

PART TWO CHARACTER & HERITAGE OF THE HUNTERS HILL MUNICIPALITY

2.1 PURPOSE OF THIS PART

Part Two of this Development Control Plan provides the basis for planning and assessment of **all** development proposals in the Municipality of Hunters Hill.

Part Two comprises the following chapters which respond directly to provisions of the *Hunters Hill Local Environmental Plan 2012 (LEP 2012)*:

1. *Chapter 2.2* *Character* identifies significant environmental qualities and features which contribute to the identity of this Municipality, and which apply to all development applications.
2. *Chapter 2.3* *Trees and Vegetation* provides details in relation to conservation and management of existing vegetation which is considered to be a significant element of the Municipality's existing character.
3. *Chapter 2.4* *Heritage Conservation* provides detailed requirements in relation to *heritage items* and *heritage conservation areas* which are identified by the *Hunters Hill LEP 2012*, and which are significant elements of this Municipality's character and identity.

2.2 CHARACTER

2.2.1 INTRODUCTION

This chapter applies to all types of development that are permitted by the *Hunters Hill LEP 2012* (LEP 2012).

This chapter emphasises a fundamental objective for successive planning policies that have been adopted by Hunter's Hill Council since the mid-1980's: "*environmental factors which contribute to the unique character and identity of this Municipality should be maintained and enhanced*".

Typically, factors which contribute to character are revealed by site analysis which is a preparatory step in the planning and design of all development proposals. *Part One* of this Plan requires that all development applications must provide a *site analysis* document which addresses elements of the natural, scenic and urban environments which are relevant to each proposed development.

Successive planning policies adopted by Hunter's Hill Council have recognised that character and identity of this Municipality reflect a unique combination of factors which include the underlying natural environment in addition to thematic history and the appearance of suburban settlement.

The *Hunters Hill LEP 2012* has continued the Council's focus upon character as a foundation element of local planning policies. Character is noted by aims of the instrument, and also is specified by zone objectives together with a number of local provisions which must be considered before a development consent may be granted.

The *Hunters Hill LEP 2012* identifies a number of localities with special significance in terms of character where special matters for consideration apply, including *River Front Areas*, *Foreshore Areas*, and *Heritage Conservation Areas*.

2.2.2 AIMS & OBJECTIVES OF THIS CHAPTER

This chapter has the following aims and objectives:

- (a) Conserve and enhance character and environmental identity of the Hunters Hill Municipality by the appropriate use and development of land, existing buildings and structures.
- (b) Maintain and enhance qualities of existing buildings and structures, tree covered streetscapes and scenically prominent landscape settings which are important elements of this Municipality's heritage, scenic quality and environmental identity.
- (c) Complement provisions of the *Hunters Hill LEP 2012* to ensure that future development does not detract from existing character of landscape settings, streetscapes, residential gardens and buildings which contribute to this Municipality's heritage, scenic quality and environmental identity .

2.2.3 EXISTING CHARACTER

Features that influence existing character in the Hunters Hill Municipality provide a background to desired character controls which must be satisfied by all development proposals. In general, the desired character controls seek to maintain and enhance existing character.

Successive planning policies which have been adopted by Hunter's Hill Council over the past thirty years confirm that the existing character and identity of this Municipality may be explained according to four broad themes:

- (a) Natural or scenic qualities which include:
 - (i) Major waterways and tributaries, together with shorelines that are defined by the *Hunters Hill LEP 2012* as *riparian lands*.
 - (ii) Bushland reserves, slopes and foreshores which provide scenically prominent backdrops to waterways, shorelines and nearby residential hillsides, and which are defined as *river front areas* or *foreshore areas* by the *Hunters Hill LEP 2012*.
 - (iii) An extensive tree canopy for *river front areas* in particular, which ensures that building forms or structures do not visually dominate scenically prominent backdrops to waterways.
 - (iv) Rock outcrops and rock platforms are features of some *foreshore areas* and *riparian lands*, and of some properties in *river front areas*.
 - (v) Scenic views and vistas which are available towards waterways, shorelines or bushland reserves from many public places and residential properties, and which include glimpses beneath the tree canopy as well as shared views across residential properties (either between or above existing buildings).
- (b) Streetscapes which comprise the following significant elements:
 - (i) In general, streetscapes are defined by patterns of gardens and building forms which have been influenced by a combination of land use and thematic development history in this Municipality.
 - (ii) Most significant streetscapes occur within 'garden suburb' neighbourhoods that are widely recognised as emblems of this Municipality's identity. Buildings in these neighbourhoods typically date from the mid-Nineteenth Century through to the early-to-mid Twentieth Century, but are screened substantially by the canopies of mature trees which have been established in private gardens and along street verges.
 - (iii) Significant streetscapes also occur within *Heritage Conservation Areas*, where groups of buildings display special qualities in terms of history, culture and/or aesthetics, and where special considerations are specified by *Hunters Hill LEP 2012* in relation to new development.

- (iv) Important streetscapes also occur in neighbourhoods that contain clusters of *contributory items* which are defined by *Appendix ii* of this Plan, where the current consistency of traditional architecture or building forms has produced streetscapes which display a high degree of visual harmony.
 - (v) Front gardens are significant elements of all residential areas, and they establish building setbacks which are relatively consistent across most neighbourhoods, as well as accommodating trees which ensure that most streetscapes are not visually dominated by buildings or structures.
 - (vi) Commercial areas provide local or district landmarks, and range from clusters of neighbourhood shops to ribbons of shop-front development along major roads or facing prominent intersections. Building forms generally maintain the characteristics of traditional 'main street' development which generates high levels of pedestrian and business activity along major street frontages.
- (c) Residential landscapes with the following detailed qualities:
 - (i) Private gardens that surround each dwelling are fundamental to the 'green' character and amenity of *river front areas*, *heritage conservation areas* and 'garden suburb' neighbourhoods where streetscapes are not visually dominated by buildings or structures.
 - (ii) Private gardens incorporate *landscaped areas* that surround each building, and that conserve natural features such as rock outcrops and existing trees which are bushland remnants.
 - (iii) Traditionally, *landscaped areas* display an informal 'green character' that maintains topography in a natural or near natural configuration without the need for substantial retaining walls, and without extensive encroachments by paved surfaces or outdoor structures.
 - (iv) On waterfront properties, *landscaped areas* that adjoin *foreshore areas* which are defined by the *Hunters Hill LEP 2012* typically display informal green qualities, with gentle slopes that are contained by low sea walls or rock outcrops, and a predominance of landscaping rather than extensive outdoor structures such as retaining walls, courts, pools or terraces.
- (d) Buildings and architecture which consistently incorporate the following details:
 - (i) Typically, built form and architecture are influenced by the age or period of development which has a visible impact upon construction and architectural style, the size and scale of buildings, the forms of roofs and exterior walls, and the architectural embellishment of exteriors.
 - (ii) In this Municipality, existing buildings which date from the mid-Nineteenth Century through to the early-to-mid Twentieth Century are valued highly for their contribution to European and architectural heritages, and these buildings are widely considered to provide design cues for the desired scale and architectural character of future development.

- (iii) Pitched roofs with eaves are consistent features for most periods of residential development in this Municipality, although roof pitches tended to vary according to prevailing construction technology and architectural style.
- (iv) Street facades which are 'animated' by verandahs, living room windows and front doors also are consistent features for most of the architectural periods and types of traditional residential development which occur in this Municipality.
- (v) Details which are common to residential and commercial buildings include a predominance of masonry facades that are 'punctured' by vertically proportioned windows (rather than extensive glazed walls), balconies which are framed structures rather than glazed cantilevers, exterior materials and finishes which employ earthy or medium-to-dark tones, and street elevations which are not visually dominated by garages or driveways.
- (vi) Commercial developments traditionally incorporate simple rectilinear building forms, often with skillion roofs that are concealed by parapets, and always with shop-front windows which face their immediate street frontage. Developments from the late-Nineteenth Century onwards incorporate awnings or verandahs above the street footpath, and often comprise two storey buildings with residential accommodation above ground floor shops.

2.2.4 DESIRED CHARACTER

All development applications must demonstrate satisfactory responses to controls for desired character in this Plan which complement requirements of the *Hunters Hill LEP 2012*:

- (a) Aims of the instrument: clause 1.2.
- (b) Zone objectives: clause 2.3.
- (c) Objectives for principal development standards in relation to height and floor space ratio: respectively clauses 4.3 and 4.4.
- (d) Conservation and management of trees and vegetation: clause 5.9.
- (e) Development of *heritage items* and *heritage conservation areas*: clause 5.10.
- (f) Development on river front areas: clause 6.7.
- (g) Minimum street frontage for medium density residential development: clause 6.8.
- (h) Landscaped area for dwelling houses and secondary dwellings: clause 6.9.

The following controls for desired character apply to all development proposals:

- (a) Desired natural character and scenic quality:
 - (i) In general, existing site features which contribute to existing natural character or scenic quality should be conserved and enhanced, and new building forms should not visually dominate *river front areas* or *foreshore* areas which are defined by the *Hunters Hill LEP 2012*.

- (ii) Environmental impacts that would have adverse visual effects in terms of existing natural character or scenic quality should be avoided by all development proposals in *foreshore areas*, *riparian lands*, or *river front areas* that are defined by the *Hunters Hill LEP 2012*.
 - (iii) Visual impacts of development proposals in *river front areas* which are defined by the *Hunters Hill LEP 2012* should be minimised by appropriate siting of proposed structures and by low impact construction which would maintain and enhance existing natural features such as natural or near natural topography, bushland or individual trees which are bushland remnants, and rock outcrops or shoreline rock platforms.
 - (iv) Existing scenic qualities of *river front areas* and prominent ridges should be maintained and enhanced by development proposals that would conserve existing trees together with visual continuity of the existing 'green canopy' that limits visual impacts of buildings or structures from surrounding vantage points on waterways and residential hillsides.
 - (v) Existing trees that are scenically prominent features of *river front areas* and prominent ridges should be conserved by providing *landscaped areas* around every building or paved area, and by maintaining existing topography within those *landscaped areas*, as well as by ensuring that any proposed excavation would be confined predominantly beneath a *building footprint*.
 - (vi) In *river front areas* and along prominent ridges, existing views and vistas toward a waterway or shoreline that are available from any public place or residential property should be maintained, or should be 'shared' by appropriate siting and form of proposed buildings (views that should be shared include existing glimpses which are available beneath tree canopies, and above or between existing buildings that are located upon another property).
- (b) Desired streetscape character:
- (i) In general, proposed developments should maintain and enhance the character of existing streetscapes which contribute to identity and history of the Hunters Hill Municipality.
 - (ii) Streetscape character of *heritage conservation areas* and *heritage items* should respond to requirements that are specified by the *Hunters Hill LEP 2012* and *Chapter 2.4 Heritage* of this Plan.
 - (iii) In areas with special qualities that contribute to identity of the Hunters Hill Municipality, the siting and form of proposed developments should demonstrate **very high** levels of compatibility with established patterns of gardens and buildings:
 - *Heritage conservation areas* that are defined by the *Hunters Hill LEP 2012*.
 - 'Garden suburbs' where existing residential buildings range from the mid-Nineteenth Century through to the early-to-mid Twentieth Century.

- Neighbourhoods that accommodate clusters of *contributory items* which are listed by *Appendix ii* of this Plan.
- (iv) In general, proposed residential developments should demonstrate reasonable compatibility with the predominant pattern of existing dwellings or buildings in the surrounding neighbourhood:
- Setbacks for proposed buildings and structures should be similar to the immediate neighbours, and front setbacks in particular should remain relatively consistent along the surrounding street frontage.
 - Proposed front gardens should have dimensions which would be sufficient to accommodate a green backdrop to their street frontage, and should not be visually enclosed by fences that would be tall or visually incompatible with the scale or character of existing fences nearby.
 - The form of proposed buildings and roofs should incorporate a degree of articulation which is **similar** to existing traditional residential buildings nearby, and the alignments of exterior walls should not be long or continuous without incorporating any visible break or stepping.
 - The principal roofs of all residential buildings should incorporate eaves and should be pitched, although pitches do not need to be identical with neighbouring or nearby buildings (except in a *heritage conservation area*).
 - In residential localities where existing development is predominantly single storey: any proposed two storey element should not visually dominate the immediate street frontage, and also should not be visually intrusive when viewed from a nearby public place or waterway.
- (v) Proposed commercial developments should demonstrate reasonable compatibility with predominant patterns of existing buildings nearby:
- Setbacks for lower storeys of any proposed street facade should be the same as, or similar to, existing traditional shop buildings nearby.
 - Proposed walls which would face a residentially zoned property should have side and/or rear setbacks to accommodate a screen of 'deep soil landscaping' between neighbouring buildings.
 - Heights of proposed front facades should be compatible with existing commercial or mixed-use buildings nearby.
 - Proposed side and/or rear facades that would adjoin a residential building should be compatible with the height of those neighbouring residential buildings.

- Compatibility with the height of existing buildings may be achieved where new developments incorporate a pronounced setback between lower storeys and any upper storeys that would be taller than those existing buildings.

(c) Desired residential landscape character:

- (i) In general, existing character of residential localities should be maintained and enhanced by providing *landscaped areas* **around** each building or paved area:
 - *Landscaped areas* should conserve existing trees or accommodate new landscaping.
 - Existing trees and new landscaping should ensure that new building forms would not visually dominate any existing streetscape or landscape setting.
- (ii) In *river front areas* and 'garden suburb' neighbourhoods in particular, the predominantly informal character of existing gardens should be maintained:
 - Existing rock outcrops and slopes should be maintained to avoid the need for tall retaining walls that would be visually prominent.
 - Existing trees which are visually prominent features of the surrounding locality should be retained, and in conjunction with new trees and shrubs, should provide attractive backdrops to waterways and streets as well as 'green separation' between neighbouring properties.
 - In *river front areas*, *landscaped areas* between a shoreline and any building should not incorporate extensive paved areas, terraces, swimming pools, tennis courts or outdoor structures unless those areas or structures can be screened by existing trees or proposed plantings.
 - Along street frontages, fences or walls generally should be consistent with the scale, construction and design character of traditional fences nearby.

(d) Desired character of buildings and architecture:

- (i) In general, the form and architectural character of development proposals should be compatible with existing traditional buildings which were constructed in this Municipality between the mid-Nineteenth Century and the early-to-mid Twentieth Century (including residential, commercial and civic buildings).
- (ii) Existing character of residential localities should be maintained and enhanced:
 - For proposed facades which would be visible from a waterway or public place: style and level of architectural detail should be consistent **or** compatible with existing traditional buildings nearby.

- Proposed facades should not be visually dominated by wide garages or by exposed basements.
- (iii) Existing character of commercial centres should be maintained and enhanced:
- Proposed street facades should incorporate features of traditional main street development which contribute to high levels of business and pedestrian activity such as near continuous shopfronts, street lobbies, awnings and balconies.
 - The width of proposed driveways and location of proposed on-site parking should not interrupt the continuity of shopfronts and street lobbies which maintain high levels of business and pedestrian activity along all street frontages.
- (iv) Design of visually prominent exterior walls for both residential and commercial buildings should be compatible with the architectural character of traditional buildings that are located nearby:
- New walls predominantly should be masonry construction with windows that are set into vertically proportioned openings, and facades that incorporate ribbons of windows or extensive glazed balcony balustrades should not be visually prominent.
 - Exterior finishes predominantly should incorporate earthy or medium-to-dark tones.

Notes. An effective definition of 'compatibility' is provided in the *Planning Principle* which has been published by the NSW Land and Environment Court in relation to *Surrounding Development* (see paragraphs 22 to 30). That *Planning Principle* provides reasonable latitude for contemporary architectural design.

Existing buildings which might not be consistent or compatible with the desired traditional architectural character do not establish a rationale for significant variation of desired character controls.

2.3 TREES & VEGETATION

2.3.1 INTRODUCTION

This chapter applies to all trees and vegetation within the Hunters Hill Municipality which contribute significantly to the character and identity of this Municipality which is explained in this Plan by *Chapter 2.2 Character*. Significant trees and vegetation also include bushland which is located in public parks or reserves, and in private gardens.

This chapter provides controls which apply to development proposals, as well as requirements for the management of existing trees and vegetation by way of pruning, cutting down and removal, lopping or ringbarking.

Provisions of the *Hunters Hill Local Environmental Plan 2012 (LEP 2012)* and controls in this Plan require that character and identity of established neighbourhoods in this Municipality must be maintained and enhanced. These requirements have direct implications for the conservation of existing trees and vegetation which are widely recognised as significant elements of established neighbourhoods in the Hunters Hill Municipality.

Provisions of the *Hunters Hill LEP 2012* which apply to development proposals include clause 6.7 which requires the conservation of existing trees in *river front areas* in order to minimise the visual impacts of new buildings in these scenically prominent locations.

Provisions of the *Hunters Hill LEP 2012* also affect the proposed management or maintenance of existing trees and vegetation. Clause 5.9 requires that a development consent or a permit is obtained from Hunter's Hill Council before affecting any vegetation that is *prescribed* by this chapter **unless** an exemption has been specified by the *Hunters Hill LEP 2012*.

The *Environmental Planning and Assessment Act* provides for significant penalties in relation to vegetation management works which have been undertaken without a development consent or permit. Hunter's Hill Council considers that vegetation management works without approval are a serious matter, and has a long standing commitment to investigating and prosecuting all reported incidents.

2.3.2 AIMS & OBJECTIVES OF THIS CHAPTER

This chapter has the following aims and objectives:

- (a) *Prescribe* trees and vegetation which require a development consent or a permit from Hunter's Hill Council before removal or management works may commence.
- (b) In relation to development proposals:
 - (i) Complement provisions of the *Hunters Hill LEP 2012* and controls of this Plan regarding desired character for the Municipality.
 - (ii) Support aims and requirements of Commonwealth and State legislation regarding species of flora and fauna which have been identified as rare, threatened or vulnerable, and ecological communities which are endangered.
- (c) In relation to management of trees and vegetation by way of pruning, lopping, cutting down and removal, ringbarking, destruction or injury:
 - (i) Complement provisions of the *Hunters Hill LEP 2012* in relation to statutory procedures and areas with special qualities.

- (ii) Specify vegetation or situations which do not require consent before management works may commence.
- (d) Provide details for applications which seek a development consent or permit to remove or manage trees or vegetation which are *prescribed* by this Plan.

2.3.3 VEGETATION WHICH IS PRESCRIBED BY THIS PLAN

Vegetation which is *prescribed* by this Plan requires a development consent or a permit from Hunter's Hill Council before pruning or lopping, cutting down or removal, ringbarking, destruction or injury, according to clause 5.9 of the *Hunters Hill LEP 2012*.

The following vegetation is *prescribed* by this Plan:

- (a) Any vegetation which has a height of 4 metres or more.
- (b) Any vegetation which has a stem diameter of 200mm or more, measured 1.4 metres above *ground level (existing)*.
- (c) *Bushland* or individual plants which are bushland remnants:
 - (i) On properties which adjoin Buffalo Creek Reserve or Boronia Park Reserve.
 - (ii) Including species that are listed as rare, vulnerable or threatened according to the Commonwealth *Environmental Protection and Biodiversity Conservation Act*, or the NSW *Threatened Species Conservation Act*.
- (d) Vegetation on lands which are defined by the *Hunters Hill LEP 2012* as having *biodiversity* or *high biodiversity significance*.
- (e) Trees which are listed as a *heritage item* by the *Hunters Hill LEP 2012*.
- (f) Trees which are listed by the *Hunters Hill Significant Tree Register*.

Notes. *Ground level (existing)* is defined by the *Hunters Hill LEP 2012*.

In this chapter, *bushland* is defined as vegetation which either is the remainder of natural vegetation upon the site, or vegetation which has been altered but remains representative of the site's natural vegetation in terms of structure and floristics.

A copy of the *Hunters Hill Significant Tree Register* may be obtained from the Hunter's Hill Council Administration Centre in Alexandra Street Hunters Hill, or downloaded at <http://www.huntershill.nsw.gov.au>

2.3.4 DEVELOPMENT PROPOSALS

Existing trees and vegetation which are *prescribed* by this Plan, and which the Council considers to have a *high retention value*, should be conserved by the appropriate location and construction of proposed buildings or structures, together with associated services and construction activities.

Note. *Retention value* is defined by Australian Standard AS 4970-2009 *Protection of Trees on Development Sites*.

Proposed buildings or structures, and associated services, works or construction activities, should not affect any existing trees or vegetation that are required to be conserved according to provisions of the *Hunters Hill LEP 2012* or according to this Plan:

- (a) Proposed buildings, structures and services should be setback from *tree protection zones (TPZs)* and *critical root zones (CRZs)* which are defined by *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*.
- (b) *Ground level (existing)* within a *TPZ* should not be altered by excavation or filling.
- (c) Construction access and stockpiles (excavated soil or construction materials), should not encroach upon a *TPZ*.
- (d) If works or access are proposed within a *TPZ* or *CRZ*, the development application should provide technical information in relation to encroachment considerations which are specified by *AS 4970-2009 Protection of Trees on Development Sites*.

Notes. According to *AS 4970-2009 Protection of Trees on Development Sites*, a *tree protection zone* covers those portions of a tree's roots and crown which are essential for viability and stability, and includes a *critical root zone*.

Ground level (existing) is defined by the *Hunters Hill LEP 2012*.

2.3.5 MANAGEMENT OF TREES & VEGETATION

Activities that require development consent or a permit

A development consent or a permit from the Council is required before commencing the following activities that would affect trees or vegetation which are *prescribed* by this Plan:

- (a) Pruning.
- (b) Cutting down and removal.
- (c) Lopping, ringbarking, destruction or injury.

The following activities would be likely to injure or destroy trees or vegetation which are *prescribed* by this Plan:

- (a) Construction works within a *tree protection zone (TPZ)* or a *critical root zone (CRZ)* that have been determined by the *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*, including:
 - (i) Alteration of existing ground levels by excavation or filling.
 - (ii) Erection of a building or structure, or other construction works.
 - (iii) Installation of services.
 - (iv) Access by heavy machinery or the location of stockpiles (excavated soil or construction materials).
- (b) Other works or activities within a *TPZ* or *CRZ* which would compromise the *retention value* of a tree, including:

- (i) Application or disposal of poisons, herbicides or chemicals that are toxic to vegetation.
- (ii) Fastening of materials that would encircle or restrict normal vascular functioning in trunks, stems or branches.
- (iii) Insertion of sharp objects such as nails, wire and staples, climbing spikes or spurs.

Notes. *Australian Standard AS 4970-2009 Protection of Trees on Development Sites* defines *tree protection zone* as the combination of *root protection area* (which includes a *critical root zone*) and *crown area*.

AS 4970-2009 also defines *retention value*.

Activities that do not require development consent or a permit

Activities or situations that are specified by clauses 5.9(5) or 5.9(6) of the *Hunters Hill LEP 2012* do not require a consent or permit before vegetation may be pruned or lopped, cut down or removed, ringbarked, destroyed or injured.

The following activities are consistent with the scope of exemptions that are specified by the *Hunters Hill LEP 2012* and State legislation, and also do not require consent or a permit before vegetation may be pruned or lopped, cut down or removed, ringbarked, destroyed or injured:

- (a) Emergency works carried out for safety reasons:
 - (i) Under the *Fire Brigade Act*, the *State Emergency Service Act*, or the *State Emergency & Resource Management Act*.
 - (ii) Works by or on behalf of Hunter's Hill Council or the State Emergency Services.
- (b) Removal or pruning works:
 - (i) Under the *Electricity Supply Act*, the *Electrical Supply (General) Regulation*, or the *Electricity Safety Act*.
 - (ii) Under the *Roads Act*.
- (c) Bushfire hazard reduction works carried out under the *Rural Fires Act*, including removal or pruning.
- (d) Council maintenance works:
 - (i) Preventing structural damage to Council assets such as pavements, kerbs, footpaths and drains, including removal or pruning.
 - (ii) Management of noxious weeds and species that are listed by *Table 2.1 Exempt Species*.
 - (iii) Providing clearance from buildings, roads and pedestrian paths which are managed by the Council.
- (e) Building clearance works generally:

- (i) Reduction pruning in accordance with *Australian Standard AS 4373-2007 Pruning of Amenity Trees*.
 - (ii) Limited to works that would provide a maximum clearance of 2 metres from a roof or from the external face of a building, together with pruning of branches that are less than 50mm in diameter at the branch collar.
- (f) Clearance for vehicle and pedestrian access:
- (i) Crown lifting in accordance with *Australian Standard AS 4373-2007 Pruning of Amenity Trees*.
 - (ii) Limited to works that would provide a maximum clearance of 2.4 metres above a public pedestrian path or road, together with pruning of branches that are less than 50mm in diameter at the branch collar.

Types of vegetation that do not require development consent or a permit

The following vegetation is **not prescribed** by this Plan, and a consent or permit is **not required** before the specified types of vegetation or species may be pruned or lopped, cut down or removed, ringbarked, destroyed or injured:

- (a) Noxious weeds:
- (i) Removal, pruning, control or eradication of species that have been declared noxious plants within the Hunters Hill Municipality under the *Noxious Weeds Act*.
- Note.** Plants that are declared noxious in this Municipality are listed by the NSW Department of Primary Industries:
<http://www.dpi.nsw.gov.au/agriculture/pests-weeds/weeds/noxweed>
- (b) Exempt species:
- (i) Removal of any species listed in Table 2.1 except trees or vegetation that are located upon a property which is listed as a *heritage item* by the *Hunters Hill LEP 2012*.

Table 2.1: Exempt species

<i>Botanical name</i>	<i>Common name</i>
<i>Acacia baileyana</i>	Cootamundra Wattle
<i>Acacia podalyrifolia</i>	Mount Morgan Wattle
<i>Acacia saligna</i>	Golden Willow Wattle
<i>Acer negundo</i>	Box Elder
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Cinnamomum camphora</i> (except where over 10m metres in height)	Camphor Laurel

Botanical name	Common name
<i>Celtis</i> spp. (except where over 10 metres in height)	Hackberry
<i>Cotoneaster</i> spp.	Cotoneaster
<i>Eriobotrya japonica</i>	Loquat Tree
<i>Erythrina</i> spp. (except where over 10 metres in height)	Coral Trees
<i>Ficus elastica</i>	Rubber Tree
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Grevillea robusta</i>	Silky Oak
<i>Lagunana patersonii</i>	Norfolk Is. Hibiscus
<i>Ligustrum lucidum</i> and cvs	Large Leaf Privet
<i>Ligustrum sinense</i>	Small Leaf Privet
<i>Liquidambar styraciflua</i> (except where over 10 metres in height)	Liquidambar
<i>Musa cavendishii</i>	Banana
<i>Nerium oleander</i>	Oleander
<i>Olea europaea</i> ssp. <i>cuspidata</i>	African Olive
<i>Pinus radiata</i>	Radiata Pine
<i>Pinus eliottii</i>	Slash Pine
<i>Populus</i> spp. (except where over 10 metres in height)	Poplar
<i>Robinia pseudoacacia</i>	Black Locust
<i>Salix</i> spp.	Willow
<i>Schefflera actinophylla</i>	Umbrella Tree
<i>Syagrus romanzoffianum</i>	Cocos Palm

- (c) Hedges: annual maintenance involving pruning works of less than 500mm in relation to existing height, width or depth, and where branches to be pruned are less than 30mm in diameter.

- (d) Dead trees: may be removed unless that tree contains nesting hollows for native fauna.
- (e) Deadwood: removal of dead branches from any tree in accordance with *AS 4373-2007 Pruning of Amenity Trees*.

Note. In relation to proposed removal of dead trees and/or deadwood, ensure that the tree or branches are not leafless because the tree is deciduous.

2.3.6 APPLICATIONS & ASSESSMENT

Types of application

An application must be submitted to Hunter's Hill Council in order to obtain a development consent or a permit prior to the removal or management of vegetation or trees which are *prescribed* by this Plan.

The following types of application are required:

- (a) A *Development Application* is required in the following situations:
 - (i) In conjunction with the proposed development of a building or structure that requires the Council's consent.
 - (ii) On a property that is located within a *heritage conservation area* which has been listed by the *Hunters Hill LEP 2012*.
 - (iii) Upon a property which has been listed as a *heritage item* by the *Hunters Hill LEP 2012*.
- (b) In all other situations, a *Tree Permit Application* may be used.

Content of all applications

Applications must provide sufficient information for the Council to assess proposals to remove existing vegetation or proposed tree management works:

- (a) Written authorisation by the owner of the land which accommodates the vegetation that is proposed to be removed or managed, or that is likely to be affected by a proposed development:
 - (i) Where the affected property has a Strata or Company Title, written authority must be provided by the responsible officer of the Owners' Corporation or by the Company Secretary.
- (b) Applications which propose to remove existing trees should include an evaluation of *retention value* consistent with *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*, including reference to the following:
 - (i) Health and structural condition.
 - (ii) Landscape significance, including reference to desired character controls which are specified by *Chapter 2.2 Character* in this Plan.

- (iii) Proximity to existing buildings or structures or services.
- (c) Applications may require technical reports such as:
 - (i) Arboricultural report prepared by an AQF Level 5 Arborist.
 - (ii) Pruning specification, supporting an arboricultural report, and prepared by an AQF Level 5 Arborist.
 - (iii) Engineering report prepared by a qualified structural engineer.
 - (iv) Drainage report, prepared by qualified hydraulic engineer or a licensed plumber, and including a diagram of lines or pipes in relation to existing trees.
 - (v) Other reports which address unusual circumstances of the site or vegetation which would be affected by tree management works.
- (d) Pruning specifications and/or arboricultural reports are required for the following situations or species:
 - (i) *Bushland* or individual plants which are bushland remnants, in particular vegetation that occurs on properties or sites which adjoin Buffalo Creek Reserve or Boronia Park Reserve.
 - (ii) Plant species that are listed as *rare*, *vulnerable* or *threatened* according to the Commonwealth *Environmental Protection and Biodiversity Conservation Act* or the NSW *Threatened Species Conservation Act*.
 - (iii) Trees or vegetation on lands which the *Hunters Hill LEP 2012* defines as *biodiversity* or *high biodiversity significance*.
 - (iv) Trees which are listed as a *heritage item*, or that are located upon a property which is listed as a *heritage item* according to the *Hunters Hill LEP 2012*.
 - (v) Trees which are listed by the *Hunters Hill Significant Tree Register*.
 - (vi) Requests under section 82A of the *Environmental Planning and Assessment Act* for a review of the Council's determination regarding a previous application to remove or manage trees or vegetation.
 - (vii) Other situations or locations where the Council might consider that detailed information is necessary for proper assessment.
- (d) Fees are payable for both development applications and tree permit applications.

Notes. The schedule of fees which are payable for applications may be obtained from the Hunters Hill Administration Centre in Alexandra Street Hunters Hill

Applications in relation to vegetation that is located wholly or partly upon a neighbouring property may be considered **only** if the applicant has obtained written authority from the neighbouring landowner.

Information regarding the resolution of disputes between neighbours regarding the management of vegetation is available from the *NSW Land and Environment Court* website.

Content of development applications which involve building works

Development applications which involve building works, and that propose to remove or affect *prescribed vegetation*, must provide the following documents (in addition to the information which is required for all applications):

- (a) *Site analysis* documents that are required by *Part One* of this Plan should identify existing trees and vegetation in terms of:
 - (i) Location and species; and
 - (ii) Existing height and *DBH*; and
 - (iii) In relation to trees that would be affected by the proposed development: diameters of the *TPZ* and *CRZ* which have been calculated according to *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*.
- (b) In relation to trees which are proposed to be removed, applications should provide an evaluation of *retention value* consistent with considerations or requirements that are specified by *AS 4970-2009 Protection of Trees on Development Sites*, including:
 - (i) Health and structural condition.
 - (ii) Landscape significance, including reference to desired character controls which are specified by *Chapter 2.2 Character* in this Plan.
 - (iii) Proximity to existing buildings or structures or services.
- (c) A *site works plan* which demonstrates that dimensions of the site are sufficient to accommodate proposed works and construction without affecting any *TPZ* or *CRZ*:
 - (i) Locations of existing and proposed buildings and structures, together with new services that would be required (above-ground and below-ground).
 - (ii) Existing trees together with diameters of *TPZs* and *CRZs* which have been calculated by reference to *AS 4970-2009*.
 - (iii) Areas that would be required for construction access and materials stockpiles.

Matters for consideration in relation to all applications

The following matters will be considered by Hunter's Hill Council in relation to applications which propose to prune, cut down or remove, lop or ringbark, destroy or injure any tree or vegetation which is *prescribed* by this Plan:

- (a) Environment and character of the property or locality where works are proposed:

- (i) For trees and vegetation in general, and for trees which are listed on the *Hunters Hill Significant Tree Register*: likely scenic impacts and/or streetscape impacts in relation to controls for desired character that are contained in *Chapter 2.2 Character*.
- (ii) Within a *river front area* that is identified by the *Hunters Hill LEP 2012*: likely impacts in relation to matters that are specified by sub-clause 6.7(3) of the LEP.
- (iii) For *heritage items* and within *heritage conservation areas* that are identified by the *Hunters Hill LEP 2012*: likely impacts in relation to matters that are specified by sub-clause 5.10(4) of the LEP.
- (iv) On lands that have *high biodiversity significance* or *biodiversity significance* according to the *Hunters Hill LEP 2012*: likely impacts in relation to matters that are specified by sub-clause 6.4(3) of the LEP.
- (v) In relation to species of vegetation or fauna which the NSW *Threatened Species Conservation Act* or Commonwealth *Environmental Protection and Biodiversity Conservation Act* specify as rare, endangered or threatened, or part of an *Endangered Ecological Community*: likely impacts in relation to considerations that are specified by those acts.
- (vi) Whether proposed removal or management might be compensated by replacement planting with suitable species, sizes and numbers of plants, in order to maintain and enhance existing landscape character of the surrounding neighbourhood.
- (vii) Whether proposed removal or works would be likely to affect nesting wildlife, and if so, whether nesting fauna might be relocated by a trained wildlife handler or might move naturally away after the nesting season.

Note: If nesting fauna is discovered during the course of approved removal or management of a tree, works must cease until that fauna has been relocated by a trained wildlife handler or has moved naturally away.

- (b) *Retention value* of trees or vegetation which would be affected by proposed management or removal:
 - (i) Health.
 - (ii) Structural condition.
 - (iii) Growing environment, including proximity to buildings or structures.
 - (iv) Age class.
- (c) Likely impact of proposed works in relation to longevity and stability of existing trees:
 - (i) Location and impact in relation to a *tree protection zone (TPZ)* that has been determined according to *Australian Standard AS 4970-2009 Protection of Trees on Development Sites*.

- (ii) Location and impact in relation to a *critical root zone (CRZ)* that has been determined according to *AS 4970-2009*.
 - (iii) Measures that are proposed to mitigate impacts upon a *TPZ* or *CRZ*, consistent with encroachment provisions of *AS 4970-2009*.
- (d) Likely impacts in relation to property, buildings or infrastructure:
 - (i) Whether alternative or engineered solutions could eliminate conflict between structures and roots or branches, for example pier-and-beam footings or permeable paving.
 - (ii) Whether damage to property is relatively minor at present and is unlikely to increase: for example, in relation to driveways, pathways, fences and low retaining walls.
 - (iii) Whether repair or replacement of aged or damaged pipework is financially or technically unviable.
- (e) Impact upon residential amenity:
 - (i) Consent will not be granted for proposed removal or pruning of vegetation in order to eliminate minor shading of a property or dropping of leaves, fruit or bark.
 - (ii) Consent will not be granted for proposed removal or pruning of vegetation in order to provide views.

2.4 HERITAGE CONSERVATION

2.4.1 INTRODUCTION

This chapter provides details of procedures for heritage conservation which complement statutory requirements of the *Hunters Hill Local Environmental Plan 2012 (LEP 2012)*.

The *Hunters Hill LEP 2012* identifies *heritage items* and *heritage conservation areas*. Values of *heritage items* and *heritage conservation areas* have been confirmed by detailed studies and inventories that have been prepared by Hunter's Hill Council.

This chapter applies primarily to proposals for the redevelopment of properties which are identified as a *heritage item* or which are located within a *heritage conservation area*. This chapter also applies to development proposals for properties which have no heritage status, but which are located in the vicinity of a *heritage item* or a *heritage conservation area* (and therefore, where redevelopment has the potential to affect heritage values that are defined by the *Hunters Hill LEP 2012*).

Values of *heritage items* and *heritage conservation areas* in the Hunters Hill Municipality relate primarily to hundreds of buildings which date from the Nineteenth Century and the early Twentieth Century, and which demonstrate the evolving history of this Municipality as well as contributing to this Municipality's historic identity. However, *heritage items* and *heritage conservation areas* often include other elements which contribute to the Municipality's historic character and identity such as trees, sandstone walls, kerbs and gutters, culverts and steps.

2.4.2 AIMS & OBJECTIVES OF THIS CHAPTER

This chapter has the following aims and objectives:

- (a) Conserve and enhance cultural heritage which contributes to character and environmental identity of the Hunters Hill Municipality by the appropriate use and development of land, existing buildings and structures.
- (b) Protect the heritage significance of existing buildings and structures, tree covered streetscapes and scenically prominent landscape settings which are important elements of this Municipality's character, scenic quality and environmental identity.
- (c) Retain evidence of this Municipality's thematic development history by conserving significant elements of environmental heritage.
- (d) Complement heritage conservation provisions of the *Hunters Hill LEP 2012* to ensure that future development does not detract from the significance of *heritage items* and *heritage conservation areas* which are important elements of this Municipality's character and environmental identity.

2.4.3 GENERAL REQUIREMENTS IN RELATION TO HERITAGE

Applications for the redevelopment of a *heritage item*, or a property within a *heritage conservation area*, or a property that has no heritage status but that is located near a *heritage item* or a *heritage conservation area*, should address the following requirements:

- (a) Development proposals must evaluate likely effects in relation to identified values or significance of a *heritage item* and its setting, or the identified values and significance of a *heritage conservation area*:

- (i) Evaluation of likely effects upon heritage significance should address principles of the *ICOMOS (Australia) Burra Charter* which have been adopted by this Plan.
 - (ii) In relation to proposed redevelopment of a *heritage item*, the *Burra Charter* requires proper research of the *heritage item* in terms of its form, components, growth and history, together with an assessment of significance in relation to heritage of the Hunters Hill Municipality.
 - (iii) In relation to a *heritage conservation area*, any proposed change to a building or its surroundings demands proper research of the *heritage conservation area* in terms of identity, history, character, topography and amenity.
- (b) Documents should demonstrate that the proposed development would neither destroy nor detract from qualities which make the *heritage item* and its setting significant, or detract from qualities which make the *heritage conservation area* significant.

2.4.4 DETAILED REQUIREMENTS FOR HERITAGE ITEMS

Proposals for redevelopment of a *heritage item* also should address the following requirements:

- (a) Primary aims are to maintain and enhance qualities that have been documented by a *heritage conservation management plan*.
- (b) Any proposed changes to the existing building should respect the form, scale and materials of the original building, or should be of a very minor extent.
- (c) Proposals which involve substantial extensions are more likely to be acceptable if they would not compromise the integrity or character of the original building:
 - (i) Desirably, extensions should be separated from the original building.
 - (ii) In general, alterations or additions should respect the original building in terms of form and shape, scale, architectural details, materials and finishes.
 - (iii) New works should incorporate an architectural style and details that would complement the original building, and should neither imitate nor visually compete with architectural character of the original building.
 - (iv) Design of alterations or additions should incorporate a simple and unobtrusive architectural style which would neither detract from nor visually dominate the character of the original building.

Note. It is likely that Hunter's Hill Council will **not** support development proposals which involve substantial or total demolition of a *heritage item*.

2.4.5 DETAILED REQUIREMENTS FOR HERITAGE CONSERVATION AREAS

Proposals for redevelopment of a property that is located within a *heritage conservation area* also should address the following requirements:

- (a) Primary aims are to maintain and enhance qualities that have been documented by a *heritage impact statement*.

- (b) Proposed works should neither destroy nor detract from qualities which are influenced by elements of the area's existing character which include:
 - (i) Streetscape character and amenity.
 - (ii) Topography and established gardens.
 - (iii) Buildings with pitched roofs.
 - (iv) Facades which incorporate a high proportion of wall-to-window area.
 - (v) Windows and doors that have vertical proportions.
 - (vi) Building colour schemes which do not clash with established garden settings.

Note. It is likely that Hunter's Hill Council will **not** support development proposals which involve substantial or total demolition of a building that is located within a *heritage conservation area*.

2.4.6 ASSESSMENT PROCEDURES FOR HERITAGE CONSERVATION

The *Hunters Hill LEP 2012* specifies that *heritage management documents* may need to be provided by certain development applications:

- (a) Where the proposed development would demolish, alter or affect a *heritage item* or a property that is located within a *heritage conservation area*.
- (b) For redevelopment of a property that has no formal heritage status, but that is located near a *heritage item* or a *heritage conservation area*.

Heritage management documents should be prepared by a qualified heritage architect or heritage planner, and should provide the following information which addresses principles of the *ICOMOS (Australia) Burra Charter*:

- (a) Proposed redevelopment of a *heritage item* requires a *heritage conservation management plan* which documents the following:
 - (i) Significance of the *heritage item*; and
 - (ii) Conservation policies and management techniques which are necessary to maintain significance of that item.
- (b) Proposed redevelopment within a *heritage conservation area* or in proximity to a *heritage item* or a *heritage conservation area* requires a *heritage impact statement* which documents the following:
 - (i) Significance of the item or area that would be affected; and
 - (ii) Evaluates the likely impact of the proposed development in relation to significance of the item or area that would be affected; and
 - (iii) Techniques which would minimise impacts.

- (c) All development proposals that would affect a *heritage item* or a *heritage conservation area* (including any property that is located near a *heritage item* or a *heritage conservation area*) must provide detailed responses to matters for consideration and principles which are specified by the *Hunters Hill LEP 2012* and this Plan.

Development applications which are submitted to Hunter's Hill Council, and which involve proposals for development that are likely to affect heritage values, will be reviewed by the Council's *Conservation Advisory Panel (CAP)*:

- (a) The CAP primarily provides recommendations to the Council in relation to likely heritage impact of development proposals, but also provides heritage conservation advice to landowners, applicants and architects.
- (b) The CAP meets monthly, and its recommendations are considered by the Council prior to the determination of development applications which are likely to affect heritage values.

Before lodging an application for development which would be likely to affect the value of a *heritage item* or a *heritage conservation area* that are listed by the *Hunters Hill LEP 2012*, applicants are encouraged to consult Council's Planning Officers:

- (a) As the basis for effective discussion with the Council's heritage adviser or the CAP, preliminary sketches should be guided by a *heritage conservation management plan* or a *heritage impact statement*, and should incorporate sufficient detail to address heritage values that have been identified.
- (b) Preliminary sketch plans should not provide final details and, at the very least, should include a locality plan which describes adjoining properties and buildings (in particular, any *heritage items*) together with a site plan, plus elevations and sections which describe the intent of proposed building works.