

IRF22/2586

Gateway Determination report – PP-2022-2399

Heritage Housekeeping – To correct or clarify heritage listings in Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015 and associated heritage maps

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Att A - Planning Proposal (revised August 2022)

Att A1 - Planning Proposal – Table of Amendments

Att A2 - Planning Proposal – St Lucy's Conservation Management Plan

Att A3 - Ordinary Council Meeting Minutes – 28 June 2022

Planning Proposal

1.1 Overview

Table 2 Planning Proposal details

LGA	LGA name		
PPA	Ku-ring-gai Council		
NAME	Heritage Housekeeping		
NUMBER	PP-2022-2399		
LEP TO BE AMENDED	Ku-ring-gai Local Environmental Plan 2015		
ADDRESS	Various sites across the Ku-ring-gai LGA		
RECEIVED	18/07/2022		
FILE NO.	IRF22/2586		
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		

1.2 Objectives of Planning Proposal

The Planning Proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the Planning Proposal is to improve the operation and accuracy of the Ku-ring-gai Local Environmental Plan (KLEP) 2015 by correcting errors found in Schedule 5 and the associated Heritage maps. The proposed amendments will ensure that Ku-ring-gai's heritage items and conservation areas are correctly identified and protected in the Local Environmental Plan (LEP).

These changes will provide appropriate protection of Ku-ring-gai's heritage places and will contribute to the ongoing conservation of Ku-ring-gai's valued landscape and garden suburbs. Correct and accurate identification of heritage items can also facilitate clarity of appropriate development choices in relation to heritage items and in the vicinity of heritage items.

The zoning and existing development standards applying to these sites are not proposed to change as a result of this Planning Proposal.

The objectives of this Planning Proposal are clear and adequate.

1.3 Explanation of provisions

The Planning Proposal seeks to amend the KLEP 2015 by correcting errors found in Schedule 5 and the associated Heritage maps. The Planning Proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

The proposed amendments to Schedule 5 of the KLEP and associated heritage maps are outlined in section 1.3.1 and 1.3.2 below. A detailed table of the proposed amendments is outlined in Attachment A1 and a detailed table of the associated heritage mapping amendments are outlined in section 1.5 of this report.

1.3.1 Heritage items

The Planning Proposal seeks to make minor text amendments to Schedule 5 of the KLEP 2015 that are based on the existing merit assessment of heritage significance from prior listings. The amendments generally fall into the following categories:

- Amendment of Lot and DP numbers to reflect current legal descriptions
- Updates to property addresses and listed suburbs
- Updates of heritage item names where historically or logically appropriate
- Consolidation or division of listings for clarity
- Updates to reflect state listings
- Appointment of new heritage item numbers in place of duplicate item numbers
- Correction of administrative errors
- Correction of the Schedule to ensure all mapped items are listed
- Removal or adjustment of heritage listings as a result of approved and completed demolition and redevelopment to exclude contemporary features of no assessed heritage significance
- Removal or adjustment of heritage listings in cases where administrative errors have occurred

The Planning Proposal seeks to amend the associated heritage maps. The mapping amendments are minor in nature, and based on the existing merit assessment of heritage significance from prior listing, and generally fall into the following categories:

- Consolidation or division of listings for clarity
- Updates to reflect state listing
- Appointment of new heritage item numbers in place of duplicate item numbers
- Adjustment of mapped extent due to road widening
- Removal or adjustment of heritage listings as a result of road widening
- Removal or adjustment of heritage curtilage as a result of approved and completed demolition and redevelopment to exclude contemporary features of no assessed heritage significance

One merit-based amendment is proposed for 21 Cleveland Street, Wahroonga, to reduce the curtilage to reflect the significance of the item based on the supported Conservation Management Plan. The Conservation Management Plan provides adequate justification for reducing the curtilage to reflect the heritage significance of the site (Attachment A2).

1.3.2 Heritage conservation areas

The Planning Proposal seeks to amalgamate a number of heritage conservation areas to reflect the consolidation of the former KLEP 2012 (Local Centres) with the current KLEP 2015. There are no proposed changes to the boundaries of the heritage conservation areas. The table below

outlines the proposed amalgamation of heritage conservation areas formerly separated across Kuring-gai's two LEPs.

Table 3 Proposed amalgamation of heritage conservation areas

Amendment number	Existing heritage conservation area/s	Proposed amendment
82.	Clanville Conservation Area C32B and Clanville Conservation Area C32C	Amalgamation of conservation areas to form Clanville Conservation Area C32. No changes to mapped listing extent.
83	Gordondale Estate Conservation Area C12B	Amalgamation of conservation areas to form Gordondale Estate Conservation Area C12. No changes to mapped listing extent.
84	Ku-ring-gai Avenue Conservation Area C6A and Ku-ring-gai Avenue Conservation Area C6B	Amalgamation of conservation areas to form Ku-ring-gai Avenue Conservation Area C6. No changes to mapped listing extent.
85	Lindfield West Conservation Area C30A	Amalgamation of conservation areas to form Lindfield West Conservation Area C30. No changes to mapped listing extent.
86	Orinoco Street Conservation Area C10A and Orinoco Street Conservation Area C10B	Amalgamation of conservation areas to form Orinoco Street Conservation Area C10. No changes to mapped listing extent.
87	Pymble Heights Conservation Area C8A and Pymble Heights Conservation Area C8B	Amalgamation of conservation areas to form Pymble Heights Conservation Area C8. No changes to mapped listing extent.
88 Smith Grant Conservation Area C19B		Amalgamation of conservation areas to form Smith Grant Conservation Area C19. No changes to mapped listing extent.
89	St Johns Avenue Conservation Area C16A and St Johns Avenue Conservation Area C16B	Amalgamation of conservation areas to form St Johns Avenue Conservation Area C16. No changes to mapped listing extent.
90	Stanhope Road Conservation Area C25A and Stanhope Road Conservation Area C25B	Amalgamation of conservation areas to form Stanhope Road Conservation Area C25. No changes to mapped listing extent.

1.4 Site description and surrounding area

The Planning Proposal applies to various sites identified as containing heritage items within the Ku-ring-gai local government area (LGA). A complete listing of sites impacted by the Planning Proposal is contained in Attachment A1. Figure 1 (below) The map depicts the heritage listings impacted by the Planning Proposal.

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Figure 1: Heritage listings impacted by the Planning Proposal (Source: KRG Heritage Housekeeping Planning Proposal)

The Planning Proposal indicates that the proposed amendments impact a number of Council and State government owned sites (Table 4). The Department of Planning and Environment (Department) has reviewed these sites, as well as the corresponding amendments, and determined that as the amendments are administrative and minor in nature, no conflict would exist in Council being authorised as the local plan-making authority for this proposal. A condition to the above effect is recommended in the Gateway Determination.

Additionally, the Department has included a condition in the Gateway Determination requiring consultation with the public authorities and government agencies mentioned in table 4, under section 3.34(2) (d) of the Environmental Planning & Assessments Act (EP&A) Act.

Table 4: Council and State government owned sites

Council owned	State owned	
Site 1 - Seven Little Australian Park - Tryon Road, East Killara (Council)	Site 1 - Seven Little Australian Park - Tryon Road, East Killara (Council, Department of Planning and Environment and Crown)	
Site 2 - 62A Tryon Road, East Lindfield (Council and Crown)	Site 2 - 62A Tryon Road, East Lindfield (Council and Crown)	
Site 10 - 799 Pacific Highway, Gordon (Ku-ring-gai Council)	Site 6 - 25 Henry Street, Gordon (TfNSW)	
Site 43 - Roseville Park including the Firs Estate Cottage - Clanville Road, Roseville (Council)	Site 20 - 100 Eton Road, Lindfield (Minister for Education)	
Site 50 - Echo Point Park - Babbage Road, Roseville Chase (Council)	Site 37 - 2C Telegraph Road, Pymble (Sydney Water)	
Site 70 - 1536 Pacific Highway, Wahroonga (Council)	Site 59 - 69 Clissold Road, Wahroonga (Minister for Heritage)	
	Site 74 - 1676 Pacific Highway, Wahroonga (Sydney Water)	
	Site 77 - 1 Warwilla Avenue, Wahroonga (TfNSW)	

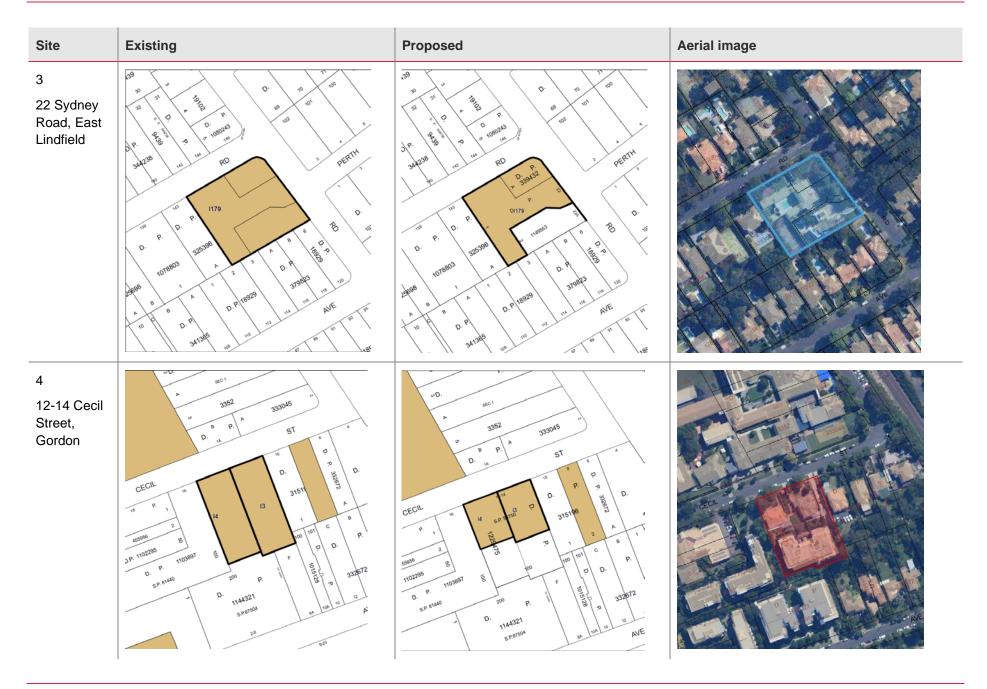
1.5 Mapping

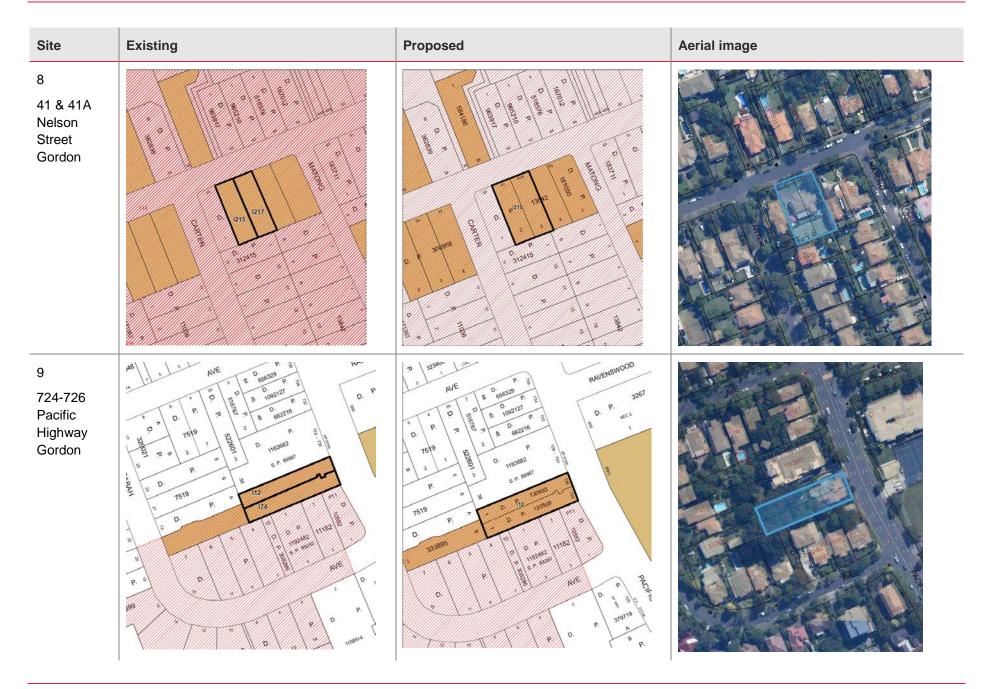
The Planning Proposal includes mapping showing the proposed changes to the Heritage maps of the KLEP 2015, which are suitable for community consultation:

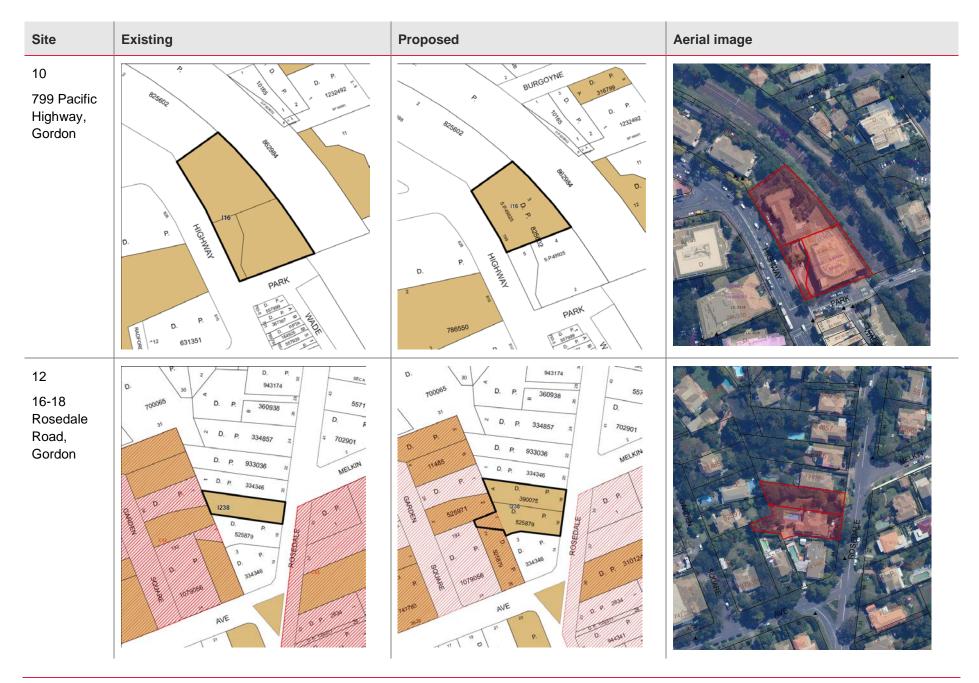
- HER_001 HER_008 HER_019
- HER_002 HER_014 HER_020
- HER_006
 HER_015

Table 5: Proposed mapping amendments

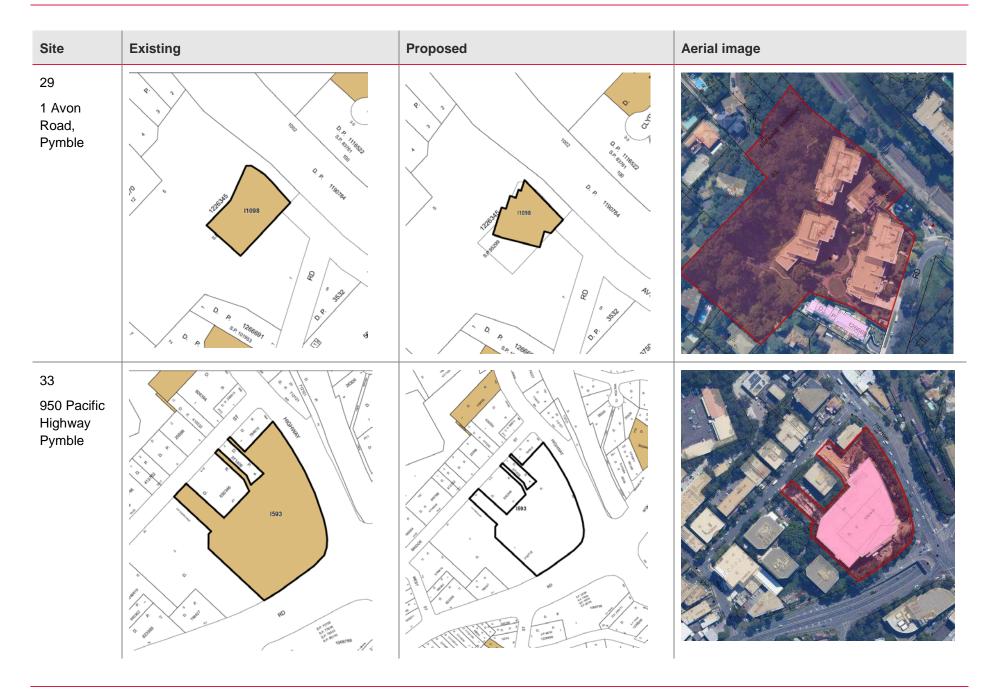


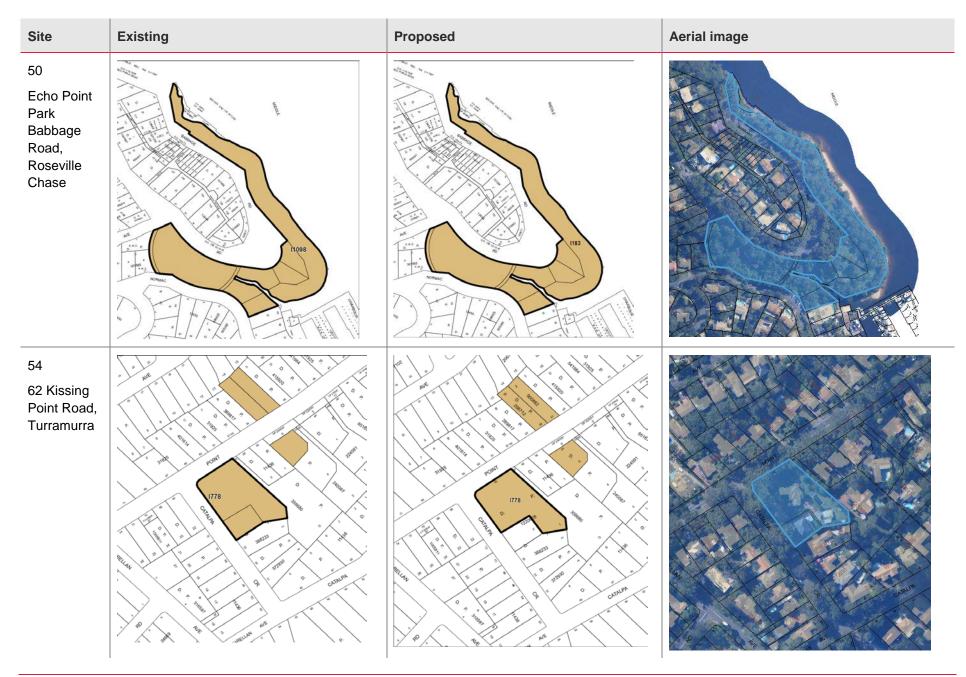


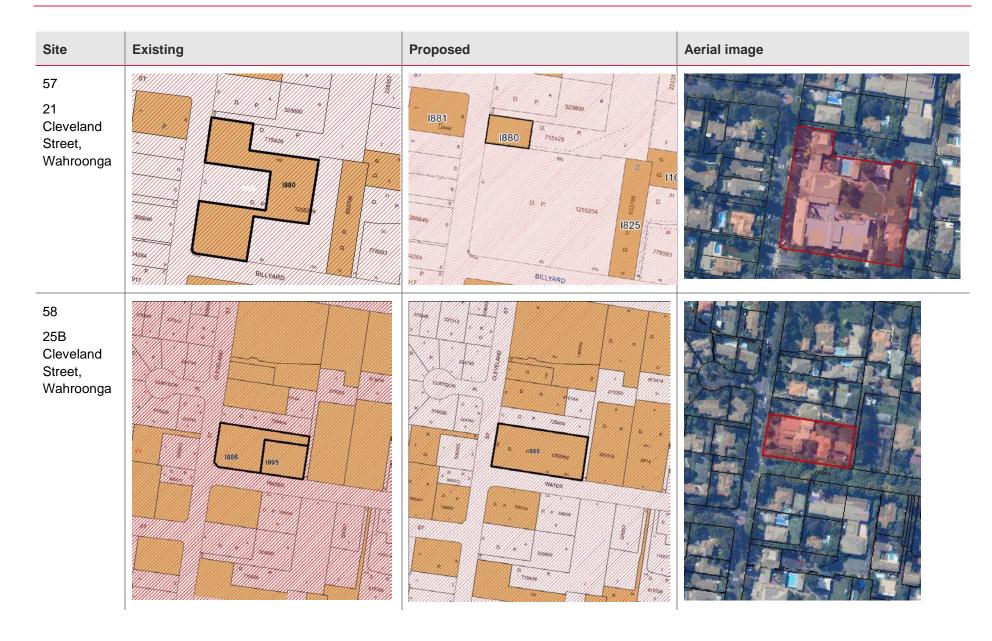


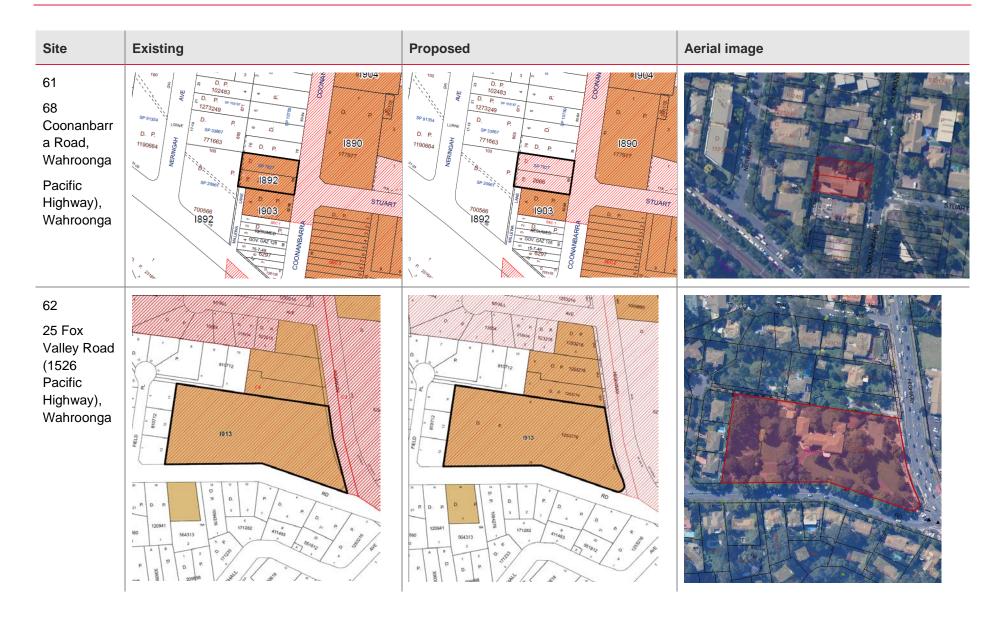


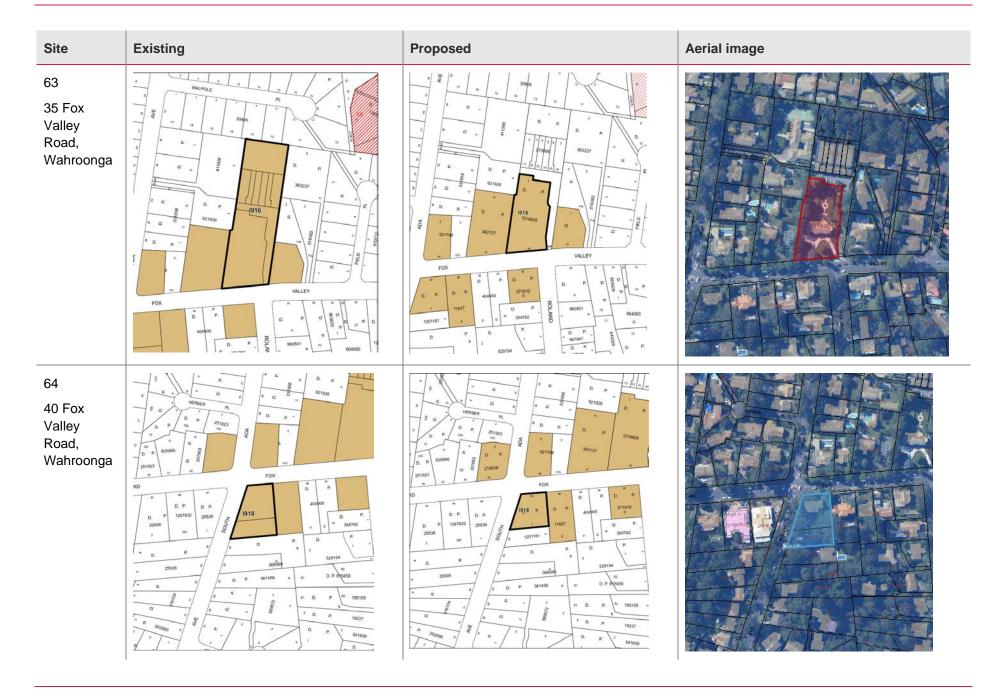


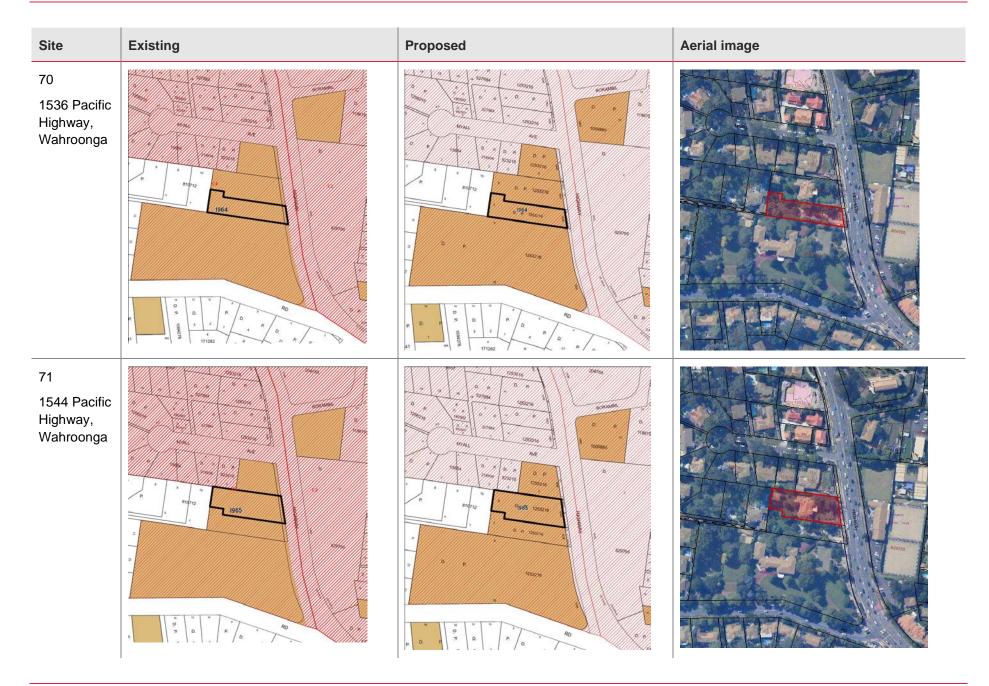


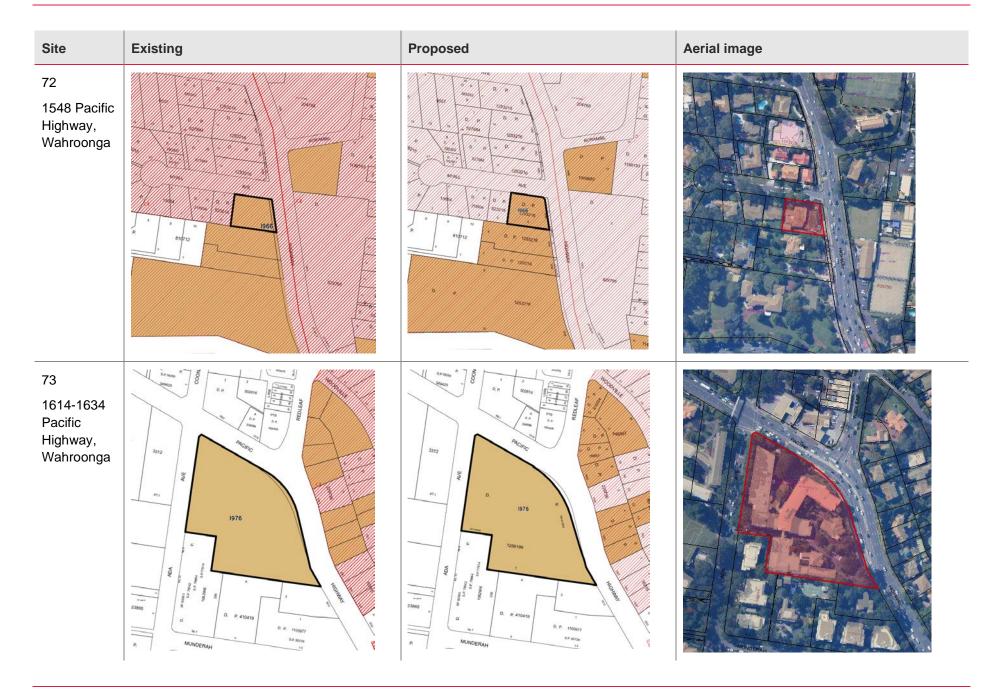


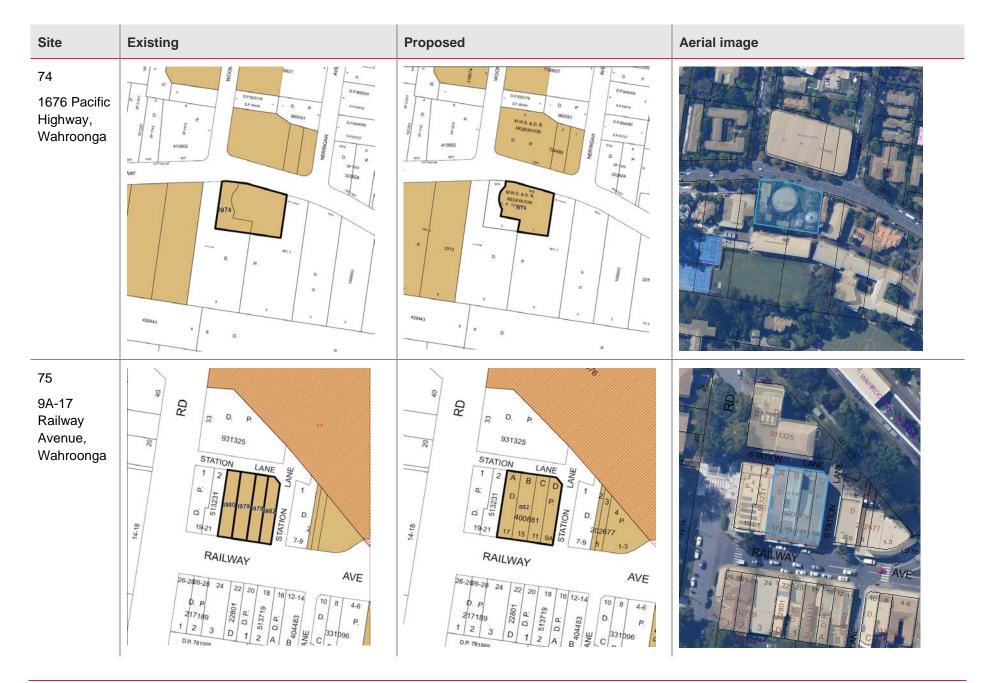














1.6 Background

As part of this Planning Proposal, a review of the Schedule 5 heritage list and its related maps was undertaken by Council to identify any inaccuracies or errors.

The review identified:

- 81 sites of heritage significance that require amendments in the LEP Schedule 5,
- 27 heritage mapping changes that are required, and
- 15 existing heritage conservation areas require a name change and amalgamation into 9 heritage conservation areas to reflect the consolidation of the former KLEP 2012 (Local Centres) with the current KLEP 2015.

The review involved:

- A desktop review of the information included in Schedule 5, such as checking the property information for each heritage item is correct.
- A review of individual properties where a change is required in response to an issued development consent, for example where land containing a heritage item has been subdivided and built upon and a curtilage needs to be amended.
- A comparison of Schedule 5 against the State Heritage Register

With the exception of 21 Cleveland Street, Wahroonga - this housekeeping Planning Proposal has been limited to administrative corrections where no independent studies are considered necessary to inform the changes. No new heritage items are proposed as part of these amendments.

The proposed amendment for 21 Cleveland Street, Wahroonga (St Lucy's School) is the sole amendment based on merit in terms of assessed heritage significance because of prior landowner engagement and submitted supporting justification.

A Pre-Planning Proposal meeting was held on 28 May 2020, in which the owners of the site proposed an amendment to the KLEP 2015 to amend the extent of the heritage listing to reflect the current heritage significance of the site. Council recommended a preparing a Conservation Management Plan to assess the significance of the site, to inform the proposed curtilage adjustment and ongoing conservation of significant features.

In 2021, Council advised St Lucy's School of the intention to prepare a heritage housekeeping Planning Proposal, with an offer to include the school's proposal as part of the Council-led Planning Proposal, should sufficient information in the form of a Conservation Management Plan be provided to the satisfaction of Council's heritage specialist. A Conservation Management Plan was reviewed and supported by Council's heritage specialist and incorporated as a proposed amendment in the Planning Proposal. The Conservation Management Plan for St Lucy's School is included as Attachment A2.

This Planning Proposal was considered by Council at its meeting of 28 June 2022 (Attachment A3). Council resolved that the Planning Proposal be submitted to the Department of Planning and Environment (Department) for a Gateway Determination.

2 Need for the Planning Proposal

The majority of the amendments do not derive from a specific strategic study or report.

The Planning Proposal has been prepared to address a number of errors and inaccuracies in Schedule 5 – Environmental Heritage and the associated heritage maps have been identified throughout the operation of the KLEP 2015.

The proposed amendment for 21 Cleveland Street, Wahroonga (St Lucy's School) is based on the assessed heritage significance merit, justified by a Conservation Management Plan, reviewed and

supported by Council's heritage specialist. The Conservation Management Plan for St Lucy's School is included as Attachment A2.

A Planning Proposal is the best and only means of achieving the intended outcome. Although the Planning Proposal is administrative in nature, the proposal seeks to improve the identification of heritage in the Ku-ring-gai LGA by correcting minor errors and mapping anomalies that have arisen throughout the application of the KLEP 2015.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the Planning Proposal against relevant aspects of the Greater Sydney Region Plan.

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification		
Objective 13: Environmental heritage is identified, conserved and enhanced.	The proposed amendments provide appropriate protection of Ku-ring-gai's heritage places and will contribute to the ongoing conservation of Ku-ring-gai's valued landscape and garden suburbs. Correct and accurate identification of heritage items can also facilitate clarity of appropriate development choices in relation to heritage items and in the vicinity of heritage items.		

3.2 District Plan

The sites are within the North District and the Greater Sydney Commission released the North District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The Planning Proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the Planning Proposal gives to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the Planning Proposal against relevant directions and actions.

Table 6 District Plan assessment

District Plan Priorities	Justification		
Planning Priority N6. Creating and renewing great places and local centres and respecting the District's heritage	Although the Planning Proposal is administrative in nature, the proposal seeks to improve the identification of heritage in the Ku-ring-gai LGA by correcting minor errors and mapping anomalies that have arisen throughout the application of the KLEP 2015.		

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. The proposal states that is also consistent with the strategic direction and objectives, as stated in the table below:

Table 7 Local strategic planning assessment

Local Strategies	Justification		
Local Strategic Planning Statement	The Planning Proposal gives effect to a number of Ku-ring-gai Local Planning Priorities identified within the LSPS, including:		
	 K12. Managing change and growth in a way that conserves and enhances Ku-ring-gai's unique visual and landscape character 		
	K13. Identifying and conserving Ku-ring-gai's environmental heritage		
Ku-ring-gai Community Strategic Plan 2038	 P1.1 Ku-ring-gai's unique visual character and identity is maintained P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai P5.1 Ku-ring-gai's heritage is protected, promoted and responsibly managed. 		
Ku-ring-gai Heritage Strategy	 The Planning Proposal gives effect to a number of priorities, including: Review existing and identify new heritage items and HCAs; Conservation of significant 20th century development; and Continue to identify and correct heritage anomalies. 		

3.4 Section 9.1 Ministerial Directions

The Planning Proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation zones	Yes	The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.
		The Planning Proposal will not affect the conservation standards of any environmentally sensitive land.
3.2 Heritage Conservation	Yes	The direction seeks to ensure the conservation of items, areas, objects and places of environmental heritage significance. It requires proposals to contain provisions that facilitate heritage conservation.
		The proposal is considered to give effect to the direction as it seeks to improve the application of heritage provisions within the Ku-ring-gai LGA.

6.1 Residential Zones	Yes	The direction applies as the proposal relates to land that is zoned for residential purposes.
		The proposed provisions will not contradict or hinder the application of the direction. The proposal simply seeks to correctly identify existing heritage items within the Ku-ring-gai LGA.
7.1 Business and Industrial Zones	Yes	The Planning Proposal does not seek to rezone business or industrial land or reduce permissible floor space in these zones.

3.5 State environmental planning policies (SEPPs)

The Planning Proposal is of an administrative nature and is consistent with all relevant SEPPs as discussed in the table below.

Table 9 Assessment of Planning Proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021	This SEPP contains provisions in respect to vegetation that is or forms part of a heritage item or that is within a heritage conservation area.	Yes	The heritage listing of properties may alter whether development under the SEPP may be carried out on that site. However, this Planning Proposal does not contravene this SEPP and it is therefore considered to be consistent with the SEPPs application.
SEPP (Housing) 2021	This SEPP contains provisions that aim to deliver more affordable and diverse forms of housing.	Yes	This Planning Proposal simply seeks to correctly identify existing heritage items within the Ku-ring-gai LGA and will therefore not impact the application of this SEPP.
SEPP Exempt and Complying Development Codes 2008	This SEPP aims to provide streamlined assessment processes for development that complies with specified development standards	Yes	This Planning Proposal may impact whether development under the Codes SEPP can be carried out on heritage listed properties. However, as the Planning Proposal simply seeks to correctly identify existing heritage items within the Ku-ring-gai LGA, the application of the SEPP will not be impacted.

4 Site-specific assessment

4.1 Environmental

The Planning Proposal is administrative in nature and is not anticipated to have any adverse impacts on critical habitat areas, threatened species, populations or ecological communities or their habitats.

4.2 Social and economic

The Planning Proposal is not anticipated to result in any adverse social or economic impacts as the proposal of a minor administrative nature.

The Planning Proposal may provide for some positive social impacts through improving the accuracy of heritage identification to ensure better protection of items of heritage significance throughout the Ku-ring-gai LGA.

4.3 Infrastructure

The provision or funding of state infrastructure is not considered relevant to this Planning Proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 10 working days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway Determination.

5.2 Agencies

Council has nominated the Heritage NSW and the Department of Premier and Cabinet to be notified about the Planning Proposal.

As the Planning Proposal contains sites that are owned by Council and the Crown, it is considered appropriate that those public authorities and government agencies be notified about the Planning Proposal and be given an opportunity to comment.

It is recommended that the following public authorities and government agencies by consulted with under section 3.34(2) (d) of the Environmental Planning & Assessments Act (EP&A) Act:

- Heritage NSW
- NSW Crown Lands
- Transport for NSW
- Sydney Water
- · Department of Education

It is recommended each public authority and government agency be provided with a copy of the Planning Proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit the proposal by specified milestone dates.

A condition to the above effect is recommended in the Gateway Determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making Authority (LPMA).

In making a recommendation on the LPMA, the Department has considered that the Planning Proposal contains a number of sites that are owned by Council and the Crown. Following review of these sites and the minor nature of the proposed amendments, it is considered that there would be no conflict in Council acting as the LPMA.

As the Planning Proposal is considered to be largely administrative and minor in nature the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The Planning Proposal is supported to proceed with conditions for the following reasons:

- Improves the accuracy and transparency of the KLEP 2015 by correcting a series of historical errors and anomalies.
- Ensures the protection of heritage items through correct identification.
- Seeks to amend/remove the identification of heritage items from Schedule 5 Environmental Heritage that no longer exist.

9 Recommendation

It is recommended that the delegate of the Minister determine that the Planning Proposal should proceed subject to the following conditions:

- 1. Prior to community consultation, the table in Part 4 of the Planning Proposal is to be updated to identify the map sheet proposed to be amended for each site.
- 2. The Planning Proposal must be exhibited 2 months from the date of the Gateway Determination.
- 3. The Planning Proposal should be made available for community consultation for a minimum of 10 days.
- 4. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the EP&A Act:
 - Heritage NSW
 - NSW Crown Lands
 - Transport for NSW
 - Sydney Water
 - Department of Education

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal

- 5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
- 6. The LEP should be completed on or before 12 May 2023

David Haselshie

11 August 2022

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