | | ✓ | | |
| 7.4 Implementation of North West Priority Growth Area land Use and Infrastructure Implementation Plan | | ✓ | | |
| 7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | | ✓ | | |
| 7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | | ✓ | | |

This planning proposal is consistent with all relevant Section 117(2) Ministerial Directions and comment on the relevant Directions is provided in the table below:

| Direction under S117 | Objectives | Consistency |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1. <u>Employment and Resources</u> 1 July 2009 (Except for new Direction 1.2 effective 14 April 2016 and 1.1 effective 1 May 2017) This planning proposal is consistent with the directions in this category as no zones are proposed to be changed and no changes to land uses are proposed. | | |
| 2. <u>Environment and Heritage</u> 1 July 2009 (Except for new Direction 1.2 effective 14 April 2016 and 1.1 effective 1 May 2017) | | |
| 2.1 Environmental Protection Zones | The objective is to protect and conserve environmentally sensitive areas. | Consistent. The planning proposal is consistent with this direction as it relates to the application or amendment of heritage |

| | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | protections for the identified areas only and will not change any other provision applicable to that land. |
| 2.3 Heritage Conservation | The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance | Consistent. The planning proposal is consistent with this direction and it will result in the creation of new heritage conservation areas that have been assessed to satisfy the NSW Heritage Council's criteria for heritage significance. |
| 3. <u>Housing, Infrastructure and Urban Development</u> 1 July 2009 (Except for new Direction 3.6 effective 16 February 2011, Direction 3.1, 3.2, 3.4 and 3.5 effective 14 April 2016) | | |
| 3.1 Residential Zones | The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands. | Consistent. The planning proposal applies to items and places that comply with the NSW Heritage Council's criteria and it does not change other provisions applicable to that land. |
| 3.3 Home Occupations | The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses. | Consistent. This planning proposal does not preclude the carrying out of a home occupation |
| 4. <u>Hazard and Risk</u> 1 July 2009 (Except for new Direction 3.6 effective 16 February 2011, Direction 3.1, 3.2, 3.4 and 3.5 effective 14 April 2016) | | |
| 4.4 Planning for Bushfire Protection | 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 | Consistent. The planning proposal is consistent with this direction as it relates to the application and amendment of heritage protections for the identified areas only and will not change any other provision applicable to that land. |

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | prone areas. | |
| 5. Regional Planning 1 July 2009 (Except for new Direction 5.2 effective 3 March 2011, Direction 5.9 effective 30 September 2013, Direction 5.4 effective 21 August 2015, Direction 5.8 and 5.10 effective 14 April 2016, Direction 5.1 and 5.3 effective 1 May 2017) | | |
| 5.2 Sydney Drinking Water Catchment | The objective of this Direction is to protect water quality in the Sydney drinking water catchment | Consistent. The planning proposal is consistent with this direction as it relates to the application and amendment of heritage protections for the identified areas only and will not change any other provision applicable to that land. |
| 6. Local Planning 1 July 2009 | | |
| 6.1 Approval and Referral Requirements | The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. | Consistent. The planning proposal will not result in additional requirements for referral, consultation or concurrence of a development application to a Minister or public authority in addition to those already required by the by the <i>Heritage Act 1977</i> or the Office of Environment and Heritage. |
| 7. Metropolitan Planning 14 January 2015 (Except for Direction 7.2 effective 22 September 2015) 19 December 2016 15 May 2017 | | |
| 7.1 Implementation of a Plan for Growing Sydney | 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. | Consistent. The planning proposal will not adversely affect the directions and actions outlined in the strategy to achieve the four goals relating to economy, housing, environment and community. |
| | | |

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?

The planning proposal will not impact any critical habitat, threatened species, populations or ecological communities, or their habitats as a result of any change to the heritage listings. The level of protection afforded to critical habitat, threatened species populations or ecological communities will be maintained as a result of this amendment.

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

There are no environmental effects envisaged as a result of the inclusion or amendment of the identified heritage conservation areas in Schedule 5 in LEP 2015.

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

This planning proposal has positive social effects in accurately recognising and protecting areas of local cultural heritage significance for the benefit of the community.

The planning proposal is not expected to result in adverse economic effects. A review of numerous studies undertaken around Australia and the world looking at the effect of heritage listing on the value of houses has found the impact to be negligible. Other factors such as proximity to schools and public transport and household attributes such as number of bedrooms and parking spaces have been shown to the greater influence on price than heritage listing.

Section D - State and Commonwealth Interests

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

The planning proposal relates to the inclusion and amendment of the identified items in Schedule 5 of LEP 2015. The proposal is not expected to generate additional demand for public infrastructure or services.

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

Council will consult with the Office of Environment and Heritage and the NSW Heritage Division as part of the public exhibition process.

Public service authorities, including, but not limited to, will be notified as follows:

- Sydney Water
- Water NSW
- National Parks and Wildlife Service
- RailCorp
- Sydney Trains
- Crown lands
- Department of Education
- Department of Health
- Any other agency that owns or manages land included in this planning proposal.

The planning proposal is in draft stage; this section will be completed following further consultation with the public authorities identified in the Gateway Determination.

PART 4 MAPPING

This planning proposal will require amendment to many of the 38 map tiles for the Built Character and Heritage Conservation maps that cover the Blue Mountains LGA.

Mapping will be prepared in accordance with the Standard Technical Requirements for LEP maps, Version 2.0, dated August 2017 produced by the Department of Planning and Environment. The finalised maps will be submitted to the Department at the conclusion of the consultation.

The planning proposal does not seek to alter the zoning, height of buildings, floor space ratio, natural resources or any other LEP 2015 maps.

As noted in Part 3, the mapping includes the deletion of mapping related to the existing Period Housing areas from the Built Character maps, and the inclusion of new heritage conservation areas mapping on the Heritage Conservation maps. A preliminary map set has been provided that indicates the extent of the proposed conversion – from existing Period Housing Area to proposed new heritage conservation area.

Where land is deferred under Amendment 2 to LEP 2015 (the proposed R6 zone), that land will continue to be zoned as Living – Conservation and protected as Period Housing under LEP 2005 until such time as Amendment 2 to LEP 2015 is progressed. When Amendment 2 is progressed, it is anticipated that land with Period Housing protections under LEP 2005 will be translated and become additions to the new heritage conservation areas proposed by this planning proposal.

Maps prepared for the purposes of public exhibition have been provided with this planning proposal. The maps are of benefit to the public in terms of providing clear information on a single map. They include:

- Existing Period Housing under LEP 2015
- Proposed heritage conservation areas under LEP 2015.

The mapping changes are included in the planning proposal (Attachment 3).

PART 5 COMMUNITY CONSULTATION

The recent Heritage Review carried out by Blue Mountains City Council (Amendment 5 to LEP 2015) engaged the community in a two-stage consultation process with targeted engagement with specific property owners. In the case of this planning proposal, a two-stage consultation process is not considered necessary, as the intent of the initiative is the conversion, or translation, of existing protections into a new instrument rather than a substantive change in policy. Further, the requirement of the Department via the sunset clause within Clause 6.18 (7) of LEP 2015, to make the conversion of Period Housing Areas to heritage conservation areas, is clear and subject to critical time constraints.

Public exhibition is envisaged to be a broad consultation process. Advertisements will be placed in the local paper at the commencement of and during the community consultation.

Hard copies of the information relating to the proposal will be available for viewing at the Blackheath, Katoomba, Wentworth Falls, Lawson, Springwood and Blaxland Libraries and at the Katoomba and Springwood Council offices. The information will be placed on Council's Have Your Say website. Council will send notification letters and information to affected property owners. Council will also notify in writing key local organisations with an interest in local heritage.

Public consultation will be carried out for a minimum of 28 days; however Council may elect to carry out consultation for a longer period, to ensure full engagement with community and an extended time to receive submissions.

The Gateway Determination will confirm minimum community consultation requirements and specify any additional consultations of the planning proposal.

PART 6 PROJECT TIMELINE

The planning proposal includes a significant number of properties and Council anticipates an ongoing high level of community interest. The timeframes are also highly constrained.

| Plan-making step | Estimated completion |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| February 2018 | Planning proposal reported to the Council |
| March – April 2018 | Gateway panel reviews draft Amendment 6 to LEP 2015 |
| April 2018 | Gateway determination issued |
| May 2018 | Amend planning proposal as per Gateway Determination (if required) State Agency consultation |
| June – August 2018 | Community consultation (length to be confirmed) |
| September – October 2018 | Council reviews submissions to draft Amendment 5 to LEP 2015 |
| November 2018 | Report presented to the Council to consider the result of the community consultation including any changes made. |
| November 2018 | Post-Exhibition planning proposal and relevant supporting information is forwarded to the Department for final review. |
| December 2018 – January 2019 | The Minister considers the final draft of draft Amendment 5 to LEP 2015 and determines if the proposal can be made. The draft Amendment is returned to the Council. |
| January – February 2019 | - Council considers the final draft of the Amendment Final draft of the Amendment is returned to the Department requesting that the Minister make the plan. |
| February 2019 | Plan is notified. |

PART 7 ATTACHMENTS

| | Attachment |
|-------------------------------------------------------------------------|------------|
| Council business paper and minutes 27 February 2018 | 1 |
| Draft planning proposal document | 2 |
| Proposed mapping – preliminary map set of LEP changes | 3 |
| Supporting draft heritage inventory sheets for HCAs: | 4 |
| <i>Central Mount Victoria Village (MV023) [modify existing HCA]</i> | |
| <i>Blackheath Village and its setting HCA, Blackheath (BH212)</i> | |
| <i>Hat Hill Road HCA, Blackheath (BH213)</i> | |
| <i>Blackheath West HCA, Blackheath (BH214)</i> | |
| <i>Lookout Hill HCA, Blackheath (BH215)</i> | |
| <i>Katoomba South HCA, Katoomba (K168)</i> | |
| <i>Crown Village HCA, Katoomba (K169)</i> | |
| <i>Grimley Estate HCA, Katoomba (K170)</i> | |
| <i>Norths Estate HCA, Katoomba (K171)</i> | |
| <i>Leura North HCA, Leura (LA105)</i> | |
| <i>Leura South HCA, Leura (LA106)</i> | |
| <i>Village of Brasfort HCA, Wentworth Falls (WF119)</i> | |
| <i>Westbourne Avenue HCA, Wentworth Falls (WF120)</i> | |
| <i>Hays Nature Reserve Link HCA, Lawson (LN083)</i> | |
| <i>Railway Parade West HCA, Hazelbrook (H008) [modify existing HCA]</i> | |
| <i>Railway Parade East HCA, Hazelbrook (H028)</i> | |
| <i>Macquarie Road East, Springwood (SP056) [modify existing HCA]</i> | |
| <i>Moorecourt Avenue HCA, Springwood (SP071)</i> | |
| <i>Macquarie Road West HCA, Springwood (SP072)</i> | |
| <i>Glenbrook HCA, Glenbrook (G061)</i> | |
| Supporting studies: | |
| Period Housing Report 2014 | 5 |
| Period Housing Report 2017 | 6 |