



IRF25/10

Gateway determination report – PP-2024-2696

Berry Heritage Review

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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.

Contents

- 1 Planning proposal..... 2**
 - 1.1 Overview 2
 - 1.2 Objectives of planning proposal..... 2
 - 1.3 Explanation of provisions..... 3
 - 1.4 Site description and surrounding area 3
 - 1.5 Mapping 4
- 2 Need for the planning proposal 5**
- 3 Strategic assessment 5**
 - 3.1 Regional Plan 5
 - 3.2 Local..... 5
 - 3.3 Section 9.1 Ministerial Directions..... 6
 - 3.4 State Environmental Planning Policies (SEPPs) 7
- 4 Site-specific assessment 7**
 - 4.1 Environmental, social and economic..... 7
 - 4.2 Infrastructure 8
- 5 Consultation..... 8**
 - 5.1 Community 8
 - 5.2 Agencies 8
- 6 Timeframe 8**
- 7 Local plan-making authority 9**
- 8 Assessment summary 9**
- 9 Recommendation..... 9**

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Draft Planning Proposal
Appendix A: Princess Street, Berry. Assessment of Proposed Heritage Conservation Area, Louise Thom Heritage, 22 April 2024.
Appendix B: Shoalhaven Heritage Data Forms, Louise Thom Heritage, 22 April 2024.

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Shoalhaven City Council
PPA	Shoalhaven City Council
NAME	Berry Heritage Review
NUMBER	PP-2024-2696
LEP TO BE AMENDED	Shoalhaven Local Environmental Plan 2014
ADDRESS	Multiple lots within Berry village
DESCRIPTION	
RECEIVED	11/12/2024
FILE NO.	IRF25/10
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:

- Amend Schedule 5 – Environmental Heritage and the associated heritage maps to:
 - List fifteen (15) dwellings,
 - List one (1) tree,
 - List one (1) public reserve,
 - List one (1) item of infrastructure, and
 - Introduce an additional Heritage Conservation Area surrounding Princess Street.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 per the changes below:

- List eighteen (18) new heritage items of local significance, and
- List one (1) new Heritage Conservation Area (HCA). The proposed HCA is located between and joins two existing HCA's.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The proposal covers a range of sites within Berry Village. Berry is an original settlement on the south coast of NSW located approximately 19km north of Nowra and 23km south of Kiama. Berry Village dates back to the original settlement of Broughton Creek and Coolangatta, where it was a private town created in 1825.

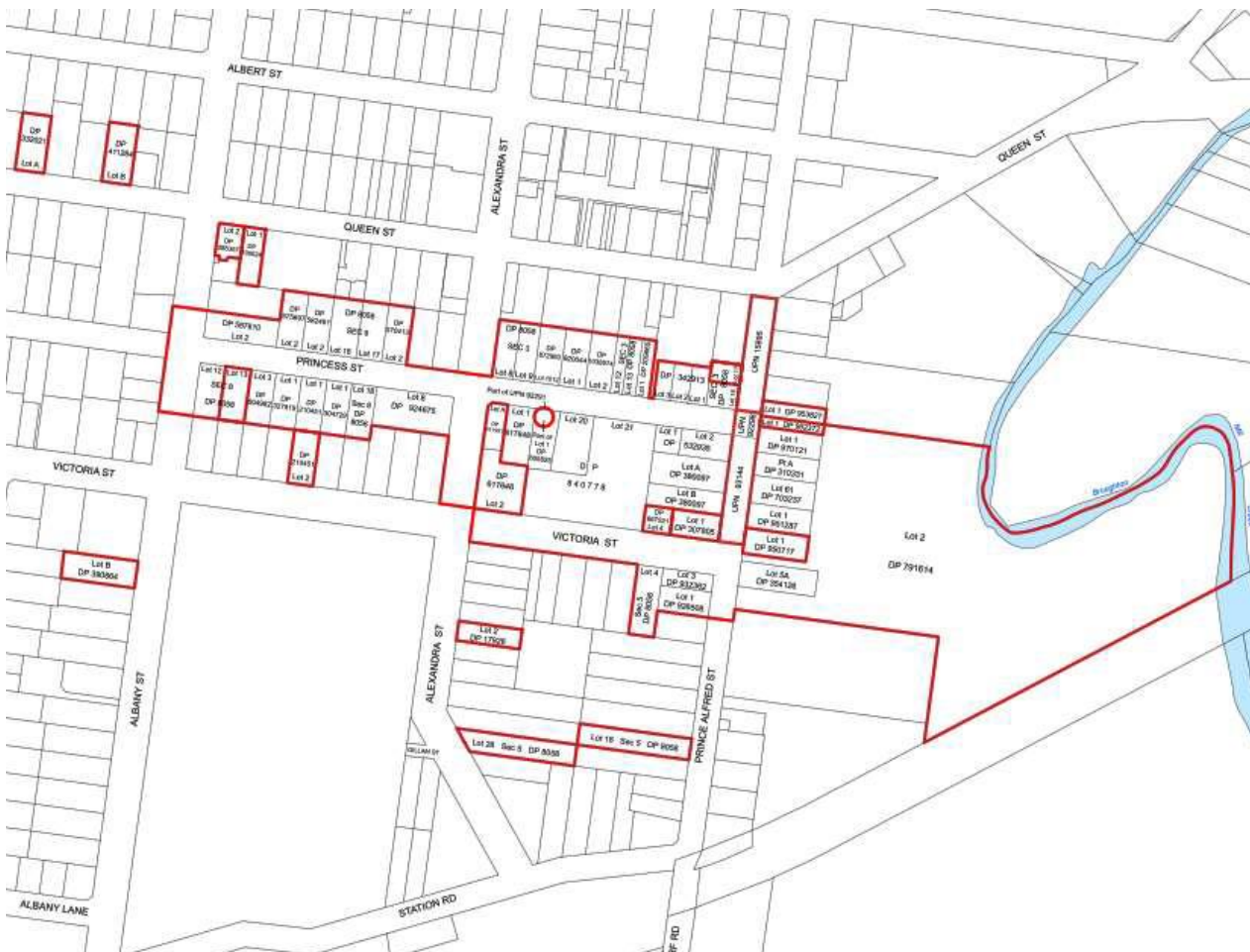


Figure 1 Subject site (source: Draft Planning Proposal, pg.5)

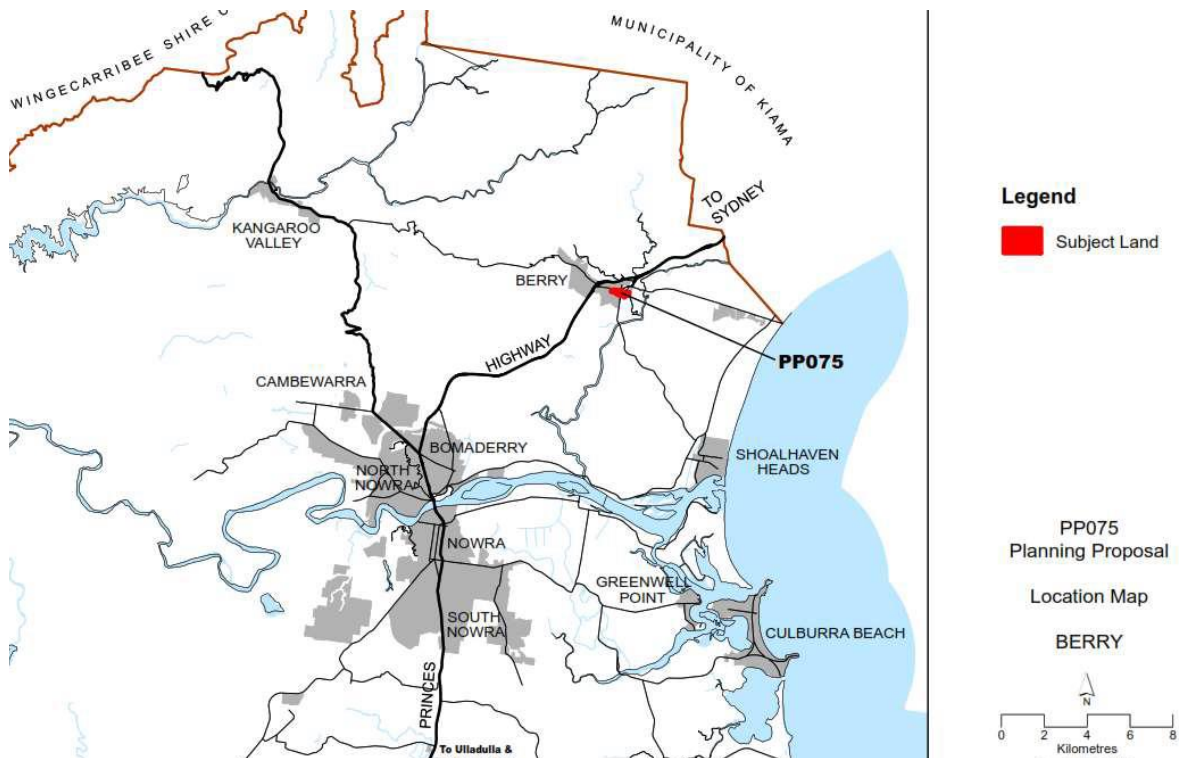


Figure 2 Site context (source: Draft Planning Proposal, pg.6)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Heritage maps, which are suitable for community consultation.

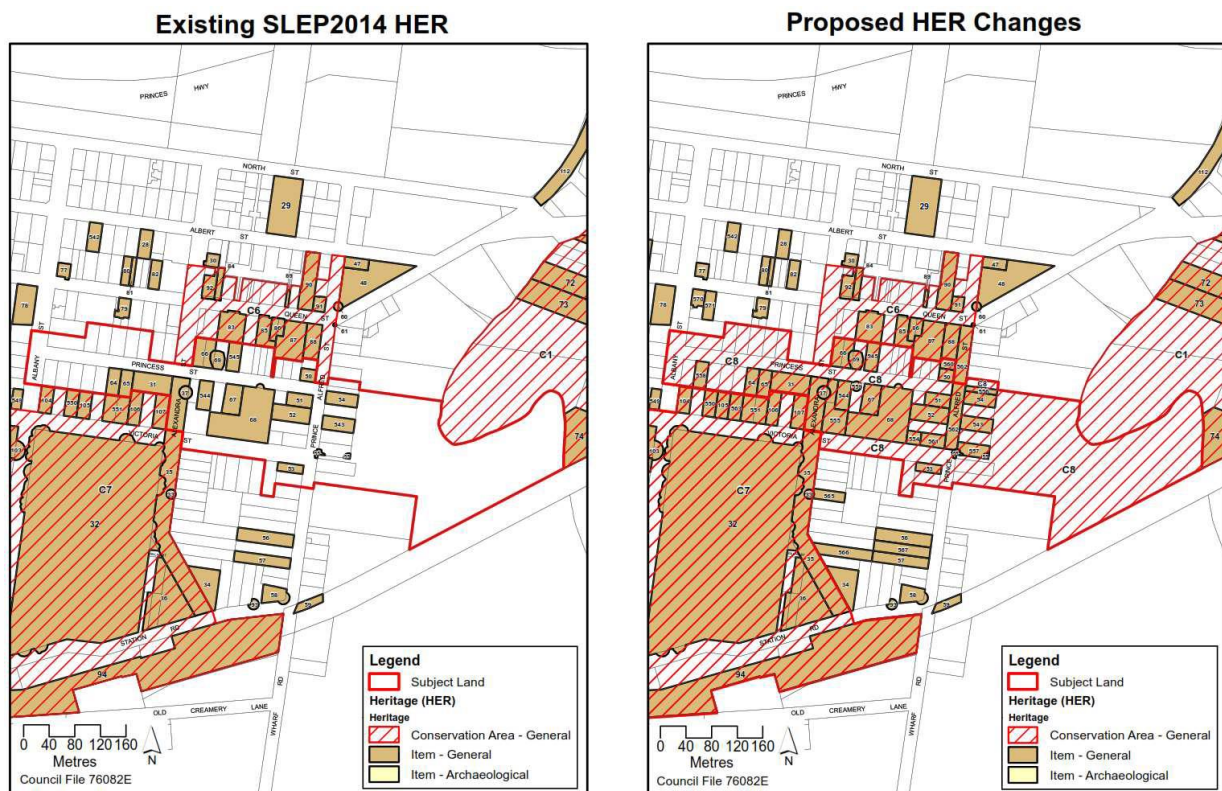


Figure 3 Current and Proposed Heritage map

2 Need for the planning proposal

The Planning Proposal is the result of a community driven proposal for a new heritage conservation area and local listings within the Berry township. The proposal submitted by the Berry and District Heritage Society (BDHS) was accompanied by a Heritage Assessment Report. The Berry Forum provided support for the proposal and proposed a new Development Control Plan (DCP) Chapter intended to further strengthen the consideration of heritage and local character within the Berry township.

An independent review of the proposed heritage items and HCA was undertaken by Louise Thom Heritage, which supported the proposal and resulted in the final layout of the HCA (Appendix A) and Heritage Data sheets (Appendix B). The sites involved have all undergone landowner consultation.

Amending Schedule 5: Environmental Heritage, of Shoalhaven LEP 2014, is the only way to provide statutory recognition of the heritage significance in the LEP, ensure conservation into the future and ensure that development considers the existing heritage values of the township of Berry.

3 Strategic assessment

3.1 Regional Plan

The planning proposal has been assessed against relevant aspects of the Illawarra Shoalhaven Regional Plan and is considered to comply with the objectives of the plan.

The theme of heritage protection is identified in the plan and the generation of an LGA wide, up-to-date, community heritage study, ensures future protection measures are put in place to protect valuable heritage items and areas within the LGA.

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 stated in the table below:

Table 3 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement – Shoalhaven 2040	The PP is consistent with the LSPS especially Planning Priority 14: Heritage items and places, which recognises the valuable contribution heritage makes to places, both in providing important connects to our past, and in creating distinct cultural identities for towns and villages. Specific activities within the Priority include: <i>Current Work 14.3: Progressing a Planning Proposal to list additional heritage items and places in Berry in Schedule 5 Environmental Heritage of Shoalhaven LEP 2014; and Collaboration Activity 14.1: Work with the local historic groups to identify significant heritage items and opportunities to conserve them.</i>
Community Strategic Plan – Shoalhaven 2032	The PP is consistent with the CSP themes of Theme 2: Sustainable, liveable environments; Theme 3: Thriving local economies that meet community needs; and Theme 4: Effective, responsible and authentic leadership. The identification and preservation of the proposed heritage items and HCA in this PP will ensure that they will continue to positively contribute to the vibrancy and character of Berry, as well as assist in preserving the sustainable heritage tourism value of the township.

Local Strategies	Justification
Growth Management Strategy 2012	The PP is consistent with the GMS in that it will support the protection of heritage whilst continuing to facilitate appropriate development in Berry township.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 4 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	See Section 3.1
3.1 Conservation Zones	Consistent	The PP does not seek any changes to provisions which protect and conserve environmentally sensitive land.
3.2 Heritage Protection	Consistent	<p>The PP is primarily for the conservation of culturally significant heritage items and is based on a community-based heritage study, undertaken in accordance with Heritage NSW guidelines and heritage assessment criteria. This study was then peer reviewed by a heritage specialist and amended.</p> <p>The SLEP 2014 contains clause 5.10 relating to heritage conservation. The new and existing sites will be subject to these provisions once finalised.</p> <p>Consultation with Heritage NSW is required as part of the gateway determination to ensure Heritage NSW guidelines have been undertaken correctly.</p>
3.3 Sydney Drinking Water Catchments	Consistent	The PP does not propose any activities which would have adverse impacts on water quality. The PP will reduce the development capacity of some sites which will enable further protection.
3.6 Strategic Conservation Planning	Consistent	The PP is considered consistent with this direction as it does not impact on any avoided land or conservation lands.
4.1 Flooding	Consistent	The PP is considered consistent with this direction as it does not impact on any existing flooding provisions.
4.3 Planning for Bushfire Protection	Consistent	The PP is considered consistent with this direction as it does not impact on any existing bushfire provisions or changes in land uses.

4.4 Remediation of Contaminated Land	Consistent	The PP is considered consistent with this direction as it does not impact on any existing land uses.
6.1 Residential Zones	Consistent	The PP is considered consistent with this direction as it does not impact on any existing land uses or the ability to achieve a variety of housing types in residential zones.
9.1 Rural Zones	Consistent	The PP is considered consistent with this direction as it does not seek to rezone land to a rural zone.
9.2 Rural Lands	Consistent	The PP is considered consistent with this direction as it does not impact on any existing controls or any change to minimum lot size.

3.4 State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Biodiversity and Conservation	Consistent	The PP does not impact on the operation of the SEPP, except that any future proposals to remove trees or vegetation in non-rural areas may be inhibited on heritage sites and heritage conservation zones. Alternate pathways are available for any future development.
Resilience and Hazards	Consistent	The PP does not impact on the operation of the SEPP. Some sites are located within the Coastal Use Area and Coastal Environment Area and will be needed to be taken into consideration as part of any future development application.
Housing 2021	Consistent	The PP does not impact on the operation of the SEPP, except that complying development may be inhibited on heritage sites and heritage conservation zones.

4 Site-specific assessment

4.1 Environmental, social and economic

The planning proposal impacts on Environmental and Cultural Heritage only. There are no direct impacts on biodiversity, climate, or water. Heritage listings on properties have been shown to reduce development on sites, which would have a lesser impact on the environment.

Heritage controls placed over sites would be anticipated to have a positive impact on the greater sites/areas due to the increased protections of locally significant heritage items, and potential social and economic benefits to the wider community through the protection of these sites. Berry is famous for its high amenity and heritage is a strong component of local character.

The PP will have positive social effects in recognising and protecting local sites and areas that possess cultural heritage significance within Berry. The increased ease of identification of heritage

items will strengthen the community's social and cultural connection within Berry, the wider Shoalhaven LGA and community. Additionally, the PP will have a positive social effect as the recognition of additional heritage items and HCAs will facilitate clarity of development options in relation to heritage items and development within the vicinity of heritage items or HCAs.

While heritage listing may alter the assessment pathway for certain development by precluding the use of exempt or complying development, it does not prohibit development. It is noted that 15 of the sites that are proposed to be listed already contain dwellings. Three of the other listings (a tree, a public reserve and sandstone kerbing) have no development potential. The proposed extension of the Heritage Conservation Area will link two existing HCA's and is proposed on the basis that it protects an area which demonstrates the key historic period of growth of the Town of Berry, protects import views and landscape characters such as creeks and the escarpment that are important for the setting/aesthetics of Berry, and protects heritage buildings and public places. The proposal would therefore have little impact on the provision of housing.

4.2 Infrastructure

There are no additional requirements or demands for infrastructure under this proposal. The reduction in development potential could help alleviate future infrastructure burden.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

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

- Heritage NSW
- Rural Fire Service (RFS)

6 Timeframe

Council proposes a 12-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

The Department recommends an LEP completion date of 19 June 2026 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

The Department recommends that Council not 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:

- The PP is consistent with local and regional strategic planning.
- The PP is considered to have strategic and site merit.
- The PP will facilitate the protection of culturally significant heritage items in the SLEP 2014.

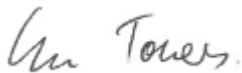
9 Recommendation

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. Consultation is required with the following public authorities:
 - Heritage NSW
 - Rural Fire Service (RFS)
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.

The timeframe for the LEP to be completed is on or before 19 June 2026



31/1/25

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