



Blayney Local Environmental Plan 1998 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S03/02096/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

2004 No 770

Clause 1 Blayney Local Environmental Plan 1998 (Amendment No 6)

Blayney Local Environmental Plan 1998 (Amendment No 6)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Blayney Local Environmental Plan 1998 (Amendment No 6)*.

2 Aims of plan

The aims of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of Blayney, and
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and
- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
- (d) to ensure that the heritage conservation areas throughout Blayney retain their heritage significance.

3 Land to which plan applies

This plan applies to all land within the Blayney area.

4 Amendment of Blayney Local Environmental Plan 1998

Blayney Local Environmental Plan 1998 is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Omit the definition of *demolish* from clause 5 (1). Insert instead:

demolish a heritage item, or a building, work, archaeological site, tree or place within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

[2] Clause 5 (1), definition of “heritage conservation area”

Omit the definition. Insert instead:

heritage conservation area means land shown edged heavy black on any of the maps marked as follows and includes buildings, works, archaeological sites, relics, trees and places situated on or within that land:

Blayney Local Environmental Plan 1998 (Amendment No 3)—Millthorpe Heritage Conservation Area

[3] Clause 5 (1), definition of “heritage item”

Omit the definition. Insert instead:

heritage item means:

- (a) a building, work, archaeological site or place (which may or may not be situated on or within land that is a heritage conservation area) specified in an inventory of heritage items that is available at the office of the Council and the site of which is described in Schedule 2, or
- (b) a place specified in an inventory of heritage items available at the office of the Council and described in the inventory as a place of Aboriginal heritage significance.

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[4] Clause 5 (1), definition of “maintenance”

Omit the definition. Insert instead:

maintenance means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

[5] Clause 5 (1), definition of “relic”

Omit the definition. Insert instead:

relic means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the Blayney area and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of the Blayney area.

[6] Clause 5 (1)

Insert in alphabetical order:

place of Aboriginal heritage significance means:

- (a) 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 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.

potential place of Aboriginal heritage significance means a place:

- (a) that is specified in an inventory of heritage items available at the office of the Council and described in the inventory as a potential place of Aboriginal heritage significance, or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

[7] Clause 25

Omit the clause. Insert instead:

25 Protection of heritage items and heritage conservation areas

(1) When is consent required?

The following development may be carried out only with development consent:

- (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree 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 being discovered, exposed, moved, damaged or destroyed,
- (e) moving the whole or a part of a heritage item,
- (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

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(2) **What exceptions are there?**

Development consent is not required by this clause if:

- (a) in the opinion of the consent authority:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
- (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the proponent in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.

(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, or
- (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

(4) **What must be included in assessing a development application?**

Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) **What extra documentation is needed?**

The assessment must include consideration of a *heritage impact statement* that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The

consent authority may also decline to grant such a consent until it has considered a **conservation management plan**, if it considers the development proposed should be assessed with regard to such a plan.

- (6) The minimum number of issues that must be addressed by the heritage impact statement are:
- (a) for development that would affect a **heritage item**:
 - (i) the heritage significance of the item as part of the environmental heritage of the Blayney area, and
 - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
 - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
 - (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
 - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
 - (b) for development that would be carried out in a **heritage conservation area**:
 - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
 - (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
 - (iii) the compatibility of any 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, and
 - (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and

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- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

[8] Clauses 26 and 26A

Omit clause 26. Insert instead:

26 Development affecting places or sites of known or potential Aboriginal heritage significance

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of the Department of Environment and Conservation of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

26A Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
 - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
 - (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
 - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
 - (b) is integrated development.

[9] Clauses 27–30A

Omit clauses 27–30. Insert instead:

27 Development in the vicinity of a heritage item

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item, or

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- (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.
- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

28 Advertised development

The following development is identified as advertised development:

- (a) the demolition of a heritage item or a building, work, tree or place in a heritage conservation area, and
- (b) the carrying out of any development allowed by clause 30.

29 Notice of demolition to Heritage Council

Before granting consent for the demolition of a heritage item identified in Schedule 2 as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

30 Conservation incentives

The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and

- (c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

30A Development in heritage conservation areas

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
 - (a) the pitch and form of the roof (if any), and
 - (b) the style, size, proportion and position of the openings for windows or doors (if any), and
 - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.
- (3) Consent must not be granted to development on a site within a heritage conservation area which will result in a landscaped area of less than 5% of the site area.

[10] Schedule 2 Heritage items

Insert in appropriate order under the heading **BLAYNEY**:

33A Bakery

122 Adelaide Street Blayney 2799

Lot 1 Section 3 DP 713347

Assessment No 549

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33B Residence

30 Adelaide Street Blayney 2799

Lot 7 Section 8 DP 758121

Assessment No 589

33C Shop

131 Adelaide Street Blayney 2799

Lot 1 Section 15 DP 314277

Assessment No 535

33D Residence

24 Church Street Blayney 2799

Lots 1 & 2 DP 741147

Assessment No 754

33E Cottage

8 Lane Street Blayney 2799

Lots 14 & 15 Section 2 DP 1450

Assessment No 877

33F Units

53 Adelaide Street Blayney 2799

Lot A Section 12 DP 349106

Assessment No 506

33G Shop

55 Adelaide Street Blayney 2799

Lot B DP 349106

Assessment No 507

33H Residence

43 Osman Street Blayney 2799

Lot 5 Section 21 DP 758121

Assessment No 1099

33I Residence

34 Water Street Blayney 2799

Lot B DP 381285

Assessment No 1252

33J “Wonga Homestead”

87 Hills Lane Blayney 2799

Lot 109 DP 579555

Assessment No 437-2

33K Blayney General Cemetery

Memorial Drive Blayney 2799

33L Marsden Family Vault

101 Plumb Street Blayney 2799

Lot 2 DP 881499

Assessment No 456-32

[11] Schedule 2

Insert in appropriate order under the heading **MILLTHORPE**:

60A Semi-detached Cottage

16 Park Street Millthorpe 2798

Lot 7 Section F DP 3098

Assessment No 1761

60B Semi-detached Cottage

18 Park Street Millthorpe 2798

Lot 6 Section F DP 3098

Assessment No 1760

60C Cottage

5 Montgomery Street Millthorpe 2798

Lot 12 Section 3 DP 1112

Assessment No 1737

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60D Cottage

7 Montgomery Street Millthorpe 2798

Lot 11 Section 3 DP 1112

Assessment No 1736

60E Cottage

17 Pilcher Street Millthorpe 2798

Lot 15 Section 3 DP 983554

Assessment No 1776

60F Residences

14 & 16 Pym Street Millthorpe 2798

Lot 11 Section A DP 1713

Assessment No 1803-1

60G “Garryowen Homestead”

569 Forest Reefs Road Millthorpe 2798

Lot 322 DP 704705

Assessment No 150-33

60H Residence

18–22 George Street Millthorpe 2798

Lots 15–17 Section G DP 3361

Assessment No 1713-312

60I Millthorpe General Store

1 Pym Street Millthorpe 2798

Lot 4 DP 11941

Assessment No 1799

60J Millthorpe General Cemetery

Park Street Millthorpe 2798

[12] Schedule 2

Insert in appropriate order under the heading **NEWBRIDGE**:

63A Residence

3 Caloola Street Newbridge

Lot 1 DP 219733

Assessment No 1461-1

63B Hotel and Shop

26 Trunkey Street Newbridge

Lot 1 DP 819367

Assessment No 1521-1

63C Cottage

16 Trunkey Street Newbridge

Lot 1 Section 1B DP 1282

Assessment No 1526-1

63D Shops

9 Caloola Street Newbridge

Lot 2 DP 151765

Assessment No 1465

63E Thorneys Cemetery

347 Fitzgerald Valley Road Newbridge

Lot 2 DP 777487

Assessment No 1416

63F Newbridge General Cemetery

Off Wimbledon Road Newbridge

[13] Schedule 2

Insert in appropriate order under the heading **HOBBYS YARDS**:

65A Hobbys Yards General Cemetery

Hobbys Yards Cemetery Road (Off Three Brothers Road)
Hobbys Yards

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[14] Schedule 2

Insert in appropriate order under the heading **NEVILLE:**

73A Shop and Residence

52–54 Carcoar Street Neville

Lots 1 & 3 Section 18 DP 758767

Assessment No 2661

73B Neville Hotel

24 Crouch Street Neville

Lot 2 Section 9 DP 758767

Assessment No 2623

73C Cottage

4 Teasdale Road Neville

Lot 12 Section 21 DP 758767

Assessment No 2669

73D Neville General Cemetery

Kentucky Road Neville

[15] Schedule 2

Insert in appropriate order under the heading **MANDURAMA:**

84A Cottage

24 Loquat Street Mandurama

Lot 1 DP 743627

Assessment No 2308

84B Cliefden Homestead & Rothery Private Cemetery

1521 Belubula Way Mandurama

Lot 11 DP 566218

Assessment No 1866-1

84C “Sydenham Homestead”

192 Mandurama Road Mandurama

Lot 4 DP 750393

Assessment No 2016-1

84D Cottage

27 Gold Street Mandurama

Lot 1 DP 1003790

Assessment No 2271

[16] Schedule 2

Insert in appropriate order under the heading **LYNDHURST:**

87A Lyndhurst General Cemetery

Cemetery Lane Lyndhurst

[17] Schedule 2

Insert in appropriate order under the heading **CARCOAR:**

116A Cottage

13 Belubula Street Carcoar

Lot 7 Section 18 DP 758225

Assessment No 1288

116B Old Commercial Hotel

9 Belubula Street Carcoar

Lot 1 Section 18 DP 996351

Assessment No 1290

116C Shops and Residence

7 Belubula Street Carcoar

Lot 1 DP 731723 & Lot 4 Section 18 DP 758225

Assessment No 1292

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116D Shop

2 Belubula Street Carcoar
Lot 2 Section 17 DP 70599
Assessment No 1277

116E Cottage

8 Icely Street Carcoar
Lot 1 Section 10 DP 758225
Assessment No 1325

116F Stammers House

40 Icely Street Carcoar
Lot 7 Section 7 DP 758225
Assessment No 1331

116G Old Bakery

18 Naylor Street Carcoar
Lot 1 DP 662024
Assessment No 2818

116H Stoke Hotel

12 Naylor Street Carcoar
Lot 442 DP 706264
Assessment No 2817

116I Carcoar General Cemetery

Carcoar Road Carcoar

[18] Schedule 2

Insert at the end of the Schedule:

KINGS PLAINS

121 "Iralee Homestead"

3011 Mid Western Highway Kings Plains
Lot 5 DP 1040434
Assessment No 3034

122 Cottage

2937 Mid Western Highway Kings Plains

Lot 77 DP 750413

Assessment No 3029-1

CADIA

123 Cadia General Cemetery

Cadia

SHAW

124 Shaw General Cemetery

934 Mount Macquarie Road Shaw

Lots 1 & 2 DP 724418

Assessment No 2788

BENEREE

125 “Old School House”

455 Tallwood Road Beneree

Lots 333, 372 DP 750367

Assessment No 343-1

FOREST REEFS

126 Forest Reefs Cemetery

Convent Lane Forest Reefs

Lot 1 DP 668339