



10 March 2010

Mr N McGaffin
Executive Director
Planning Operations
Department of Planning
GPO Box 39
SYDNEY NSW 2001

RECEIVED

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Dear Mr McGaffin

Planning Proposal – Bathurst Region Heritage

Thank you for meeting with Council representatives.

Please find **attached** a submission detailing the matters Council has raised in respect of this matter.

Council requests that the Department reconsider Council's original planning proposal submitted on 14 September 2009, subject to the following amendments:

- Remove the proposed heritage items that are either National Park or Nature Reserve owned by the State.
- Include the Bentinck Street Elm trees on the list of heritage items.

Please advise Council if you require a further planning proposal to be lodged with the Department.

Council contends that the heritage provisions and definitions under the Bathurst Regional (Interim) LEP 2005 remain valid and are superior to the LEP template provisions in ensuring appropriate heritage management of the Bathurst region, given the stock of buildings and sites involved.

Council remains very concerned that this matter has now taken up 6 months and yet what appears to be a straight forward planning proposal has not progressed at all.

Council further requests the Department to consider:

- (a) providing councils with an opportunity to present planning proposals to the Department at the gateway stage so that a better understanding of Council's intentions and processes can be gained. Perhaps this will help avoid such extensive time delays.
- (b) reviewing the LEP template heritage provisions and definitions and their adequacy and appropriateness for places like Bathurst with such substantial stocks of contributory buildings and sites given the issues raised in the **attached** submission.

Department of Planning
10 March 2010

Council looks forward to progressing this planning proposal.

Yours faithfully

D R Shaw

DIRECTOR

ENVIRONMENTAL, PLANNING & BUILDING SERVICES

BATHURST REGIONAL COUNCIL SUBMISSION

PLANNING PROPOSAL – BATHURST REGION HERITAGE

MARCH 2010

COUNCIL'S OBJECTIVES

- Bathurst Region contains close to 5,000 buildings and sites either proposed to be listed as heritage items or proposed to be located within heritage conservation areas (HCAs) with at least 80% of those buildings in the HCAs contributing to the heritage significance of the Bathurst Region.
- Given the volume of buildings and sites involved it is not possible to list all contributory buildings thus Council's strategic heritage studies have recommended a combination of listed heritage items and heritage conservation areas as the best means to manage the region's heritage.
- The aim of the planning proposal is to update the Bathurst Regional (Interim) LEP 2005 by:
 - Removing the existing heritage items and heritage conservation areas shown on the maps, and
 - Inserting new heritage items and heritage conservation areas on the maps as recommended by the Bathurst Region Heritage Study and the Bathurst Conservation Area Review.
- It is not Council's intention to update or alter the written heritage provisions or definitions in the LEP as, in Council's opinion, these remain valid despite the mapping changes.

NON- STANDARD INSTRUMENT LEP

- Bathurst Regional (Interim) LEP 2005 is not a standard instrument LEP.
- The current heritage provisions of the 2005 LEP remain valid (**copy of provisions attached**).
- It is contended that in many ways the template heritage provisions are in fact inferior to the 2005 LEP provisions.
- The planning proposal has been through the gateway twice and it seems to Council that the Department seeks to alter this planning proposal to be much more complicated than it need be by removing existing LEP provisions and inserting the template provisions.
- The last 6 months have been spent on matters relating to the template that are, in Council's opinion, irrelevant to this planning proposal and will see heritage outcomes that are inferior to the current LEP provisions.
- Council suggests to the Department that there is a need for greater Council representation at Gateway stage to avoid the time delays such as those that have occurred with this proposal.
- Council suggests to the Department that the standard instrument heritage provisions and definitions need careful reconsideration by the Department.

GATEWAY DETERMINATION

a. National Park/Nature Reserves

- Council will remove the proposed heritage items that are either National Park or Nature Reserve owned by the State.
- The following items will be removed from the list:
 - Abercrombie Caves (Item 3)
 - The Bridle Track surrounds (part item 102) – note that the roadway itself will still be listed.
 - Copperhania Nature Reserve (Item 110)
 - Golden Gully and Archway (Item 154)
 - Winburndale Nature Reserve (Item 193)
 - Boundary Road Reserve (Item 185)
 - Wattle Flat Heritage Lands (Item 287)
- Council notes that the Golden Gully and Archway are already listed on the State Heritage Register so their removal from the proposed list of local items seems contrary to point (b) of the Gateway Determination dated 13 January 2010.

b. State Heritage Register

- As indicated in Council's letter of 29 October 2009, the proposed Hill End Heritage Conservation Area is in fact the same land area as that listed on the State Heritage Register (**see map attached**). Therefore the whole of the HCA should be noted as being of "State" significance in the significance column of the LEP schedule not as "part State" as required by the Gateway determination.
- In respect of the above there appears to be no need to show the State Heritage listed area on the heritage map when the schedule will indicate that all of the HCA is of State significance?
- The Bentinck St Elms will be included in the LEP schedule although it should be noted that Council will (under separate application) be seeking their removal from the State Heritage Register and then subsequently from its LEP.

c. Definition of Archaeological Site

- Council has not yet mapped any archaeological sites within the LGA. Council is about to commence an archaeological study which will assist in identifying sites in the future.
- Whilst this study will identify the majority of key sites, it is unlikely to comprehensively identify all likely relics.

Definitions under Bathurst LEP	Definitions of LEP template
Archaeological site means the site of one or more relics. Relic means any deposit, object or material evidence: (a) that relates to the settlement of the local government area of Bathurst Regional, not being aboriginal settlement, and (b) that is more than 50 years old.	Archaeological site means an area of land: (a) shown on the heritage map as an archaeological site, and (b) the location and nature of which is described in Schedule 5, and (c) that contains one or more relics. Relic means any deposit, object or other material evidence of human habitation: (a) that relates to the settlement of the area of Bathurst Regional local government area, not being Aboriginal settlement; and (b) that is more than 50 years old, and (c) that is a fixture or is wholly or partly

	within the ground.
Provision in Bathurst LEP relating to Archaeology.	Provision in LEP template relating to Archaeology.
Clause 23 (1) Despite any other provision of this plan, the following development may be carried out only with development consent: (a) demolishing or moving a ... relic ... within a heritage conservation area, (b) altering a ... relic ... within a heritage conservation area ... (d) disturbing or excavating a place of Aboriginal Significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic or Aboriginal object being discovered, exposed, moved, damaged or destroyed.	Clause 5.10 Development consent is required for any of the following: (a) demolishing or moving a ... relic ... within a heritage conservation area, (b) altering a ...relic ... within a heritage conservation area ... (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed.
Comments	Comments
- Archaeological sites do not have to be mapped. - Relics and sites can be protected regardless of whether or not they are located within a heritage conservation area or listed as a heritage item. - Sites that might come to Councils attention can be afforded adequate protection under the existing LEP provisions and definitions, e.g. Bathurst Gasworks. - Current LEP provisions and definitions provide greater level of flexibility for Council to respond to archaeological relics.	- Archaeological sites must be mapped (and they haven't yet been in Bathurst). - Relics will therefore only be protected if they are located within a heritage conservation area. - Sites that might come to Councils attention (outside of HCAs or heritage items) could not be afforded adequate protection under the template LEP provisions and definitions, e.g. Bathurst Gasworks. - Template LEP provisions and definitions may mean that anything that is either not mapped or not located in a HCA could be destroyed without consent.

d) Definition of Places of Aboriginal Significance

- Council has limited knowledge of sites of aboriginal significance within the LGA. Council awaits receipt of a study from the Central West CMA which will assist in identifying additional sites.
- Neither the CMA Study or existing work can comprehensively identify all likely sites and objects.
- The Aboriginal community has been reluctant to map and publicly identify sites of aboriginal significance particularly because this may lead to their willful destruction.

Definitions under Bathurst LEP	Definitions of LEP template
<i>Place of Aboriginal Heritage Significance</i> means: (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 including (but not limited to) items and remnants of the occupation of the	<i>Place of Aboriginal Heritage Significance</i> means an area of land 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 can (but need not) include items

land by Aboriginal people, such as burial places, engraving sites, rock art, middens, scarred and sacred trees and sharpening grooves, or (b) a natural Aboriginal sacred site or other sacred feature, including 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. Aboriginal Object means any deposit, object of material evidence (not being a handicraft made for sale) relating to Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.	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. Aboriginal Object means any deposit, object of material evidence (not being a handicraft made for sale) relating to Aboriginal habitation of an area of NSW, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.
Provision in Bathurst LEP relating to Aboriginal Significance.	Provision in LEP template relating to Aboriginal Significance.
Clause 23 (1) Despite any other provision of this plan, the following development may be carried out only with development consent: (d) disturbing or excavating a place of Aboriginal Significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic or Aboriginal object being discovered, exposed, moved, damaged or destroyed.	Clause 5.10(1) The objectives of this clause are: (d) to conserve places of Aboriginal heritage significance. Clause 5.10 (2) Development consent is required for any of the following: (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed. (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal Heritage Significance.
Comments	Comments
• Places of Aboriginal Heritage Significance do not have to be mapped. • Sites and objects can be protected regardless of whether or not they are located within a HCA or listed as a heritage item. • Current LEP provisions and definitions provide greater flexibility for Council to respond to aboriginal objects.	• Places of Aboriginal Heritage Significance must be mapped (this has not been done in Bathurst nor is it necessarily desirable). • Clause 5.10(2)(d) only applies to archaeological sites (which have to be mapped). • Clause 5.10(2)(e) relates only to places that are within a HCA. • Template LEP provisions and definitions may mean that anything that is either not mapped or not located in a HCA could be destroyed without consent.

e) Concerns as to where template clause 5.10 is inferior to Clause 23 of Bathurst Regional (Interim) LEP 2005

- Clause 5.10(2)(d) does not require consent to be obtained to disturb or excavate a place of Aboriginal Heritage Significance – clause 23 (1)(d) of Bathurst LEP does. Clause 5.10(2)(e) only requires consent where the place of Aboriginal Heritage Significance is a heritage conservation area. As stated above sites of Aboriginal Heritage Significance have not been mapped and are not necessarily located within heritage conservation areas. Bathurst LEP provides much better level of protection to sites.
- Clause 5.10(3) does not provide an exclusion for the need to obtain consent in relation of a place of Aboriginal Heritage Significance (except for burial grounds) – clause 23(2) of Bathurst LEP does. Bathurst LEP provides greater flexibility in terms of whether or not a DA is required.
- Clause 5.10(4) does not require Council to consider the impact of development on the vicinity of a heritage item although clause 5.10(5) provides that Council may require a heritage impact statement in relation to development within the vicinity of a heritage item or a heritage conservation area. Clauses are confusing. Clause 23(4) of Bathurst LEP requires Council to consider the impact on the vicinity of a heritage item.
- Clause 5.10(6) only enables Council to request a Conservation Management Plan (CMP) in relation to a heritage item. Clause 23(7) of Bathurst LEP enables Council to request a CMP both for a heritage item or in relation to a building in a heritage conservation area. This is important in Bathurst given the extent of the heritage building stock and the fact much of it is within heritage conservation areas. For example, Council recently required a CMP be prepared for the redevelopment of Tindall's Corner (possibly the 1st garage built west of the Blue Mountains). Whilst the building is not individually listed as a heritage item it is within the Bathurst HCA.
- Bathurst LEP does not require Council to give notice to Heritage Council of demolition of a state significant heritage item (template LEP does) as this clause was removed from the LEP by the Concurrence SEPP. Nonetheless such development is integrated development.

f) Requirement to include “tree” in heritage provision

- The current Bathurst LEP and previous LEPs do not require consent for demolishing or altering a tree in a heritage conservation area (HCA).
- Council has in place a permit system for tree removals in the Bathurst HCA but does not require any sort of consent for removal of trees in the village heritage conservation areas.
- Key implication of this change is an increase in fees to the community for tree removals in the Bathurst HCA as the permit fee is much less than the regulated DA fee.
- In the village HCAs, these communities will now be burdened with the need for Council consent to remove and alter trees which currently does not apply to them.

g) Clause 26 Advertising of heritage applications

- Council's DCP Advertising and Notification of Development Applications reiterates the requirements of clause 26 in relation to the advertising of certain heritage applications.
- Removal of the clause from the LEP will necessitate a subsequent amendment to the DCP so that the DCP sets up those requirements rather than reiterating the LEP requirement.
- This seems like a waste of time and effort when the LEP clause could simply be left in the LEP at this time.
- Council will make this change as part of its comprehensive LEP.

h) Control of subdivision of heritage items under the heritage item incentive provision

- Council is prepared to delete its proposed additional provision to control the subdivision of land of heritage items under the heritage incentive provision and will consider ways in which this can be achieved through its DCPs in the shorter term.
- Council requests the Department of Planning consider the implications of this clause on rural heritage items and how councils can better guide the use of the incentive clause for rural subdivision in particular.
- Snowy Rivers LEP 2007 (**copy of clause attached**) seems an appropriate way to provide greater guidance on how the incentive clause should be applied in situations of rural subdivision.
- Council will continue to investigate how it can achieve its desired outcome under the comprehensive LEP.

i) Incentive clause for heritage conservation areas

- Council will not remove its existing clause 24 providing incentives to buildings in heritage conservation areas. This clause remains critical to the way in which Council manages the very large stock of buildings (both listed or located within heritage conservation areas) that contribute to the heritage significance of the Bathurst Region.
- This clause has been included in the Bathurst LEP since 1987 and has worked effectively where it has been required.
- The way the clause is written requires the building to depend on the granting of consent to be retained – this implies the building is likely to be in a bad state of repair. The clause also requires a conservation management plan to be prepared and for consent to ensure that works identified in that CMP is carried out. The end result being an appropriately conserved building. Council has not had any difficulty in the past in determining when and how the clause should be used.
- Council has adopted a clear methodology for identifying whether or not buildings contribute to the heritage significance of the Bathurst Region under the Bathurst Conservation Area Management Strategy (BCAMS) and thus whether or not a building should be able to utilize such an incentive. This methodology has been recently reviewed and improved.
- The methodology basically provides a rating system to assess each building in terms of its integrity (whether or not it is still intact), its contribution to the streetscape, and its historical significance at a regional or local level (largely related to the age of the building and whether or not it is a rare or representative building). The rating system then applies a number rating so that the building can be rated out of 10. The higher the rating the more significant the building and the greater its contribution to the heritage significance of the region.

BCAMS Rating System	Rating
Integrity	
Substantially intact	3
Altered sympathetically	2
Altered unsympathetically – reversible	1
Altered unsympathetically – non-reversible	0
Identified as intrusive under Streetscape rating	0
Streetscape Rating	
Contributory	3
Neutral	1
Intrusive	0
Heritage Significance	
Historically significant in a regional context	4
Historically significant in a local context	3
Significant in a local context	2
Not significant	0

Examples of the rating system:

Image	Address	Streetscape Rating	Integrity	Heritage Significance	Rating Summary
	Chifley Cottage, 10 Busby Street	3 - Contributory	3 – Substantially intact	4 – Historically significant in a regional context	10
	259 George Street	3 - Contributory	3 – Substantially intact	3 – Historically significant in a local context	9
	18 Oakes Street	3 – Contributory (in a row of 3 dwellings of similar architecture)	1 – Altered unsympathetically - Reversible	2 – Significant in a local context	6
	Havannah Street	0 - Intrusive	0 – Identified as intrusive under Streetscape rating	0 – Not significant	0

- The BCAMS process is an ongoing one and whilst being able to map contributory buildings is an outcome, the process never remains static as the stock of buildings constantly changes, e.g. buildings are demolished, restored, altered or left run down. Therefore, Council will never have a completely up to date map. Relying only on a map rather than an assessment of each building under the methodology when a decision, such as whether or not to apply an incentive provision should be applied, would not be the most accurate way to determine whether or not the building is a contributory item.

- Council has not completed the assessment process to date (and we have been using the system since 2001) which illustrates the enormity of the task in respect of the building stock involved and the fact that that stock has changed even in the last decade.
- It is argued that the clause should remain in tact and that no changes are required to it on the basis of the processes Council already has in place.
- Council is prepared to consider ways in which it can reinforce the link between the BCAMS process of identifying contributory buildings and the application of the clause. In the short term Council policy is perhaps the best means to achieve this quickly and simply.

SUMMARY OF KEY ISSUES

- Given the volume of buildings and sites which contribute to the heritage significance of the Bathurst Region it is not possible to list all contributory buildings thus Council's Strategic Heritage studies have recommended a combination of listed heritage items and heritage conservation areas as the best means to manage the region's heritage.
- This planning proposal has been made more complicated than it need be. All Council wants to do is update its list of heritage items and the boundaries of its heritage conservation areas.
- The heritage provisions and definitions under the Bathurst Regional (Interim) LEP 2005 remain valid and it is argued are superior to the template provisions in ensuring appropriate heritage management for the Bathurst Region, given the stock of buildings and sites involved.
- In respect of Council's original planning proposal the following is proposed:
 - Remove the proposed heritage items that are either National Park or Nature Reserve owned by the State.
 - Note that the Hill End Heritage Conservation Area is, in its entirety, of State Significance and that its state significance will be identified in the column of the schedule with separate mapping therefore not required.
 - The Bentinck St Elms will be included on the list of heritage items.
 - Note that the planning proposal proceed on the basis that the existing Bathurst Regional (Interim) LEP 2005 provisions and definitions relating to heritage remain unchanged.
 - That Council consider, as policy, the provision of a link between the conservation area incentive clause of the LEP (clause 24) and the BCAMS process with respect to the identification of contributory items.
- Council request the Department consider:
 - Opportunities for councils to present planning proposals to the Department at gateway stage so that a better understanding of councils' intentions and processes can be gained.
 - Reviewing the LEP template heritage provisions and definitions and their adequacy and appropriateness for places like Bathurst with such substantial stocks of contributory buildings and sites given the issues raised in this submission.

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Bathurst Regional (Interim) Local Environmental Plan 2005

Current version for 15 December 2008 to date (accessed 26 February 2010 at 11:11)

[Part 4](#) > Clause 23

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23 Protection of environmental heritage

- (1) Despite any other provision of this plan, the following development may be carried out only with development consent:
 - (a) demolishing or moving a heritage item or a building, work, relic or place within a heritage conservation area,
 - (b) altering a heritage item or a building, work, relic or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
 - (c) altering a heritage item by making structural changes to its interior,
 - (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic or Aboriginal object being discovered, exposed, moved, damaged or destroyed,
 - (e) erecting a building on, or subdividing, land on which a heritage item is located or that is within a heritage conservation area.
- (2) Development consent is not required by this clause if:
 - (a) the proponent has notified the consent authority in writing of the proposed development, and
 - (b) in the opinion of the consent authority:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item, place of Aboriginal heritage significance or archaeological site or of the building, work, relic or place within a heritage conservation area, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item, place of Aboriginal heritage significance, archaeological site or of the building, work, relic or place within a heritage conservation area, and
 - (c) the consent authority has advised the proponent in writing before the development is carried out that it is satisfied that development consent is not required because of the exception created by this subclause.
- (3) Development consent is not required by this clause for the following development in a

cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:

- (a) the creation of a new grave or monument,
 - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) The consent authority must not grant consent to development of land on which a heritage item is located, within the vicinity of a heritage item, or within a heritage conservation area, unless it is satisfied that the impact of the proposed development on the heritage significance of the relevant heritage item or of the heritage conservation area is acceptable to the consent authority.
- (5) In the case of proposed development that requires consent under this clause, being development that would affect a heritage item, the assessment in subclause (4) must include consideration of a heritage impact statement that addresses the following matters:
- (a) the heritage significance of the item as part of the environmental heritage of the local government area of Bathurst Regional,
 - (b) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or cultural features,
 - (c) the measures proposed to conserve the heritage significance of the item and its setting,
 - (d) the extent to which the carrying out of the proposed development will affect the form of any historic subdivision.
- (6) In the case of proposed development in a heritage conservation area that requires consent under this clause, the assessment in subclause (4) must include consideration of a heritage impact statement that addresses the following:
- (a) the heritage significance of the heritage conservation area and the contribution that any building, work, relic or place affected by the proposed development makes to that heritage significance,
 - (b) the impact that the proposed development will have on the heritage significance of the heritage conservation area,
 - (c) the compatibility of the proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development,
 - (d) the measures proposed to conserve the heritage significance of the heritage conservation area and its setting,
 - (e) whether any landscape or horticultural features will be affected by the proposed development,
 - (f) the extent to which the carrying out of the proposed development in accordance with the consent will affect any historic subdivision pattern.
- (7) In assessing a development application to carry out work on a heritage item or within a heritage conservation area, the consent authority may require the preparation of a conservation

management plan.

- (8) Before granting consent for development required by this clause that will be carried out in a place of Aboriginal heritage significance, the consent authority must:
- (a) consider the effect on the heritage significance of the place and any Aboriginal object known, or reasonably likely, to be located at the place, and
 - (b) unless the proposed development requires the consent of the Director-General of the Department of Environment and Conservation under section 90 of the *National Parks and Wildlife Act 1974*, notify the local Aboriginal communities (in such way as it thinks appropriate) of its intention to do so and take into consideration any comments received in response within 21 days after the notice is sent, and
 - (c) be satisfied that any necessary consent or permission under the *National Parks and Wildlife Act 1974* has been granted.
- (9) Before granting consent for development required by this clause that will be carried out on an archaeological site (whether or not it is also the site of an Aboriginal object), the consent authority must:
- (a) consider the effect on the heritage significance of any relic known, or reasonably likely, to be located at the site, and
 - (b) be satisfied that any necessary excavation permit required by the *Heritage Act 1977* has been granted.

This subclause does not apply to land that is listed on the State Heritage Register under the *Heritage Act 1977* or to which an interim heritage order under that Act applies.

Note. The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

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Bathurst Regional (Interim) Local Environmental Plan 2005

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[Part 4](#) > Clause 24

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24 Conservation incentives

- (1) The consent authority may grant consent to the use for any purpose of a building that is a heritage item or is within a heritage conservation area or, in the opinion of the consent authority, is a building of heritage significance, or of the land on which such a building is erected, even though the use would otherwise be prohibited by this plan, if it is satisfied that:
 - (a) the retention of the building depends on the granting of consent, and
 - (b) the proposed development is in accordance with a conservation management plan that has been endorsed by the consent authority, and
 - (c) the granting of consent to the proposed development would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the building or its setting, and
 - (e) the proposed development would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.
- (2) When considering an application for consent to erect a building on land on which a heritage item is located or on land within a heritage conservation area, the consent authority may, for the purpose of determining:
 - (a) the floor space ratio, and
 - (b) the number of parking spaces to be provided on the site,exclude the floor space of the building from its calculation of the floor space of the buildings erected on the land, but only if the consent authority is satisfied that the conservation of the building depends on its making the exclusion.

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Bathurst Regional (Interim) Local Environmental Plan 2005

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[Part 4](#) > [Clause 26](#)

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26 Advertising of heritage applications

- (1) Except as provided by this clause, the provisions of clause 10 apply to and in respect of an application for consent for:
 - (a) the demolition of a heritage item, or
 - (b) the demolition of a building, work, relic or place within a heritage conservation area, or
 - (c) the use of a building or land referred to in clause 24 for a purpose that, but for that clause, would be prohibited under this plan.
- (2) This clause does not apply to the partial demolition of a heritage item or the demolition of a building or work within a heritage conservation area if, in the opinion of the consent authority, the partial demolition or demolition will be of a minor nature and will not adversely affect the environmental heritage of the local government area of Bathurst Regional.

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A detailed map of the Hill End Historic Site. The site boundary is outlined in black. Within this boundary, a large portion of the land is shaded with pink diagonal hatching, representing the Proposed Conservation Area. The map shows numerous streets, including Hill End Road, English Lane, Thompsons Lane, Lees Lane, Fletchard Street, Warriv's Road, Reservoir Street, William Street, Thomas Street, and Albert Street. A legend in the bottom right corner identifies the black outline as the 'Hill End Historic Site' and the pink hatched area as the 'Proposed Conservation Area'. The surrounding landscape is shown in light yellow and green, indicating open fields or other non-urban areas.

“Base Maps: © Department of Lands 2006”

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Snowy River Rural Local Environmental Plan 2007

Current version for 15 December 2008 to date (accessed 26 February 2010 at 11:05)

[Part 3](#) > [Division 5](#) > Clause 46

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46 Conservation incentives

- (1) The consent authority may grant development consent for development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this plan if the consent authority is satisfied that:
 - (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
- (2) Development consent may be granted for the subdivision of land on which a heritage item is located (even though the subdivision would be otherwise prohibited by this plan), but only if the consent authority is satisfied that:
 - (a) the number of lots created by the subdivision does not exceed two, and
 - (b) the retention of the heritage item depends on the granting of consent for the subdivision, and
 - (c) the proposed use of each lot to be created by the subdivision is in accordance with any relevant heritage conservation management plan, and
 - (d) the curtilage of the heritage item will be wholly contained within one lot, and
 - (e) the proposed use of each lot will not adversely affect the heritage significance of the heritage item or its setting.
- (3) Despite any other provision of this plan, development consent may be granted for the erection of a dwelling-house on the lot created by a subdivision referred to in subclause (2) that does not contain the heritage item, but only if the consent authority is satisfied that:

- (a) the lot does not already contain a dwelling-house, and
- (b) the lot is capable of accommodating the proposed dwelling-house, any ancillary outbuildings, water supply and sewage management facility.

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