

Part H:

Heritage Conservation



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H1 Introduction

H1.1 Application of this Part

This part of the Blayney Development Control Plan (DCP) applies to development on land that is:

- a) Identified as a heritage item or located in a heritage conservation area listed in Schedule 5 of the *Blayney Local Environmental Plan 2012 (BLEP2012)* or in the State Heritage Register;
- b) In proximity to an identified heritage item that may impact on the heritage significance of a heritage item;
- c) Identified as, or in proximity to, other locally or regionally significant building or place that is not listed in Schedule 5 of the **BLEP2012** or in the State Heritage Register at the discretion of Council staff; or
- d) Identified as, or in proximity to, items of Aboriginal cultural and archaeological significance that are not listed in **BLEP2012** for protection and cultural sensitivity.

Refer to Councils Development and Building Guide and associated Fact Sheets for further information regarding Heritage Conservation within the Blayney Shire. If you require further information, contact Councils Planning and Environmental Services Department.

H1.2 Objectives of Heritage Conservation

- 1) To conserve the heritage significance of the built and natural environments.
- 2) To ensure the management of heritage is carried out in line with the Principles and Articles of the Burra Charter for the assessment of significance of heritage places and the traditions associated with them.
- 3) To implement the objectives and controls contained within **BLEP 2012** and any other relevant heritage legislation.
- 4) To conserve the heritage significance of the natural and built environment and ensure new development is sympathetic to the identified heritage values.
- 5) To provide planning and design guidelines for developments associated with heritage items or a heritage conservation area.

H1.3 Others Parts of this DCP

Whilst Council has attempted to consolidate most of the controls relating to heritage development in this Part, other Parts of this DCP may also apply depending on the type of development you are proposing and the site constraints including, but not limited to:

- 1) **Part E – Other Land Uses** (where you are also proposing other land uses not included in the Part of the DCP)
- 2) **Part F – Subdivision** (where you are also proposing some type of subdivision of your land); and
- 3) **Part G – Environmental Management & Hazards** (dependent on-site constraints and potential impacts).

H1.4 Variations to Controls

Council may consent to a Development Application involving departure from a control contained within this DCP but only where Council has considered a written request from the applicant that seeks to justify the departure (in accordance with **Clause A1.11 Variation to Controls** of this DCP) by demonstrating that:

- a) Compliance with the particular control within this DCP is unreasonable or unnecessary in the circumstance of the case; and
- b) The objectives of the particular control are met or sufficiently addressed; and
- c) There are sufficient environmental planning grounds to justify the departure from the particular control within this DCP; and
- d) The impacts of the non-compliant proposal will not be significantly greater than a compliant proposal, and that it may enhance the outcome.

H2 Development Consent Requirements

H2.1 Development Requiring Consent

A Development Application is required for the carrying out of most development that relates to a heritage item, Aboriginal place of heritage significance or archaeological site and or in a Heritage Conservation Area (HCA).

Refer to **BLEP 2012**, Clause 5.10 (2) which identifies the following instances where development consent is required or alternatively contact Council's Planning and Environmental Services Department.

H2.2 Development Not Requiring Consent

There are circumstances where development consent is not required for certain works, such as:

- 1) The **BLEP2012**, Clause 5.10(3) contains some exemptions where development consent is not required. If unsure, please contact Council's Planning and Environmental Services Department.
- 2) *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP Code)* provides some forms of development that do not require development consent from Council. If unsure, please contact Council's Planning and Environmental Services Department.

The **SEPP Code** is available at www.legislation.nsw.gov.au.

H2.3 Documents to be submitted with a Development Application

When lodging a Development Application for development on land on which a heritage item is situated, or within a heritage conservation area, or within the vicinity of a heritage item or heritage conservation area, Council may require a Heritage Management Document (**HMD**) to be prepared and submitted for assessment.

The circumstances in which a **HMD** may be required will vary depending on the works proposed and the likely impact they will have on the heritage significance of the item or HCA. Discussions with Council staff and the heritage advisor are recommended to determine what may be needed to assist in assessing a **Development Application**.

H2.4 Archaeological Sites (Non-Indigenous)

- 1) All known and potential archaeological relics in NSW are protected under the NSW *Heritage Act 1977* (as amended). When intending to disturb or excavate land where archaeological relics

have been identified or are considered likely to occur, it is the responsibility of the property owner to seek relevant approvals.

- 2) Before granting consent to any development on land on which an archaeological site is identified, Council must notify the NSW Heritage Council of its intention to grant consent and take into consideration any response from the NSW Heritage Council.

H2.5 Aboriginal Places of Heritage Significance

Impact on an Aboriginal place of heritage significance or an Aboriginal object must be considered by Council before granting consent. Specifically, Clause 5.10(8) of **BLEP 2012** states that Council must:

- 1) Consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place; and
- 2) Notify the local Aboriginal communities (in such a way as Council thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

If an application is located along a significant watercourse or ridgeline or a likely Aboriginal place of heritage significance then please contact Council to discuss. You may be required to conduct a search of the Aboriginal Heritage Information Management System (**AHIMS**) to see if an Aboriginal object or place has been declared on a parcel of land (though this search is not determinative of the presence of Aboriginal items).

If any Aboriginal object is found during the development process then work must stop immediately and the requirements of the *National Parks and Wildlife Act 1974* must be followed. An applicant may also need to seek an Aboriginal Heritage Impact Permit in accordance with that Act.

H2.6 State Heritage Items

- 1) Any works to a State Heritage item (including demolition) requires approval or exemption under the *Heritage Act 1977*.
- 2) When a Development Application is lodged with Council for demolition or development of any type for a State Heritage Register listed item, the integrated development application process commences and Council will, as part of that process, refer the application to the Heritage Council for concurrence.

Heritage items listed as being of State significance in Schedule 5 of the **BLEP 2012** are those listed on the State Heritage Register.

H2.7 Conservation Incentives

Council recognises the need to be flexible with heritage items in terms of providing for their long-term conservation. **BLEP2012** Clause 5.10(10) - Conservation Incentives enables Council to approve development relating to a heritage item or the site of a heritage item that would otherwise be prohibited in the zone.

If an applicant seeks approval for development under the conservation incentives clause, Council must also be satisfied that the development is in accordance with an approved **HMD**, if required, and ensure that the necessary conservation work will be carried out in conjunction with the development.

In addition to the abovementioned clause, Council offers the following incentives to encourage conservation work:

- a) Free Heritage Advisor service;
- b) Local Heritage Assistance Fund; and
- c) Development Application fees may be waived.

If you would like to discuss further, contact Councils Planning and Environmental Services Department.

H3 Development of Heritage Items

H3.1 Demolition

- 1) Buildings that are listed as heritage items or contribute to the significance of a heritage item should not be demolished.
- 2) Partial demolition of a heritage item should only be allowed when it can be established in a HMD that the partial demolition will not have a substantial impact on the significance of the heritage item.
- 3) Outbuildings associated with heritage items can only be demolished where a HMD has established that the outbuilding does not contribute to the heritage significance of the place (Refer to Section **H6 Definitions** to determine the type of **HMD** required and or consult with Council's Planning and Environmental Services Department).
- 4) Photographic records of building/s are to be provided to Council prior to the commencement of any demolition works.

H3.2 Subdivision

- 1) Subdivision of an allotment that includes a heritage item or recognised archaeological site should not be allowed unless it can be demonstrated that an adequate curtilage of the heritage item is retained. Adequate curtilage will depend on the significance and content of the heritage item, to discuss further consult with Council's Planning and Environmental Services Department.
- 2) Subdivision of land that includes a heritage item or recognised archaeological site should not be allowed unless it can be established that proposed or future development on the created allotments will not impact on important views to or from the heritage item.

H3.3 Adaptive Reuse

- 1) Adaptive reuse of a building should retain important architectural qualities and features of the building, where possible, particularly features that contribute to the streetscape and the heritage significance of the place.
- 2) Adaptive reuse must involve minimal change to the significant fabric of the place.
- 3) Adaptive reuse must acknowledge and respect significant associations and meanings of the place.
- 4) Adaptive reuse must have regard to the relevant legislation of the *National Construction Code* (NCC) and other relevant Australian Standards.

H3.4 Scale and Proportion

- 1) Avoid significant changes to the front elevation of heritage items; locate new work at the rear of, or behind the original building section or behind the front building line.
- 2) Design new work to respect the scale, form, massing and style of the existing building and ensure it does not visually dominate the original building or streetscape.
- 3) Development of an inconsistent scale to the heritage item is allowable only if it can be demonstrated that the new development will not detract from the aesthetic quality and important views of the heritage item and the streetscape.
- 4) Important elements of the form of a heritage item such as, main roof forms, chimneys and verandas should not be demolished or obscured, unless justified.

H3.5 Materials and Colours

- 1) Original materials of heritage items should not be replaced with different materials or materials of different colour, unless unavoidable or it can be shown not to detract from the heritage significance of the heritage item and the streetscape.
- 2) Non – original materials of heritage items that are being replaced should be replaced with materials that match or complement the original as closely as possible.
- 3) Colour schemes are to reflect the period and detail of the property, in consultation with Council or the Heritage Advisor.
- 4) Painting or rendering face brick is generally supported, where appropriate.

H3.6 Doors and Windows

- 1) Original window and door openings are important elements and should generally be retained.
- 2) Where original windows and doors in important elevations have been removed and replacement of the joinery is proposed, the original windows or doors should be reconstructed or replaced in sympathy.
- 3) New windows and door openings in important elevations must be carefully located to retain the original relationship of solids and voids and of proportions, materials and details similar to existing windows and door openings in the building.
- 4) New windows and doors visible from the street must be located to complement the original design of the building and of proportions and details to complement the original character of the building.

H3.7 Fencing and Gates

- 1) Fencing and gates that are existing (and not unsafe) should not be demolished/removed unless justified.
- 2) New fencing and gates should be of a similar style and scale that is consistent with the style of the building and the streetscape.
- 3) Fencing forward of the building line constructed of solid materials such as masonry should not be greater than 900mm in height above the adjacent public footpath level, unless it is an original wall.
- 4) Fencing forward of the building line constructed of timber pickets, metal pickets or wrought metal panels or a combination of masonry (with significant transparency) should not be greater than 1.2 metres in height above the adjacent public footpath level, unless it is an original wall or fence, or replacing an original wall or fence.
- 5) Original masonry should not be painted, unless the original was or existing masonry is painted.

H3.8 Landscaping Elements

- 1) Original or early garden layouts that contribute to the significance of the heritage item should be retained and enhanced.
- 2) When selecting suitable trees and species, the following must be considered:
 - a) the varieties that already exist in the area and in the original garden;
 - b) the size and location of the tree when mature; and
 - c) the potential of the chosen species to interfere with services, retaining walls and other structures, and the amenity of adjoining properties.

H3.9 Outbuildings and Rainwater Tanks

- 1) Outbuildings must be located as far behind the front building alignment or in line as possible.
- 2) Outbuildings and rainwater tanks should be located in the rear yard of heritage items.
- 3) Outbuildings and rain water tanks should be low profile and designed so that they do not impact on important views of heritage items and are not greater in height or bulk than the heritage item.

H3.10 Advertising and Signage

- 1) Any early signage should not be removed, but retained and actively preserved, wherever possible, including signage related to original shopfronts or remnants of painted signs on the side walls of building.
- 2) New signs should be discrete and complementary to the historical significance of the building and streetscape and not visually dominate the area of building walls.
- 3) New signs should be placed in locations, which would have traditionally been used for advertising purposes, where possible and appropriate.
- 4) The size of the sign and its contents/design (colour scheme, letters, number and symbols) must complement the scale of the building to which they relate and its streetscape.
- 5) The following signs are not permitted:
 - a) advertising affixed to trees, light poles or other structure not for the purposes of advertising structure; and
 - b) signs mounted above the awning or verandah of a building.
- 6) Signage on commercial buildings is to be confined to:
 - a) An under-awning sign of an appropriate size and design;
 - b) A window sign in the ground floor shop front of an appropriate size and design;
 - c) A façade sign contained within a purpose designed panel of the building façade;
 - d) The façade of the building must not be painted in corporate colours;
 - e) A fence sign, free standing sign or A – Frame sign of an appropriate size and design.
- 7) The architectural details of a building are not to be obscured by commercial signage.

H4 Development in the Vicinity of Heritage Items

H4.1 Siting, Scale and Proportion

- 1) The setbacks of new development from any street should generally be equal to or greater than that of the heritage item and the streetscape.
- 2) Development should not be of such bulk or height that it visually dominates the heritage item or streetscape.
- 3) Important views to or from a heritage item should not be unreasonably obscured by new development.
- 4) Where a heritage item is part of a streetscape of buildings of consistent style, form and materials, development in the vicinity of the heritage items should incorporate elements of the dominant style, form and materials in the streetscape.
- 5) Development in the vicinity of a heritage item is to minimise the impact on the setting of the item by:
 - a) Providing an adequate curtilage to the heritage item to allow its interpretation.
 - b) Retaining original or significant landscaping associated with the heritage item, if the landscaping is listed on the Heritage Inventory Sheet.
 - c) Protecting and allowing the interpretation of archaeological features associated with the heritage item.

H4.2 Materials and Colours

Materials and colours for development in the vicinity of a heritage item shall be selected to avoid stark contrast with the adjacent development where this would result in the visual importance of the heritage item being reduced.

H5 Development within Heritage Conservation Areas

H5.1 Scale and Form

- 1) The scale of new development within a conservation area should relate to the scale of the adjacent or nearest heritage building and streetscape.
- 2) Development of a larger scale is allowable only if it can be demonstrated that the new development will not adversely impact on the character and views of the conservation area.
- 3) New development that obscures important views within a heritage conservation area should not be permitted.
- 4) The roof forms of new development in a conservation area are to complement the original roof forms of existing nearby buildings that contribute to the conservation area and streetscape.
- 5) Additions and alterations to existing buildings that contribute to the character of a conservation area should not detract from the original form of the existing building as viewed within the streetscape.
- 6) The treatment of the street façade of new development in a conservation area should relate to existing nearby buildings that contribute to the conservation area.

H5.2 Siting

- 1) The front setbacks of new development (including alterations and additions) in conservation areas should be an average of adjacent or nearby development or consistent within the streetscape.
- 2) No new structures should be built forward of the established main street building line.

H5.3 Materials and Colours

- 1) Original materials of existing heritage buildings in conservation areas should not be replaced with different materials or with materials of different colours unless justified, and approved by Council.
- 2) Non – original materials of existing heritage buildings in conservation area that are being replaced should be replaced with materials that complement the original material as closely as possible.
- 3) Materials for new development in **HCA**s should not contrast with the original materials of the dominant contributory buildings in the conservation area.
- 4) Colour schemes for existing and new development in conservation areas should have a relationship with traditional colour schemes for the dominant style of development found in the conservation area in consultation with Council.
- 5) The use of fluorescent paint and primary colours on buildings in conservation areas is not permitted.

H5.4 Doors and Windows

- 1) Original door and window openings visible from the streetscape on existing heritage buildings should not be altered, unless justified.
- 2) Original door and window joinery visible from the streetscape on existing heritage buildings should not be altered, unless justified.
- 3) New door and window openings on existing heritage buildings that are visible from the streetscape should be of proportions and details that relate to existing door and window openings.

H5.5 Outbuildings

- 1) Outbuildings and carports should be located behind the front building alignment.
- 2) Outbuildings should be single storey and designed and located so that they have negligible if any impact on the streetscape.

H5.6 Fencing

- 1) New fencing and gates for existing and proposed buildings should be designed to complement the style of the building and dominate character of the conservation area.
- 2) Fencing constructed of solid material such as masonry forward of the building line should not be greater than 900mm in height above the adjacent public footpath level, unless justified.
- 3) Original masonry fencing should not be painted, unless justified.

H5.7 Advertising and Signage

- 1) Any early signage should not be removed, but retained and actively preserved, wherever possible, including signage related to original shopfronts or remnants of painted signs on the side walls of building.
- 2) New signs should be discrete and complementary to the historical significance of the building and streetscape and not visually dominate the area of building walls.
- 3) New signs should be placed in locations, which would have traditionally been used for advertising purposes, where possible and appropriate.
- 4) The size of the sign and its contents/design (colour scheme, letters, number and symbols) must complement the scale of the building to which they relate and its streetscape.
- 5) The following signs are not permitted, advertising affixed to trees, light poles or other structure not for the purposes of advertising structure, signs mounted above the awning or veranda of a building.
- 6) Signage on commercial buildings is to be confined to:
 - a) An under-awning sign of an appropriate size and design;
 - b) A window sign in the ground floor shop front of an appropriate size and design;
 - c) A façade sign contained within a purpose designed panel of the building façade;
 - d) The façade of the building shall not be painted in corporate colours;
 - e) A fence sign, free standing sign or A – Frame sign of an appropriate size and design.
- 7) The architectural details of a building are not to be obscured by commercial signage.

Note: **Code SEPP 2008** may also contain exemptions for signage, refer to www.legislation.nsw.gov.au

H6 Definitions

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal place of heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

Adaptive reuse of buildings is a process that changes a place that is no longer suitable or required for its original purpose to a place that can be used for a new purpose.

Aboriginal Heritage Information Management System (AHIMS) contains information and records about Aboriginal objects that have been reported to the Director General of the Department of Premier and Cabinet. It also contains information about Aboriginal Places which have been declared by the Minister for the Environment to have special significance with respect to Aboriginal culture. AHIMS refers to these recorded Aboriginal objects and declared Aboriginal Places as 'Aboriginal sites'

Archaeological site means a place that contains one or more relics. This evidence may include objects and artefacts of everyday life such as crockery, bottles, tools and the remains of early buildings and structures.

Curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, that contributes to its heritage significance.

Heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5 of the **Blayney Local Environmental Plan 2012 (BLEP2012)**.

Heritage conservation area means an area of land that has significant streetscape character and are of value due to the collective nature of buildings and elements in that area. The location and nature are described in Schedule 5, Part 2 of **BLEP2012**

Heritage management document means:

- 1) a heritage conservation management plan, or
- 2) a heritage impact statement, or
- 3) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Heritage impact statement means A heritage impact statement (HIS) describes and evaluates the likely impact of a proposal.

Local significance, items of local heritage significance result from previous Heritage Studies, the National Trust listings, the Blayney Shire Community Based Heritage Study and local community groups and are identified in Schedule 5, Part 1 of **BLEP 2012**.

National significance, heritage items of national significance are items having significance beyond the State level and are considered under the Australian *Heritage Council Act 2003*. The Act affects property owned by the Commonwealth Government and its Agencies.

Outbuildings means an ancillary building that is not including an attached garage or carport.

Relic is defined in the Heritage Act as any artefact, object or material evidence which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and which is of State or local heritage significance.

State significance, state significant items are identified in the State Heritage Register and Heritage Office under the NSW *Heritage Act 1977*.