



IRF NUMBER 24/2328

Gateway determination report – PP-2024-1754

Federal heritage conservation

September 24



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Gateway determination report – PP-2024-1754

Subtitle: Federal heritage conservation

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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
Planning proposal for gateway determination (Gateway Version #1 dated August 2024)
Report to council (planning) meeting and resolution dated 17 June 2024
Preliminary Heritage Assessment of Federal Village - Proposed Heritage Conservation Area and Additional Heritage Listings prepared by Jenna Reed Burns dated April 2023
Draft State Heritage Inventory Forms for potential individual heritage items and the Heritage Conservation Area
Byron Shire Heritage Strategy 2020-2024
Federal Village Masterplan 2022-2042

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Byron Shire
PPA	Byron Shire Council
NAME	Introduce a heritage conservation area and include additional local heritage items at Federal
NUMBER	PP-2024-1754
LEP TO BE AMENDED	Byron Local Environmental Plan 2014
ADDRESS	Various sites at Federal
DESCRIPTION	Various sites
RECEIVED	16/09/2024
FILE NO.	IRF24/2328
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 objectives of the planning proposal are to:

- introduce a heritage conservation area for the village of Federal; and
- to protect and conserve twelve items of local heritage significance at Federal to ensure future development is sympathetic and recognises the heritage values of these items.

There is currently a Heritage Character Area for part of the Federal Village in Chapter E of the Byron Shire DCP 2014 to ensure that development is consistent with and will enhance the low intensity, rural heritage character and scale of Federal. The proposed heritage conservation area is slightly larger than the DCP character area and now includes the recreational area and a few additional properties along Federal Drive to the north and south.

The LEP heritage provisions provides assessment requirements to protect and conserve the heritage significance of individual items as well as properties within a conservation area. Council also has the discretion of requiring a heritage impact assessment to accompany future development applications.

1.3 Explanation of provisions

The planning proposal seeks to amend the Byron LEP 2014 to:


- insert twelve local heritage items into Part 1 of Schedule 5;
- introduce a heritage conservation area into Part 2 of Schedule 5; and
- identify the heritage items and conservation area on the Heritage Map.



The proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. It is, however, recommended that Council include the following additional information in the planning proposal:



- an additional column in Table 1 - Part 2 Explanation of Provisions to clarify that the proposed heritage items are of local significance; and
- the heritage inventory sheets with statements of significance for each of the proposed items, as assessed against the NSW Heritage criteria for local listings, are included in an appendix.



Conditions have been included in the Gateway determination to require these updates be undertaken prior to agency and community consultation.

Table 3 Proposed new 12 local heritage items


BLEP Item ID	Item Name	Street Address
I204	The Tin Shed Former Engineering Workshop 	441 Federal Drive, Federal


BLEP Item ID	Item Name	Street Address
I205	General Store and Post Office including grove of Palm Trees 	447 Federal Drive, Federal
I206	Dairy Bails 	2 Coachwood Court, Federal

BLEP Item ID	Item Name	Street Address
I207	Former Butcher Shop 	429 Federal Drive, Federal
I208	Dwelling (Former Risley's house) 	477 Federal Drive, Federal

BLEP Item ID	Item Name	Street Address
I209	Dwelling 'Beechgrove' (Former Bates' House/Landholding) 	711 Federal Drive, Federal
I210	Former School Residence and Pony Paddock 	898 Binna Burra Road, Federal

BLEP Item ID	Item Name	Street Address
I211	Dwelling (W.F.Keys Farm) 	911 Binna Burra Road, Federal
I212	Dwelling (Former Shackel's House) 	366 Federal Drive, Federal

BLEP Item ID	Item Name	Street Address
I213	Dwelling Brookbank (Former Davis's House) 	4 Macadamia Lane, Federal
I214	Coolamon Tree 	46 Callistemon Drive, Federal

BLEP Item ID	Item Name	Street Address
I215	Dry Stone Walls 	Bougainvillea Drive, Callistemon Drive and Lizray Rd.

1.4 Site description and surrounding area

Federal is located in the Northern Rivers areas of New South Wales. Byron Bay is 16km due east, Lismore is 29km to the south-west, and north-west of the village is the Whian Whian State Conservation Area and Nightcap National Park. The village is accessed by four major roads that link it to nearby villages and larger towns. A locality plan is provided as **Figure 1**.

This planning proposal relates to various parcels of land in Federal as outlined in section 1.3 of this report and in the planning proposal. The proposed heritage conservation area covers the historic village core.

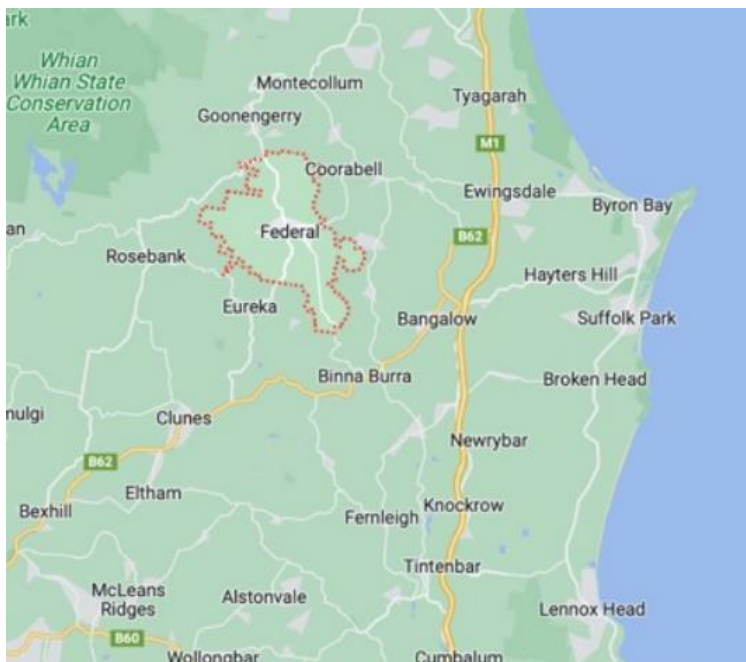


Figure 1 Federal Locality Map (Source Google Maps)

1.5 Mapping

The planning proposal identifies the proposed changes to the heritage maps, which are suitable for community consultation.

The proposed heritage conservation area and location of individual heritage items are shown in **Figures 2 and 3**.

The final LEP mapping will need to comply with the Standard Technical Requirements for Standard Instrument LEP maps prior to finalisation of the amendment.



Figure 2 Federal village heritage conservation area, including additional local heritage items



Figure 3 Location of local heritage items

2 Need for the planning proposal

The planning proposal is Council and community initiated and is consistent with its adopted LGA-wide Heritage Strategy (2020-2024) and the 'Preliminary Heritage Assessment of Federal Village - Proposed Heritage Conservation Area and Additional Heritage Listings' prepared by Jenna Reed Burns dated April 2023.

The planning proposal is considered the best means for achieving the objectives and intended outcomes which will ensure that there are appropriate legislative and regulatory planning controls to protect and conserve the heritage significance of these items.

3 Strategic assessment

3.1 Regional Plan

The proposal to create a heritage conservation area and list new local heritage items is considered to be consistent with the overall intent of the North Coast Regional Plan (NCRP) 2041.

Objective 20 of the regional plan recognises the importance of retaining and celebrating local character. Strategy 20.2 emphasises the need to celebrate buildings of local heritage significance through various measures such as retaining the existing use and exploring history and significance. The proposal is consistent with this objective as it facilitates the protection of heritage items and preservation of the local character of Federal.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as outlined in the **Table 4**:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement 2020 (LSPS)	The proposal is consistent with the LSPS, in particular Liveable Planning Priority 1 - support and celebrate our heritage, vibrant culture and diverse lifestyles. The planning proposal is consistent with the priorities and objectives of the LSPS in that it will facilitate the ongoing protection of heritage sites within the LGA.
Byron Shire Heritage Strategy 2020-2024	The planning proposal is consistent with the objectives of Council's Heritage Strategy, in particular, Objective 2 - Identify Heritage Items in the Byron Shire and list them in the Local Environmental Plan. It aims to implement measures to protect their integrity and significance.
Byron Shire Community Strategic Plan (CSP) 2032	The planning proposal is consistent with Byron Shire's CSP's priorities, in particular, Goal 4 – We manage growth and change responsibly. The planning proposal is consistent with the CSP by ensuring that future development within the conservation area and recognised local heritage sites will be properly assessed against its heritage significance.
Byron Residential Strategy 2041	The planning proposal is not inconsistent with the relevant priorities of the Strategy.

Byron Shire Strategy (2020-2024)	The Heritage Strategy provides direction for heritage management. The planning proposal is considered to be consistent with the relevant priorities of the strategy.
Byron Shire Community-Based Heritage Study	<p>The Community-based Heritage Study makes recommendations for the ongoing management and protection of places in the Byron Shire that have heritage value.</p> <p>The Community-based Heritage Study recommended the listing of three items in Federal the School of Arts building, the adjacent church building and the Tin Shed at the junction 6 of Federal Drive and Binna Burra Road. No other listings were recommended at the time and only the School of Arts building and the church proceeded to listing as heritage items in the Byron LEP 2014.</p> <p>The planning proposal is consistent with the study and expands upon its recommendations.</p>
Preliminary Heritage Assessment of Federal Village - Proposed Heritage Conservation Area and Additional Heritage Listings (August 2023)	<p>The Preliminary Heritage Assessment assesses the potential heritage significance of Federal, presents the study's results and recommends future management. It investigates the potential inclusion of Federal in Schedule 5 of the LEP as a heritage conservation area as well as additional individual listings of items, some of which lie outside the proposed heritage conservation area.</p> <p>The heritage study's methodology is based on the NSW Heritage Division publication Assessing Heritage Significance (2001) and with reference to Council's planning documents. It is noted there is an updated version of this publication titled Assessment heritage significant - Guidelines for assessing places and objects against the Heritage Council of NSW criteria (<i>Department of Planning and Environment, 2023</i>).</p> <p>The key findings of the report in relation to this planning proposal are that:</p> <ul style="list-style-type: none"> • Federal meets the threshold for heritage significance under several of the NSW heritage assessment criteria, at a local level; and • should be pursued for listing as a heritage conservation area in Schedule 5 of the LEP; and • a number of individual items in Federal located outside to the proposed heritage conservation area should be included on the LEP Heritage Maps. <p>In addition to these findings, the heritage study recommends Chapter E6 of the Byron DCP 2014 will require updating to include additional controls to apply to Federal.</p> <p>It is recommended that consultation is undertaken with the Heritage NSW to confirm the suitability of the proposal.</p> <p>It is also recommended that the Preliminary Heritage Assessment be exhibited with the planning proposal.</p>
Federal Village Masterplan 2022-2042	In 2022 Council adopted the Federal Village Masterplan which includes a character statement and planning strategies for implementation. The Masterplan identified the need for a heritage assessment to identify and list surviving historic places to ensure the character of the village is maintained. Action 5b of the Masterplan is to conduct a heritage assessment of Federal village, leading to the proposed introduction of a Heritage Conservation Area.

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except as discussed in **Table 5**.

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	Justified	<p>The proposal is inconsistent with this direction as some of the sites are mapped as containing potential high environmental value (HEV) by the NCRP 2041 and the planning proposal does not include provisions that facilitate the protection and conservation of these environmentally sensitive areas.</p> <p>This inconsistency is considered to be of minor significance as the listing of new local heritage items and / or introduction of a heritage conservation area to land which contains potential HEV will not increase development potential or reduce the conservation standards that currently apply to the land.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction is relevant to the proposal as some of the sites are, or in proximity to, land that is mapped as bushfire prone.</p> <p>The direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Pending consultation with the RFS, this direction remains unresolved.</p>
9.2 Rural Lands	Justified	<p>The planning proposal is inconsistent with this direction as it affects land within an existing rural and environmental zone and is unable to demonstrate compliance with all the relevant planning principles listed in the direction.</p> <p>This inconsistency is considered to be of minor significance as the listing of new local heritage items in existing rural zones is not considered likely to increase the potential for rural land use conflict or fragmentation and is consistent with the regional and local planning framework.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs. It is noted that the proposal may impact the operation of some SEPPs, such as the Housing or Exempt and Complying Codes SEPPs. This is not however considered to be contrary to the intent of the SEPPs subject to the confirmation of the heritage significance of the area by Heritage NSW as part of the agency consultation process.

4 Site-specific assessment

4.1 Environmental

No adverse environmental effects impacts are anticipated due to the proposed heritage conservation area and local heritage listings.

4.2 Social and economic

The planning proposal is unlikely to result in any significant adverse social impacts. The proposed conservation area and additional heritage listed sites will provide the community with greater certainty regarding heritage significance, ongoing protection and assessment requirements.

There may be an economic impact to landowners when lodging development applications for alterations, additions or adaptations within the conservation area or for identified sites. The consent authority has the discretion of requiring specialist heritage studies or advice to form part of any future development applications. However, the proposal does not preclude any future development of the properties.

4.3 Infrastructure

The planning proposal imposes no additional burden to existing state or local infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

Council has already undertaken pre-lodgement consultation and received a total of 4 submissions. The submissions were supportive of the proposed heritage amendments. It is recommended that Council updates its planning proposal before exhibition to include details of the submissions.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Heritage NSW
- NSW Rural Fire Service

6 Timeframe

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

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion within 6 months of the Gateway determination date in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition has been included in the Gateway determination in this regard.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal addresses matters of local heritage significance only, it is recommended 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:

- it will facilitate the protection of local heritage items and buildings of significance in the heritage conservation area;
- the proposed heritage amendments are consistent with the overall intent of the North Coast Regional Plan 2041 and Council's Local Strategic Planning Statement to protect the region's heritage; and
- it is consistent with Council's adopted LGA-wide Heritage Strategy (2020-2024) and supported by the 'Preliminary Heritage Assessment of Federal Village - Proposed Heritage Conservation Area and Additional Heritage Listings' prepared by Jenna Reed Burns dated April 2023.

Based on the assessment outlined in this report, it is recommended that the proposal be amended before agency and community consultation to:

- revise Part 2 Explanation of Provisions, Table 1 to include an additional column to clarify that the proposed heritage items are of local significance;
- revise Part 5 Community Consultation, to include a summary of the submissions received during the informal pre-consultation stage and Council's response; and
- include as an appendix, the heritage inventory sheets with statements of significance, as assessed against the NSW Heritage criteria for local listings, for each of the proposed items.

9 Recommendation

It is recommended that the delegate of the Secretary:


- Agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones and 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be amended prior to agency and community consultation to:
 - revise Part 2 Explanation of Provisions, Table 1 to include an additional column to clarify that the proposed heritage items are of local significance;
 - revise Part 5 Community Consultation, to include a summary of the submissions received during the informal pre-consultation stage and Council's response; and

- include as an appendix, the heritage inventory sheets with statements of significance, as assessed against the NSW Heritage criteria for local listings, for each of the proposed items.
2. The Preliminary Heritage Assessment of Federal Village - Proposed Heritage Conservation Area and Additional Heritage Listings prepared by Jenna Reed Burns dated April 2023 is to be exhibited with the planning proposal.
 3. Consultation is required with the following public authorities and given 30 working days to comment:
 - Heritage NSW
 - NSW Rural Fire Service
 4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
 5. Given the nature of the planning proposal, Council should be authorised to be the local plan-making authority.
 6. The LEP should be completed within 6 months of the date of the Gateway determination.



26-09-2024

(Signature)_____
(Date)

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1/10/24

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