

DE21.71 Post Exhibition and Finalisation - Planning Proposal - Berry Heritage (PP056)

HPERM Ref: D21/241446

Department: Strategic Planning

Approver: Robert Domm, Director - City Futures

Attachments: 1. PP056 Submission Summary

Reason for Report

Present the public exhibition outcomes and enable the finalisation of Planning Proposal (PP056) – Berry Heritage, which seeks to amend Schedule 5 Environmental Heritage of Shoalhaven Local Environmental Plan (LEP) 2014.

Recommendation (Item to be determined under delegated authority)

That Council:

1. Adopt Shoalhaven LEP 2014 – Berry Heritage Planning Proposal (PP056) as exhibited, and using Council's delegation, forward to the NSW Parliamentary Counsel's Office to draft the amendment to Shoalhaven LEP 2014.
2. Advise key stakeholders, including those who made a submission, of this decision and when the Amendment will be made effective.

Options

1. Adopt the recommendation.

Implications: This is the preferred option as it will enable the Planning Proposal (PP) to be finalised to ensure the proposed twelve (12) heritage items and two (2) Heritage Conservation Areas (HCAs) are appropriately protected.

2. Adopt an alternative recommendation.

Implications: This will depend on the extent of any changes and could delay the finalisation of the PP. Depending on the nature of these changes, this option could have implications for proposed items and HCA's of heritage significance within Berry.

3. Not adopt the recommendation.

Implications: This is not the preferred option as not implementing appropriate heritage protection for individual items and HCA s within Berry could result in adverse impacts on the heritage and character of Berry through unsympathetic development.

Background

The origins of this PP go back to the feedback received during the preparation of the current Shoalhaven LEP2014. During the preparation of the LEP representations were received regarding the establishment of a Heritage Conservation Area (HCA) over the township of Berry. There were subsequent community representations raising concern that unsympathetic development was eroding the unique heritage character of Berry.

In 2017 Council considered a report that presented two options for consideration:

- Option 1: Additional Heritage Listings (as per MIN17.481)
- Option 2: Urban Conservation Area (as per MIN12.494)

Council resolved to pursue Option 1 and the required heritage review of the town commenced as a result. This thorough review identified that two HCAs and a number of properties possessed heritage significance and were worthy of listing in the LEP.

On 1 September 2020, Council resolved (MIN20.611) to support the preparation of a PP and submit to the NSW Development of Planning, Industry & Environment (DPIE) for a Gateway determination. There was a level of early property owner and community engagement that informed this resolution.

The Berry Heritage PP seeks to amend Schedule 5 Environmental Heritage of the LEP to list the proposed Queen Street and Berry Showground HCAs and the following twelve (12) additional dwellings as heritage items:

- 27 Albany Street – Inter-War Federation Weatherboard Cottage
- 29 Albany Street – Inter-War Californian Bungalow
- 46 Albert Street – Federation Weatherboard Cottage
- 36 Prince Alfred Street – Federation Weatherboard Cottage
- 64 Princess Street – Federation Weatherboard Cottage
- 71 Princess Street – Federation Weatherboard Cottage
- 51 Queen Street – Federation Weatherboard Cottage
- 54 Queen Street – Federation Weatherboard Cottage
- 44 Victoria Street – Federation Weatherboard Cottage
- 63 Victoria Street – Inter-War Weatherboard Cottage
- 69 Victoria Street – Federation Weatherboard Cottage
- 75-77 Victoria Street – Inter-War Californian Bungalow

The PP received a favourable Gateway determination from DPIE on 22 March 2021. The determination granted delegated authority to Council for the PP, which means that Council can liaise directly with the NSW Parliamentary Counsel's Office to prepare and finalise the resulting LEP amendment.

Government Agency Feedback

Heritage NSW were consulted prior to the public exhibition in accordance with the conditions of the Gateway determination. They raised no objections to the proposal, noting that three (3) heritage items on the State Heritage Register are located within the proposed HCAs. The inclusion of State Heritage Register listed items within the proposed HCAs is supported as it will potentially improve protections on the local setting and facilitate future development that responds to the context of these heritage items.

Community Engagement

In accordance with the Gateway determination, and Council resolution (MIN20.611), the PP was recently publicly exhibited for a minimum of 28 days, from 19 May to 18 June 2021 (inclusive) on Council's website and DPIE's Planning Portal. Key stakeholders including affected landowners and relevant community groups were notified in writing.

The exhibition material remains available on [Council's website](#) and includes the following:

- Planning Proposal (PP056)
- Explanatory Statement
- Gateway determination
- Public Exhibition Notification

As a result of the exhibition twenty-eight (28) formal submissions were received including:

- Twenty-five (25) individual submissions in support of the proposed amendments to Schedule 5.
- One (1) individual submission, not from the landowner, raising concerns relating to 64 Princess Street.
- One (1) submission from the Berry and District Historical Society in support of the proposal.
- One (1) submission from Endeavour Energy advising they do not have any objections to the PP.

A number of submissions were received from members of the Berry Forum detailing support for the Berry Heritage PP (PP056) as part of submissions for the Huntingdale Park Large Lot Residential Precinct, Berry PP (PP060). Submissions received after the close of the exhibition period have not been formally considered, however it is noted all these submissions were in support of the proposed amendments.

Attachment 1 provides a summary of the submissions received and comments from Council staff. Copies of the actual submissions can be made available to Councillors on request prior to the meeting if required. Table 1, below, provides a summary of the key submission themes and comment from Council staff.

Table 1: Summary of key themes raised during the exhibition period and staff comments

Summary of Issue	Staff Comment
<u>In support of the listing of 12 dwellings and two HCAs in Schedule 5 of Shoalhaven LEP 2014.</u> Twenty-two (22) submissions were received in support of the proposed amendments.	<i>Support acknowledged.</i>
<u>Support from landowners.</u> Four (4) submissions were received from landowners expressing further support for the listing of their properties: <ul style="list-style-type: none"> • 51 Queen Street • 46 Albert Street • 27 Albany Street • 44 Victoria Street 	<i>Support acknowledged.</i>
<u>Concern raised in regard to unsympathetic development.</u> Nine (9) submissions were received requesting that Council ensure future development in Berry considers the existing heritage values of the town.	<i>Concern noted. The PP is intended to assist in this regard.</i> <i>No change is required or recommended as a result of these submissions.</i>
<u>Pursue the listing of items of heritage significance where the landowners objected to the listing during preliminary consultation.</u> Three (3) submissions were received requesting that Council pursue the listing of items where the owners objected to the possible listing during preliminary	<i>Council resolved to not pursue the heritage listing of a number of dwellings with potential heritage significance where the landowner objected to the listing in the initial consultation phase. The Council has consistently maintained this general principle in other similar investigations.</i>

<p>consultation.</p>	<p><i>Council can in the future consider heritage listing the 15 dwellings in question if they change ownership and the new owners support listing. If in the future the landowners express interest in heritage listing, the inclusion of the items in the Shoalhaven LEP 2014 will be considered in future housekeeping amendments.</i></p> <p><i>No change is currently required or recommended as a result of these submissions.</i></p>
<p><u>Request for the boundary of the proposed HCAs to be extended.</u></p> <p>Two (2) submissions were received requesting that the boundary of the proposed Showground HCA to be extended to encompass structures on Alexandra Street.</p>	<p><i>The supporting heritage data sheet details that residential properties along Alexandra Street have been excluded from the Showground HCA as the majority make no contribution to the heritage significance of the HCA. The structures are still considered 'in the vicinity of' a heritage listed item and/or HCA and will have to consider any impact of future development on the heritage significance.</i></p> <p><i>No change is required or recommended as a result of these submissions.</i></p>
<p><u>Request Council to investigate the addition of further HCAs to protect Berry's heritage streetscape.</u></p> <p>Eight (8) submissions were received in support of an additional HCA.</p>	<p><i>This is beyond the scope of the current PP and would delay its finalisation. Council may however wish to investigate the addition of further HCA's within Berry in the future as part of the annual setting of its Strategic Planning Works Program.</i></p> <p><i>No change is currently required or recommended as a result of these submissions.</i></p>
<p><u>Request Council prioritise a revised DCP for Berry.</u></p> <p>Nine (9) submissions indicated interest in Council prioritising a revised Shoalhaven Development Control Plan (DCP) 2014 chapter for Berry, similar to Milton's, that aligns with the Illawarra-Shoalhaven Regional Plan and integrates local character into planning documents.</p>	<p><i>This is beyond the scope of the current PP and would delay its finalisation.</i></p> <p><i>There is currently no specific overall DCP Chapter applying to Berry as a whole. Existing chapters do apply to parts of the town, e.g. Chapter N2: Berry Town Centre.</i></p> <p><i>It is noted that the preparation of the Milton DCP Chapter involved the engagement of specialist consultants, detailed community engagement and required a dedicated budget from Council.</i></p> <p><i>Council may however wish to consider undertaking a review of Shoalhaven DCP 2014 to create a specific chapter applying to the whole town in the future as part of the annual setting of its Strategic Planning Works Program.</i></p>

	<i>No change is currently required or recommended as a result of these submissions.</i>
<u>64 Princess Street, Berry</u> One (1) submission raised concern that the dwelling at 64 Princess Street is a new build.	<i>Dwelling additions were approved by Council in 2006, although the works maintained the integrity of the façade.</i> <i>No change is required or recommended as a result of this submission.</i>

Conclusion

No changes are recommended to PP as a result of state agency consultation or the public exhibition period. The PP can now be finalised and the resulting LEP amendment proceed to finalisation.

Policy Implications

The PP is considered to be consistent with the Illawarra-Shoalhaven Regional Plan, Shoalhaven Local Strategic Planning Statement, Shoalhaven 2040 and the Berry Community Strategic Plan.

Eight (8) submissions requested additional listings and a specific DCP Chapter for the whole town (similar to Milton) to consider local character. This can be considered in the future when the Council identifies its priorities for inclusion on the Strategic Planning Works Program.

Financial Implications

There are no immediate financial implications for Council. The PP will continue to be resourced from the Strategic Planning budget.

Risk Implications

Not including the twelve (12) dwellings and the two (2) HCAs within Schedule 5 of Shoalhaven LEP 2014 may result in unsympathetic development which could impact on the items or areas in question and broader heritage significance and character of Berry.