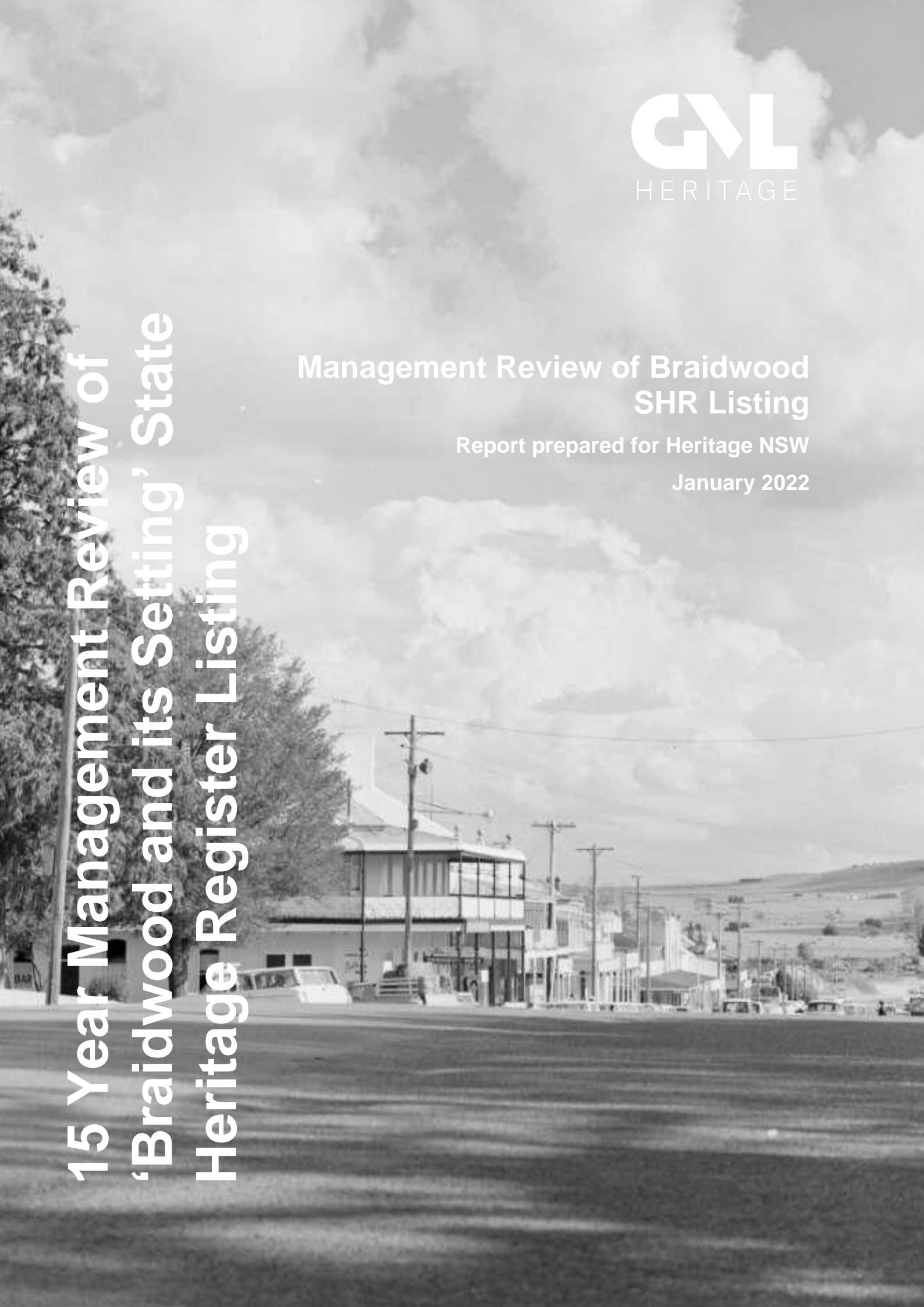


15 Year Management Review of 'Braidwood and its Setting', State Heritage Register Listing

Management Review of Braidwood SHR Listing

Report prepared for Heritage NSW

January 2022



Acknowledgement of Country

At GML we acknowledge that we work and live on the land of the First Australians. We know that this land was never ceded, and we respect the rights and interests of Australia's first people in land, culture, and heritage. We acknowledge their Elders past and present and support the concepts of voice, treaty, and truth in the Uluru Statement from the Heart.

Report Register

The following report register documents the development and issue of the report entitled 15 Year Management Review of 'Braidwood and its Setting' State Heritage Register Listing undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job Number	Issue Number	Notes/Description	Issue Date
21-0094	1	Draft Report	15 June 2021
21-0094	2	Final Report	18 October 2021
21-0094	3	Updated Final Report	9 November 2021
21-0094	4	Updated Final Report	7 December 2021
21-0094	5	Updated Final Report	31 January 2022

Quality Assurance

GML Heritage Pty Ltd operates under a quality management system which has been certified as complying with the Australian/New Zealand Standard for quality management systems AS/NZS ISO 9001:2016.

The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

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Cover Image

Southerly view of the main street, Braidwood, NSW, c1970. Photograph by Wes Stacey. (Source National Library of Australia)

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Introduction



1 Introduction

Dating from the late 1830s the historic Georgian township of Braidwood and its setting was listed on the State Heritage Register (SHR) under Part 3A of the *Heritage Act 1977* (NSW) in 2006. Braidwood was gazetted as a SHR listed item for its heritage significance to the people of NSW as an excellent example of a surviving Georgian town plan, with historical streetscapes and nineteenth-century building stock, set within a broader pastoral landscape. At the time of listing Braidwood was by far the most complex listing that Heritage NSW (then the NSW Heritage Office) had undertaken. The listing was intended to protect the significant town plan and contributing historic buildings in their pastoral setting.

It has been 15 years since Braidwood was listed on the SHR. Over that period Braidwood has experienced considerable growth and development. The resident population of Braidwood has grown from 1108 in 2006 to an estimated 1651 in 2016.¹ Further population growth in the region is anticipated.²

Tourism is considered a key economic driver, and additional economic development and investment is anticipated and encouraged. The visitor economy is estimated to be worth over \$1.6 billion in the Southern Tablelands, with over 6.1 million visitors each year.³ Given the region's significant history, heritage is considered key to the ongoing development of the local visitor economy. The strategic vision for the region includes the positioning of Braidwood as a must-see visitor destination.

Heritage NSW has engaged GML Heritage Pty Ltd (GML) to prepare a review of the management of the 'Braidwood and its Setting' SHR listing (the project). The review identifies key issues and challenges associated with the SHR listing. It considers the administration of the SHR listing, the statutory planning context and potential stakeholder and community engagement to help inform the future for heritage planning, management and conservation of Braidwood and its Setting. This is the first stage of a larger project by the Heritage NSW that is focused on updating and improving the SHR listing and its performance for the community and stakeholders.

1.1 Project Scope

The scope of this first stage of the project includes the delivery of this Milestone 1 report, as described in the amended GML Return Brief, dated 26 March 2021. The project tasks include:

- a) *attend fortnightly meeting as required;*
- b) *review the State Heritage Register listing for Braidwood township and its setting;*
- c) *consider the current curtilage and review historic aerials and other material that provides a spatial overview of development over time;*
- d) *understand the site specific exemptions that apply to the listed area, consider the new standard exemptions and determine where planning processes can be streamlined;*
- e) *undertake desktop research to understand key issues/perceptions of heritage as presented via social and news media channels;*
- f) *review Council's LEP and DCP controls for heritage and identify key issues or risks;*

- g) *consider the Braidwood DCP 2006 which operates under the Heritage Act and its effectiveness for controlling and guiding development. Determine whether Section 60 Approval thresholds are 'fit for purpose';*
- h) *read and review the Archaeological Management Plan to understand the archaeological sensitivity and determine options for best practice management and conservation as part of the planning approval process;*
- i) *review relevant court cases including Samowill Pty Ltd v Heritage Council to understand matters in dispute between consent authorities and proponents;*
- j) *conduct a round table with Heritage NSW officers to understand key issues and 'lessons learned' with regard to the Listing and stakeholder relationships issues and concerns;*
- k) *with prior Heritage NSW approval seek to contact assessment/listing officers at the time of the listing to understand the issues and gather their views regarding 'lessons learned';*
- l) *undertake a site inspection to thoroughly understand the values of the listed area and its context. Identify setting, curtilage, check interface areas, views, historic planned core, key character areas, significant elements such as streetscapes, landscaping, and built form character. Identify new development within the listed area or in the vicinity and document issues or concerns;*
- m) *attend introductory meeting with Council to introduce the project and understand their key concerns and requirements, [and] also ask for background overview regarding key stakeholder groups;*
- n) *following introductory meeting with Council and Heritage NSW develop a draft community engagement program. This would include the outline for consultation including key matters for discussion and input (e.g. issues, concerns, positives/negatives, opportunities for positive change, suggestions for improvement);*
- o) *identify and agree with Heritage NSW the most appropriate format and style for consultation program which may be a combination of drop in sessions, one on one interviews, workshops, attendance and presentation at meetings with discussion, etc.*
- p) *consider comparable examples of complex listed landscapes and best practice; management regarding statutory planning and development controls;*
- q) *prepare and submit Milestone 1 report; and*
- r) *attend progress meeting with Heritage NSW to discuss key issues.*

1.2 Methodology

The project scope required predominantly desktop research tasks. Various technical reports focusing on different aspects of Braidwood's listing and its heritage values were reviewed. This included historical accounts, archaeological plans and assessments, landscape plans, and built heritage assessments. We have also considered town planning matters including planning instruments, development controls, management of heritage townscape in other localities, select development applications within the SHR listed area and Land and Environment Court cases.

Some preliminary consultation has been undertaken. The purpose of this consultation was to consider varying views, perspectives and experiences to better understand and canvass the key concerns and issues to be addressed as part of this early stage of the project. We attended a round table discussion

with Queanbeyan-Palerang Regional Council (QPRC or Council) planning staff on 21 May 2021. The session was designed as an opportunity for Council staff to raise and discuss various issues related to Council's activities at Braidwood, including the implementation of civil works, landscape and tree management, development assessment, strategic planning, projected growth in the region, business and tourism activities, and community concerns.

We have liaised with current and former Heritage NSW staff. The project team met with current Heritage NSW officers, including those working in assessment and familiar with Braidwood, on 3 June 2021. We also met with select former Heritage NSW staff associated with the original listing. The preliminary discussions have informed the identification of key issues and will guide future discussions to ensure the long-term heritage planning, management and conservation of Braidwood.

The project team undertook a site inspection on 20 May 2021. During the site inspection we traced the boundaries of the SHR listed curtilage, viewed subdivision developments on the fringe of the town centre, traversed streets within the Georgian town plan and considered its streetscapes, public open space, landscape and built form.

1.3 The Site

The SHR listing 'Braidwood and its Setting' is located in the township of Braidwood, within the Queanbeyan-Palerang Regional Council Local Government Area (LGA) in the Southern Tablelands. It is a state significant heritage conservation area, which includes the majority of the town centre of Braidwood. The heritage conservation area is approximately 61 kilometres from Canberra, 96 kilometres from Nowra and 47 kilometres from Batemans Bay (Figure 1.1).

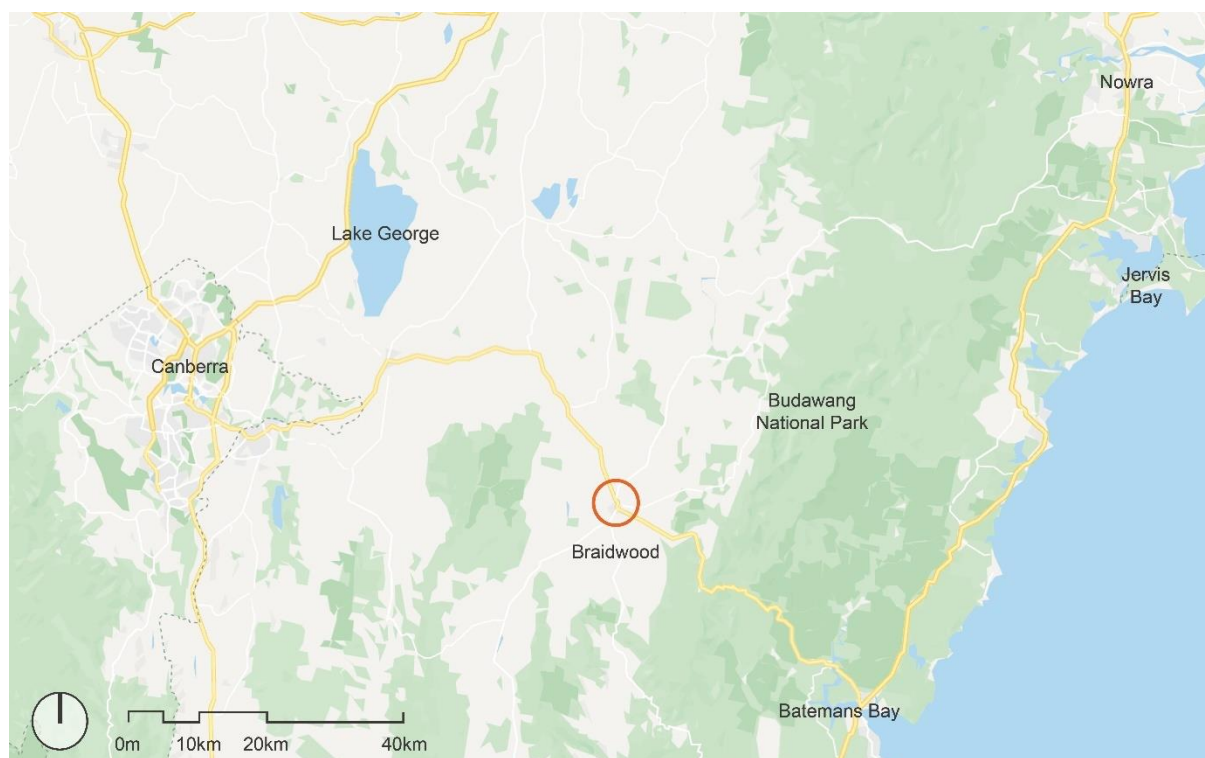


Figure 1.1 The location of Braidwood in its regional context. (Source: © Google with GML overlay, 2021)

1.4 Limitations

The scope of this project has been limited and focused predominantly on a desktop review of statutory planning instruments relevant to the management of Braidwood and its Setting, noting that QPRC has submitted a new Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan 2020 to the Department of Planning, Infrastructure, and Environment (DPIE) and that a new Development Control Plan is currently in preparation.

Braidwood has been the subject of study and scholarship by several organisations and individuals, including heritage architects and planners, for more than four decades. As such there is a significant body of research. The following reports have been identified for consideration within the overall scope of the project; however, they have not been reviewed during the preparation of this initial Milestone 1 report:

- Peter Bridges (Historic Buildings section, Government Architects Branch), Braidwood: A Preservation Report, 1975;
- Cox Tanner Pty Ltd, Inventory of Identified Buildings of Architectural and Townscape Significance, 1977;
- Cox Tanner Pty Ltd, Braidwood Conservation Study: A report on Conservation Planning for the Historic Town of Braidwood, 1977;
- Howard Tanner, Restoration of External Elements of Significant Buildings in Braidwood, 1980;
- Cox Tanner Pty Ltd and Cox and Corkhill Pty Ltd, Braidwood Conservation Study: Draft Conservation Plan, 1981;
- Cox Tanner Pty Ltd and Cox and Corkhill Pty Ltd, Braidwood Local Environmental Study, 1982;
- Freeman Leeson Architects and Planners, Braidwood Urban Conservation Guidelines, 1996;
- JRC Planning Services, Braidwood Perimeter Heritage Planning Study, 1997;
- Clive Lucas Stapleton and Partners Pty Ltd, Tallaganda Shire Rural Heritage Study, 1997; and
- Grahame Crocket, Marleesh Pty Limited, Richard Ratcliffe, Richar Ratcliffe Landscape Architects and Keith Baker, Keith Baker and Associates Pty Limited Park Lane Square Braidwood: conservation management plan, 1997.

Aboriginal history and heritage values have not been subject to detailed research or investigation though they are referred to in the body of this report.

1.5 Authorship

This report has been prepared by Loredana Sipione (Heritage Consultant), Claire Nunez (Senior Associate) and Dr Nadia Iacono (Senior Associate), with input and review by Sharon Veale (CEO and Principal).

1.6 Endnotes

- ¹ Australian Bureau of Statistics, 2016 Census QuickStats, accessed 28 September 2021 <https://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/SSC10547>.
- ² 'Queanbeyan-Palerang Regional Council', accessed 5 June 2021 <www.forecast.id.com.au>. The regional population forecast for 2021 is 61,832. The population is forecast to grow to 78,756 by 2036.
- ³ *Queanbeyan-Palerang Regional Council Tourism Plan 2017–2025: Supporting the Visitor Economy*, accessed 19 May 2021 <<https://bit.ly/3CBWEKx>>.

Heritage Significance and SHR Listing



2 Heritage Significance and SHR Listing

2.1 Introduction

On 30 March 2006, the then NSW Minister for Heritage, Frank Sartor, announced that Braidwood and its Setting would be listed on the SHR. Upon listing, the Heritage NSW became the planning authority for Braidwood with Palerang Council. The Heritage NSW became responsible for new developments, major renovations, subdivision, and demolition.¹

In May 2016, then Premier Mike Baird announced several council amalgamations across NSW. Until the amalgamation of Palerang and Queanbeyan councils in May 2016, the township of Braidwood was within the Palerang LGA. Following amalgamation, Queanbeyan-Palerang Regional Council has been working towards the integration and update of its statutory planning instruments and associated development controls. This includes the Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan 2020 (LEP) and the *Braidwood Development Control Plan 2006*, which continues to operate under the *Heritage Act 1977* (NSW) (Heritage Act) and applies to the properties located within the SHR listing.

This section of the report considers the statutory and non-statutory heritage listings for Braidwood, including the SHR significance assessment for Braidwood and its Setting. Some discussion and analysis of the SHR assessment under the criteria concludes the section.

2.2 Statutory Listings

'Braidwood and its Setting' is listed on the SHR as an area of state heritage significance under Part 3A of the Heritage Act (SHR Item 01749).

The state listing is incorporated in Schedule 5 of *Palerang Local Environmental Plan 2014* (PLEP 2014) and Draft Queanbeyan-Palerang LEP 2020. In Schedule 5 Part 2 of the Palerang LEP it is listed as a heritage conservation area (HCA C1) of state significance.

The curtilage of the SHR listing is an irregular shape. It extends across several property boundaries, including only small portions of some allotments. The gazetted curtilage of the listing was largely the result of extended negotiations with property owners and stakeholders. Several other local and state heritage listed items are encapsulated within the curtilage (see Table 2.1).

The *Braidwood Development Control Plan 2006* (DCP 2006) also identified that the northeastern slope of Mount Gillamatong and the residential area west of Ryrie Street in the Braidwood town centre have historic and aesthetic significance. These areas are not included within the boundary of the SHR listing.

Table 2.1 Statutory Heritage Listings relating to Braidwood.

Listing Name	Register	Item Number
Braidwood and its Setting	State Heritage Register	01749
Braidwood and its Setting	<i>Palerang Local Environmental Plan 2014</i>	HCA C1

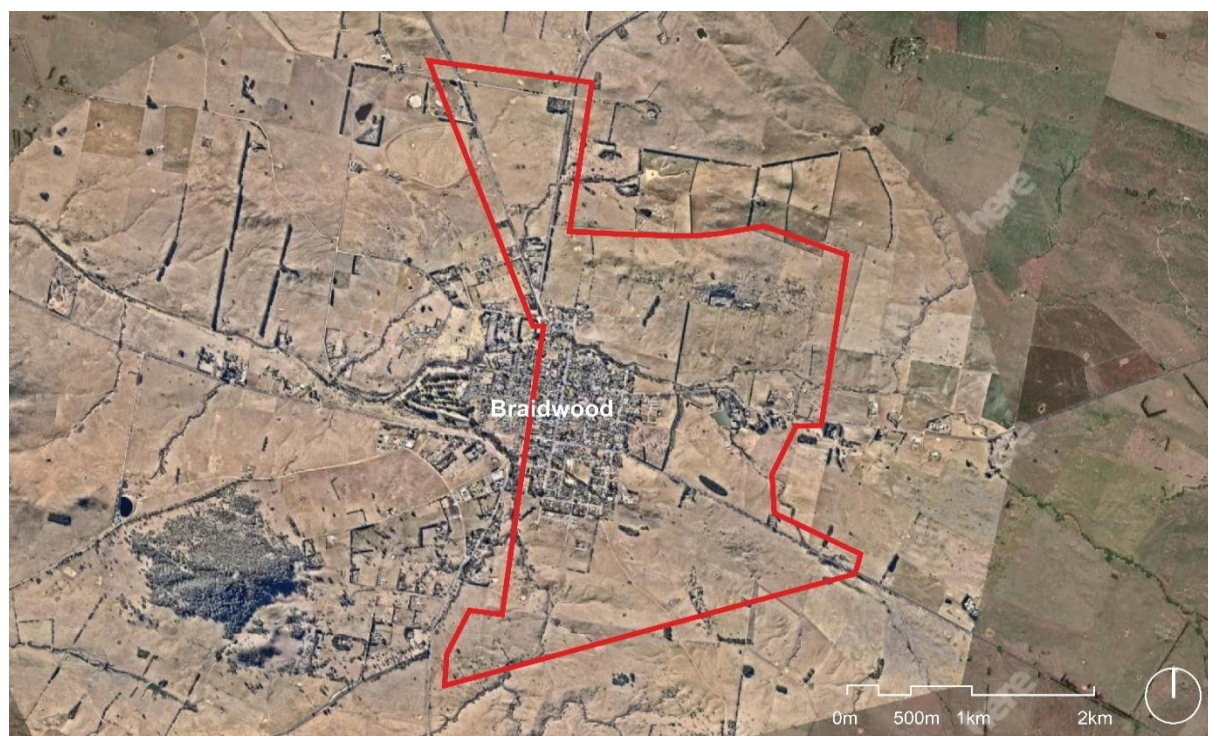


Figure 2.1 The 'Braidwood and its Setting' SHR listing curtilage (shown in red). The Georgian township and landscape setting are clearly discernible. (Source: © Google with GML overlay, 2021)

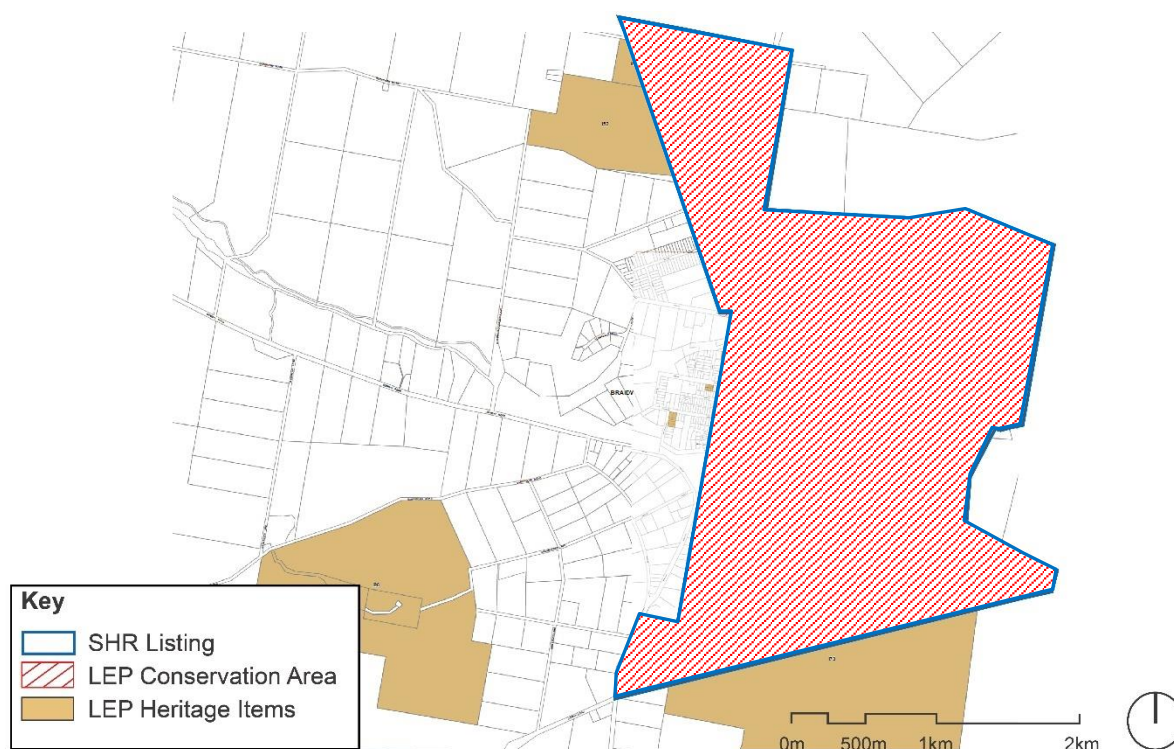


Figure 2.2 The heritage context showing the SHR listed area in blue, LEP heritage conservation area in red hatching and the individual local and state listed heritage items in brown. (Source: *Palerang Local Environmental Plan 2014* with GML overlay, 2021)

2.3 Non-Statutory Heritage Listings

The National Trust of Australia (NSW) listed 'Braidwood Township Urban Conservation Area' on its register in 1976. Listing on the Register of the National Trust of Australia (NSW) does not carry any form of statutory protection but indicates the significance of the place and a level of community esteem and interest.

The township was also included on the Register of the National Estate (1157) under the since repealed *Australian Heritage Commission Act 1975* (Cwlth). The Register was formally closed in 2007 and is now a publicly accessible archive which has information about 13,000 significant places nationally. Any reference to the Register of the National Estate was removed from the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) (EPBC Act) on 19 February 2012.

2.4 Significance of Braidwood and its Setting

Braidwood is regarded as an excellent example of a Georgian period town. It is rare in NSW because it has mostly retained its orderly grid plan, streetscapes, built form and historic fabric from several periods. The surrounding pastoral landscape, and the views to and from these open landscapes, serve as a counterpoint to the Georgian town plan. The statement of significance for the township of Braidwood from the SHR listing is as follows:

Braidwood and its setting are of state significance as an excellent surviving example of a Georgian period town plan, dating from the late 1830s. The plan, which retains high integrity, reflects colonial administration as applied to the outer reaches of the Nineteen Counties from the 1820s, following earliest European settlement in the area. The surviving historic elements in the surrounding landscape strengthen the town's significance.

The town buildings reflect key phases of development, commencing with the initial construction period in the 1840s, and consolidation in the later half of the century following the gold boom. The integrity of Wallace Street as a fine collection of 19th century buildings makes it particularly significant. The high proportion of 19th century buildings throughout the town contributes further to its heritage value and creates fine streetscapes often with delightful views to the pastoral surrounds.

The abrupt transition at the town boundary between built and pastoral landscapes highlights significant historical settlement patterns, specifically the large land grants on the north, east and south sides of the town obtained by McKellar, Wilson and Coghill, and passed on to the Maddrells and eventually others. The juxtaposition of a cohesive town set within an historic pastoral landscape on the north, east and south sides is also significant. The closer settlement on the western side reflects the subdivision of the former Church and School Estate.

In NSW, colonial towns that retain significant historic form and fabric to the extent that Braidwood does, are rare.

Some 20th century elements in the town reflect later phases of development. Construction circa 1936 is significant for its association with the emergence from the Great Depression and amalgamation of the Municipality of Braidwood with the Tallaganda Shire. Development in the 1950s, particularly to the west of town is significant for its association with post WWII population growth and the mid 1950s wool boom. 20th century development is reflected in most towns in NSW and, in the context of Braidwood, is considered to be of local significance only.

2.4.1 Review of SHR Listing

The heritage values as they are currently described in the SHR listing are broad. Certain characteristics and heritage values are specific and clearly described. Yet overall, ascertaining which elements are of significance at state level, and require management and conservation, relies on considerable interpretation by applicants, heritage advisors and Council staff.

We have reviewed the State Heritage Inventory listing and extracted the following values and key features that have been assessed to demonstrate the heritage significance of Braidwood and its Setting:

- Georgian town plan.
- Significant early buildings.
- Fine collection of pre-1850s buildings north of Wilson Street.
- Views to and from the surrounding pastoral landscape.
- Road approaches to the north, east and south.
- Pastoral holdings of Mackellar, Wilson, Coghill and Maddrell, especially the land tenure pattern, eg subdivision, rural housing density, vegetation patterns, boundary fence divisions and road patterns.
- The World War I memorial.
- Ryrie Park, particularly the historical association with Thomas Braidwood Wilson.
- Hotel at the northern end of Wallace Street.
- Vista looking north and south along Wallace Street.
- Some side streets, in particular those that retain soft edging to their roadside verge, period buildings and attractive landscaping.
- Several streetscapes that frame vistas to the pastoral landscape, and the combination of the historical streetscape in the foreground with the pastoral landscape in the distance, especially where this transition is pronounced.
- Aesthetic views of the town include the approach from Canberra, where the town is framed by a row of poplars, the view from Thomas Braidwood Wilson's grave, the approach to the town on Mongarlowe Road from approximately Mona Homestead, the view from Araluen Road as it approaches the town, and the view from Mount Gillamatong.
- Some individual buildings in the town have aesthetic value. Images from the town that draw on its aesthetic values have appeared in a number of books and have been used as a backdrop in several films.
- It is assumed that there are strong social values held by various groups and members of the local community. These could include churches, the RSL/golf club, the cemetery, Mount Gillamatong, Thomas Braidwood Wilson's grave, and the historical and aesthetic ambience and character of the town.²

Some of the historic and other values described in the listing are overly broad and lack detail and specificity. Significant plantings and features, streetscapes, key historical buildings and other elements of the cultural landscape are mentioned in the assessment under the criteria. This includes the town plan, some streetscapes including side streets, views and vistas, buildings, and topography including the surrounding pastoral landscape. Additional features such as the WWI memorial and Ryrie Park are also included. Yet there is some ambiguity regarding precisely where and which attributes and characteristics explicitly contribute to the significance of Braidwood at state level.

The township of Braidwood and the surrounding area has potential for other potentially significant heritage values that have not been assessed or are not currently included in the listing. This includes Aboriginal cultural values, as evidenced by the material cultural evidence that has been recorded in the landscape setting surrounding Braidwood. There are eight Aboriginal sites and one artefact site (57-3-0356) identified on the Aboriginal Heritage Information Management System (AHIMS) database. In 2019, a significant Aboriginal site was located on a farm in the nearby town of Bungendore, the Millpost Stone Axe Quarry Aboriginal Place. The site is an Aboriginal quarry containing marked basalt and dolerite boulders. Tall yellow box eucalyptus trees are included within the site and identified in the database record. The site has been recognised as an Aboriginal Place under the *National Parks and Wildlife Act 1974* (NSW), indicating it is 'of special significance to local Aboriginal culture.' These sites and places suggest that the landscape was of significance to Aboriginal people. Braidwood and its Setting may also have other values of significance to Aboriginal people.

There is also known and potential historical archaeological significance associated with Braidwood and its Setting. The Aboriginal cultural heritage and potential historical archaeological resource of Braidwood and the SHR listing require further research and future management guidance.

2.4.2 Summary Analysis

The State Heritage Register listing for the township of Braidwood is reasonably well drafted.

Some technical imprecision is evident in the assessment criteria section in that the heritage values are not cited under the correct heritage assessment criteria. For example, under 'criterion (b) historical association' much of the citation relates to views and aesthetic values. We understand that this inconsistency has been noted by Heritage NSW and dates to early in the listing process, as the error is present in the recommendation to list report that was approved by the Heritage NSW.

The omission of Aboriginal heritage values that may be attributed to Braidwood and its Setting is not consistent with best practice, nor Heritage Council's SHR policy. Braidwood's Aboriginal heritage values have not been assessed at state level and may not be found to meet this threshold. Regardless, one of the key objectives for the future of the SHR is to ensure that the register represents First Nations' cultural heritage as intrinsic to the story of NSW.³ Currently the SHR listing does not reflect this objective.

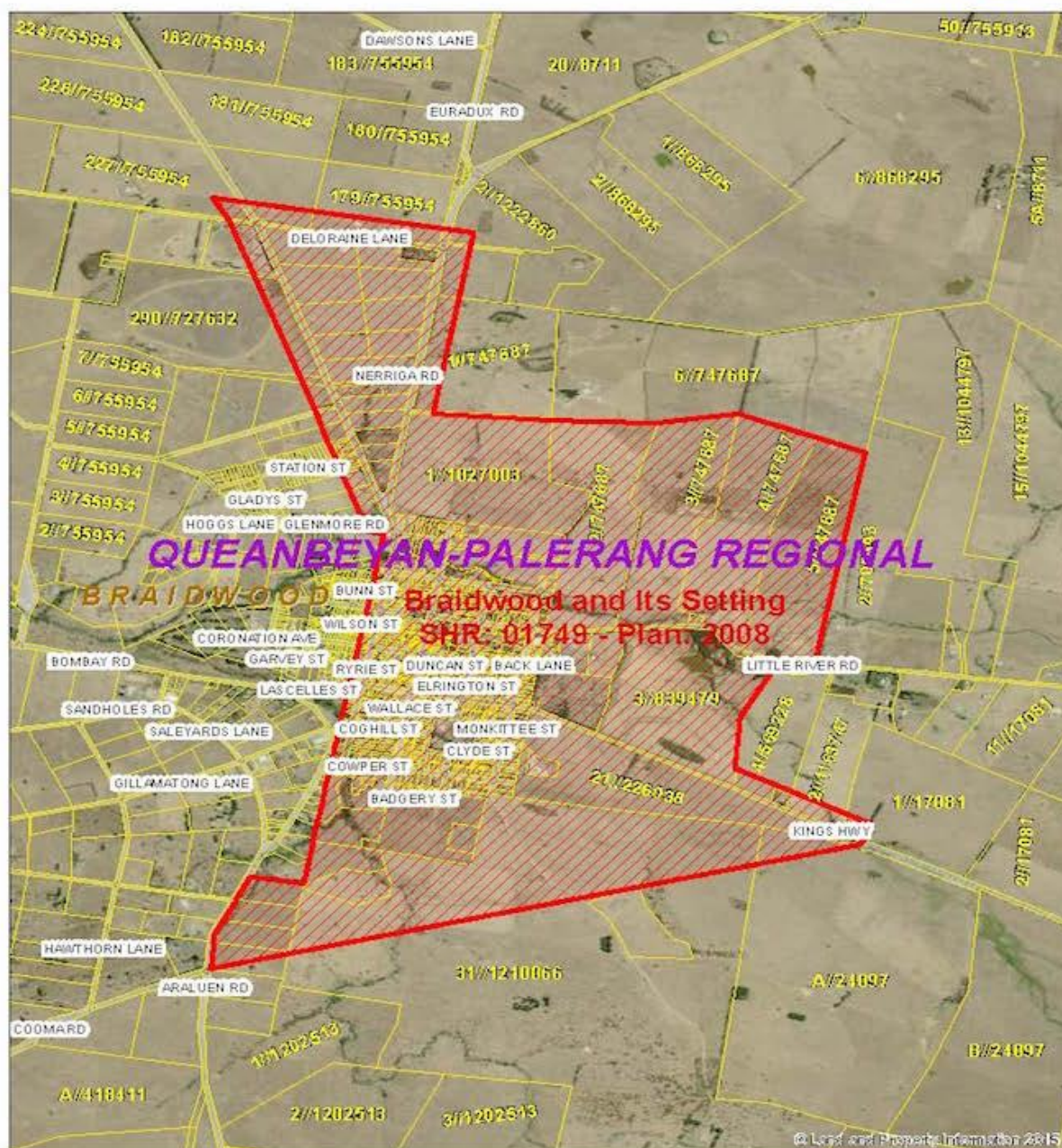
The potential research and scientific value associated with the historical archaeological record of Braidwood and its Setting is omitted from the current assessment of the item's heritage values. The Archaeological Management Plan, prepared by NGH Environmental in June 2019, does not include an assessment of archaeological significance for the listed area but rather identifies and zones the archaeological potential of the item.

More rigour and clarity are required in defining the heritage significance of Braidwood and its Setting at state level. A finer grained locational analysis of the distinctive and contributory character elements

and features of the listing would assist in the management and conservation of its heritage significance. This would potentially address the uncertainty wherein some heritage values require subjective judgement and interpretation on the part of both applicants and planners 'downstream' at development assessment stage.

We appreciate that further assessment requires additional resourcing. Yet it is in part the broadly defined values and the lack of precision in the evidence under the assessment criteria that is giving rise to some of the planning issues that are detailed in other sections of this report.

The next section of the report explores the management of significant archaeology. The statutory planning context for Braidwood and surrounds is discussed in further detail in Section 4.0.



State Heritage Register - SHR:01749 - Plan: 2008

Braidwood and Its Setting

Various, Braidwood

Gazettal Date: 3/04/2006

0 530 1,060 1,590 2,120 Meters

Scale: 1:31,000 @A4

Datum/Projection: GCS GDA 1994



Figure 2.3 State Heritage Register map showing the extent of the state listing. (Source: Office of Environment and Heritage 2006)

2.5 Endnotes

- ¹ NSW Heritage Office submission cited in the Conservation of Australia's Historic Heritage Places, Productivity Commission Inquiry Report, No. 37, 6 April 2006, p 296.
- ² The values have been extracted from the State Heritage Inventory listing for Braidwood and its Setting, accessed 8 June 2021 <<https://www.hms.heritage.nsw.gov.au/App/Item/ViewItem?itemId=5054706>>.
- ³ *The Future of the State Heritage Register*, Policy, 18 February 2020, Heritage Council of NSW.

Historical Archaeology Management

3 Historical Archaeology Management

3.1 Introduction

In June 2019, the Braidwood Archaeological Management Plan (AMP) was prepared by NGH Environmental for QPRC. Although it did not discuss the history and significance of Braidwood in any detail, the AMP recognised that important aspects of Braidwood's history and significance are expressed through potential archaeological remains that predate the Georgian town and reflect other phases of significant historical growth and development.

The preparation of the existing NGH Braidwood archaeological plan was the first stage of a planned three-stage project. As such, the Stage 1 report currently functions as an Archaeological Zoning Plan (AZP) rather than an AMP, providing initial identification of potential archaeological sites and an outline historical context for the study area. To function as an AMP—a management tool to inform future development and planning in Braidwood—an AZP requires the inclusion of detailed significance assessment and analysis of research potential. QPRC has advised that Stages 2 and 3 of the AMP projects are yet to be completed. Stage 2 was originally scoped to include the preparation of an Archaeological Research Design (ARD) and more detailed recommendations based on the archaeological significance assessment. Stage 3 was proposed to link the AMP and its recommendations into the DCP for Braidwood to ensure the potential archaeological resource is effectively managed and conserved within the land use planning and development system.

3.2 Braidwood's Historical Archaeological Resource

The Stage 1 AMP was limited to pre-1900 to focus investigation of the potential archaeological resource within a time period with greater likelihood for research potential. The Stage 1 report explains that the archaeological resource within Braidwood is varied in terms of the range of buildings and the materials used. The typologies of the built form are reflected in the potential archaeological resource, which is determined to include houses, commercial structures, as well as other structures including some composed of stone, brick, calico and wood.¹

In terms of the subdivision pattern and allotments, the report also finds that the long and deep allotments have the land area, character and form to accommodate numerous structures. As such, there is the potential for archaeological evidence of different periods and phases to remain in situ within lot boundaries. Archaeology within the allotments is considered to have the potential to evidence everyday work and domestic life of earlier occupation phases represented by footing remains, of residential and commercial structures and associated outbuildings, and of rubbish pits and deeper subsurface features including wells and cesspits.

An inventory of archaeological sites was prepared as part of the Stage 1 AMP. We note that although this was identified as a full inventory list in Section 5.3 of the Stage 1 AMP, Section 1.4, Limitations, notes that individual inventory sheets were only created for items/areas with sufficient historical details to populate the sheet.

3.3 Stage 1: Braidwood Archaeological Management Plan, 2019

The first stage of the project was provision of an AZP. The objectives of Stage 1 of the AMP were to identify areas of historical archaeological sensitivity within Braidwood and provide recommendations to guide future works. The AMP was intended as a tool to provide greater clarity in the management of historical archaeological sites within the Braidwood SHR listed area for Council, property owners and the Heritage NSW.

The Stage 1 AMP project scope of works anticipated:

- a review of secondary source material relating to the early settlement of Braidwood, alongside supplementary chronological primary historical research, including maps and plans up to 1900;
- assessment of significance of the likely archaeological resource based on historical analysis and archaeological potential;
- GIS mapping of the town to identify locations where further assessment is required;
- an updated inventory of items with archaeological heritage significance; and
- recommendations for future work.

3.4 Review of the Braidwood Archaeological Management Plan, 2019

Heritage NSW reviewed the Stage 1 Braidwood AMP Volume 1 and provided detailed comment to assist Council with Stage 2 document revisions and objectives. GML was provided with the Heritage NSW documentation that comprehensively identified issues in the AMP that require revision or supplementation. We concurred with Heritage NSW's AZP/AMP review findings, which are not repeated here.

GML also reviewed the Braidwood AMP to understand the archaeological sensitivity of the area and determine options for best practice management as part of the planning approval process and the new DCP controls.² The Stage 1 AMP requires significant revision to comply with existing guidelines and policy. The basis for identification of potential sites does not correlate with the SHR curtilage. In addition, because the assessment of significance and identification of both the pre-Georgian town and post-1900 potential sites within the SHR curtilage have not yet been undertaken, the basis for existing recommendations was not considered reliable.

We note that there are both overarching and more detailed issues requiring revision within the Stage 1 AMP. Key matters needing to be addressed before/within Stage 2 are as follows:

- The Stage 1 AMP study area boundary is described as the Braidwood SHR listed area. However, Figures 4–7 showing sites/areas of archaeological sensitivity focus on an area of Braidwood that does not accurately correspond to the SHR curtilage area (Figure 2.3). The AMP study area needs revision to identify previously undocumented sites/areas with archaeological potential within the SHR area, especially those outside the immediate Braidwood town precinct.

- The Stage 1 AMP does not assess the significance of identified sites of archaeological potential in accordance with key Heritage NSW criteria, guidance and policy. In particular, the 2012 plan was not consistent with the NSW Heritage Branch *Guidelines for the preparation of Archaeological Management Plans* 2009.
- Misunderstanding of legislative requirements is apparent in the AZP/AMP recommendations regarding where and when S57(1) or S139(1) approvals for impacts to potential sites may be required, particularly in relation to sites within the SHR curtilage.
- The recommendations do not accurately identify the full range of appropriate archaeological management actions for sites within the SHR curtilage where impacts are proposed. This does not provide proponents or planning assessment officers with the clarity and guidance they require.

3.5 Summary

To improve understanding of historical archaeological management considerations in Braidwood, and their integration into the planning approval process, requires consideration of the following issues.

- The Stage 1 AMP is not currently fit for purpose as an archaeological management tool intended to guide decision making. The Stage 2 AMP will first need to address errors and omissions in the Stage 1 AMP to enable accurate analysis and management recommendations for identified sites in the study area based on detailed significance assessment in line with Heritage NSW guidelines and policy.
- QPRC needs a greater level of support to understand the decision-making process around historical archaeological heritage to provide clear and accurate advice to their Braidwood constituents. Prioritised funding to fast-track a revised Braidwood AMP, and updates to the QPRC LEP and forthcoming DCP in line with the AMP's recommendations/outcomes, is needed for ongoing management and regulation of the archaeological resource in Braidwood. The Stage 2 AMP would need to be completed to at least draft stage to enable its outcomes and recommendations to inform revised DCP controls currently under review (Stage 3 AMP). This requires that funding be actively sought as a priority action to enable Stage 2 AMP preparation.
- Ideally, completion of the AMP's archaeological management outcomes, particularly within the SHR area, should be programmed to coincide with the planned community consultation process being developed in this management review, so that these findings may be presented and explained to the local community and affected property owners during that program.
- The data in the final GIS project should be correlated so that relevant output can be shared with Council's GIS.
- Timely development of the Stage 3 AMP would allow for management policies and procedure recommendations to be clearly translated into QPRC development controls to assist Council's development of specific development controls to mitigate impacts relating to archaeological heritage. This advice would extend to include application of non-notifiable standard exemptions and Section 60s (s60s) introduced after the 2019 version of the AMP was completed.

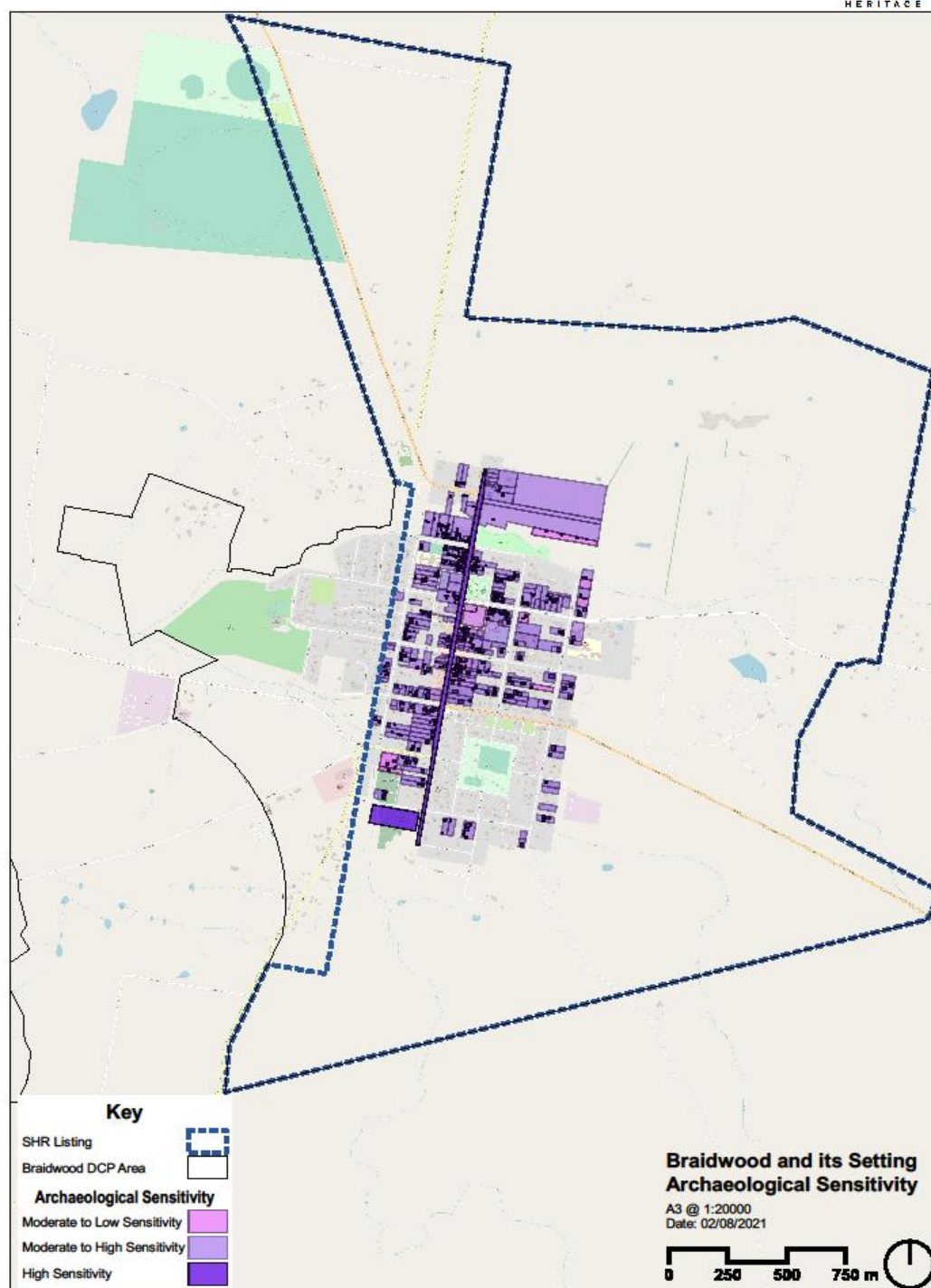


Figure 3.1 Map showing the SHR listing curtilage in blue, the extent of the Braidwood DCP 2006 curtilage in black and the Braidwood AMP study area identified by sensitivity zones within the town centre. (Source: Braidwood DCP 2006, Braidwood AMP 2019 with GML overlay, 2021)

3.6 Endnotes

- ¹ NGH Environmental, *Archaeological Management Plan*, June 2019, p 47.
- ² GIS data, provided as figures, was reviewed for this report. The raw GIS mapping files created by NGH as part of the Stage 1 AZP/AMP project were not accessed or reviewed in this project stage.

Statutory Planning Context

4 Statutory Planning Context

4.1 Introduction

'Braidwood and its Setting' was an 'experimental' SHR listing in 2006 when it was formally gazetted. The planning system that was developed for the township and surrounding area, including the exemptions and DCP, was the result of detailed discussions and collaboration between the then Heritage Office and Council.

Palerang and Queanbeyan councils were amalgamated on 26 May 2016. Prior to amalgamation, each council had statutory planning instruments in force for the LGA under its respective care, control and management. Since the amalgamation, the newly created QPRC has been working towards the preparation of a comprehensive planning instrument for the amalgamated LGA. At the time of writing, QPRC had submitted the Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan 2020 to the DPIE. This comprehensive LEP 2020 was informed by the standards and provisions of the existing instruments. Heritage provisions are included in Section 5.10 of the standard instrument. Standard provisions for heritage cover not only the listing of heritage items, but also provisions relating to the protection and development of heritage items. Many LEPs also include provisions relating to development in the vicinity of heritage items.

This section outlines the planning context for Braidwood and its Setting. It is focused on heritage and associated planning matters at state and local levels, with reference to key issues and potential risks to heritage values and significance. The site-specific exemptions and standard exemptions are considered, as are the LEP and DCP.

4.2 Heritage Act 1977 (NSW)

The primary objective of the Heritage Act is 'to conserve NSW's environmental heritage'. It establishes the Heritage Council of NSW and the SHR. Through applications and permits, standard and site-specific exemptions, this Act controls and regulates the impacts of development on the state's significant heritage items. The Heritage Act describes a heritage item as a 'place, building, work, relic, movable object or precinct'.

The SHR was established in 1999 under Part 3A of the Heritage Act. It comprises a list of identified heritage items determined to be of significance to the people of NSW.

As identified in Section 2.2 of this report, 'Braidwood and its Setting' is listed on the NSW SHR (SHR Item 01749).

4.2.1 Exemptions from Heritage Act Approval

Section 57(2) of the Heritage Act provides standard exemptions to Section 57(1) approval requirements. Exemptions under the Heritage Act come in two forms, site-specific and standard. Proposed works and activities that match the description of the site-specific and standard exemptions do not require approval from the Heritage Council of NSW.

In terms of the application of site-specific and standard exemptions, where site-specific exemptions apply to a SHR listed item they are applied in the first instance. During the assessment process the

site-specific exemptions are checked to determine whether or not they apply to the proposed works. If the site-specific exemptions do not apply to the proposed works, the standard exemptions are then checked to determine whether they apply. Unusually, Braidwood has two sets of gazetted site-specific exemptions. The first set of site-specific exemptions was gazetted in April 2006 and the second set in December 2006. For completeness, both sets of exemptions are quoted in full below.

4.2.2 Site-Specific Exemptions—Gazetted on 3 April 2006

'Braidwood and its Setting' has several site-specific exemptions, which were gazetted on 3 April 2006 and are as follows:

1. Exemptions relating to the Precinct of Braidwood and its Setting

Exemptions are granted from the need to obtain approval under Part 4 Division 3 of the Heritage Act for all development except the following:

- a) *Demolition of heritage items listed on the Tallaganda LEP 1991 or other Local Environmental Plan applying to the Precinct;*
- b) *Development that does not comply with Braidwood Development Control Plan 2006 as approved by Palerang Council on 9 March 2006 other than the following sections:*
 - 7.21: Waste Management
 - 7.22 Waste Management Plans
 - 7.23 Keeping of Dogs, Cats, Horses, Poultry and Other Animals
 - 7.24 Noxious Plants
 - 7.25 Fire Control Measures
 - 7.26 Numbering of Premises and provision of letterboxes
 - 7.27 Swimming Pools
 - 7.28 Sediment Control;
 - 7.31 Section 94 and Section 64 Contributions
- c) *For land zoned Rural 1(a): subdivision of land or the erection of a new dwelling or structure greater than 100m²;*
- d) *For land within Precinct 4 (Residential south of the historic town boundary) of Braidwood Development Control Plan 2006: any subdivision of land other than as described in Exemption 2(b1);*
- e) *Any other application referred to the Heritage Council by Palerang Council.*

2. Exemptions relating to specific development approvals and applications

Notwithstanding the provisions of Exemption 1; specific exemptions are granted from the need to obtain approval under Part 4 Division 3 of the Heritage Act for the following development:

- a) *All works and activities in accordance with any current development application approval from Palerang Council in force at the date of gazettal of the listing of Braidwood and its Setting other than those applications identified in Exemption (2b).*

b) *Works and activities in accordance with the following development applications and for which comments have been forwarded to Palerang Council by the Heritage Office prior to the date of the State Heritage Register listing of Braidwood providing that the development as carried out is consistent with these comments and the Heritage Council is satisfied that the development will not adversely affect the State Heritage Significance of Braidwood and its Setting:*

1. *'Braidwood Heights' Subdivision Approval DA 0074/2004 (land to the south of the historic town edge) subject to full compliance with the Heritage Office's letter to Mark Barrington dated 5 July 2005;*
2. *'Summerfield Country Estate' Development Approval Little River Road Braidwood subject to full compliance with the Heritage Office's letter to Habitat Property Group dated 14 July 2005; and*
3. *The following development applications:*
 - *TSC/127/2003/DA—2 lot subdivision (Lot 22, DP 1023674) 52 Monkittee St*
 - *2004/DEV-00104—4 lot subdivision and 4 dwellings (Lots 2, 3 and 4, DP 264513)*
 - *Monkittee St*
 - *2004/DEV-00105—2 lot subdivision and 2 dwellings (Lot 5, DP 264513) Monkittee St*
 - *2005-DEV-00262—3 lot subdivision (Lot 1, DP 799533) 1 Monkittee St*
 - *2005/DEV-00353 (Lot 1, DP 599468) 51 Elrington Street*
 - *2005/DEV-00358—2 lot subdivision (Lot 3, DP 635437) 30 Coghill St*
 - *2005/DEV-00370—2 lot subdivision (Lot 4, Section 9, DP 758152) 26 Elrington St*
 - *2005/DEV-00437—Demolition, erection of new dwelling and commercial premises (Lot 8, Section 11 DP 711539) 50 Wallace St*
 - *2005/DEV-00431—23 lot subdivision (Lots 2 & 3 DP 1027223)*
 - *2005/DEV-00516—Erection of a shopping complex (Lot 6 & 7 DP 836133) Lascalles Street*

3. Exemptions relating to work described in a Heritage Agreement

Notwithstanding the provisions of Exemption 1; specific exemptions are granted from the need to obtain approval under Part 4 Division 3 of the Heritage Act for works described in a Heritage Agreement made between the Minister and an owner of rural land in accordance with Part 3B of the Heritage Act 1977.

4. Standard Exemptions for other Works Requiring Heritage Council Approval

Where development is not exempted by Exemption 1, 2 or 3 above then the provisions of the Heritage Council's Standard Exemptions for Works Requiring Heritage Council approval shall apply.

4.2.3 Site-Specific Exemptions—Gazetted in December 2006

On 15 December 2006 another set of site-specific exemptions were gazetted in the NSW Government Gazette No. 183 for the state heritage listed area of 'Braidwood and its Setting'. The order signed by the Minister for Planning on 20 September 2006 is reproduced below.

SCHEDULE "A"

All those pieces or parcels of land in the Parishes of Braidwood, Coghill, Boule and Percy, County of Saint Vincent shown to be within the State Heritage Register curtilage on the plan catalogued HC 2008 in the Office of the Heritage Council of New South Wales.

SCHEDULE "B"

EXEMPTIONS TO SUBSECTION 57(1) OF THE HERITAGE ACT 1977

The following development does not require approval under Section 57(1) of the Heritage Act:

- *1. Integrated development for work to a private owner-occupied house for which consent has been granted by the consent authority which is consistent with the general terms of proposed approval which have been provided to the consent authority by the Heritage Council. The general terms of proposed approval issued by the Heritage Council may require the submission of an application under Section 60 of the Heritage Act which will prevail over this exemption.*
- *2. Integrated development for which the consent has been modified by the consent authority pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 in a manner which is consistent with any comments provided by the Heritage Council to the consent authority.*

NOTE 1: 'Integrated development' and 'consent authority' have the same meaning as in the Environmental Planning and Assessment Act 1979. 'General terms of approval' means the 'general terms of any approval proposed to be granted by the approval body in relation to the development', as used in Division 5 of Part 4 of the Environmental Planning and Assessment Act 1979.

NOTE 2: Integrated development which is exempt under 2 is not subject to the requirement in Section 65A of the Heritage Act in relation to modification of existing approvals.

4.2.4 Review of Site-Specific Exemptions

The site-specific exemptions switch off the need to obtain approval under Part 4, Division 3, of the Heritage Act. This applies to all development, except demolition of LEP listed heritage items, subdivision within certain areas, erection of structures greater than 100 square metres, and all development that does not comply with the Braidwood DCP 2006 as approved by Palerang Council on 9 March 2006. Where a Heritage Agreement is in force, works prescribed by that agreement are exempt from approvals under the Heritage Act.

Despite being gazetted some 15 years ago, these exemptions are still in force. The exemptions, especially the double negative structure, is somewhat difficult to interpret. For applicants the process of working through the statutory planning approvals pathway and determining what applies is complex. Issues have arisen in both the interpretation and assessment of these exemptions, specifically related to subdivision and the erection of structures on rural land, which is not a type of development that is covered in the DCP. Other types of 'minor' development that were not anticipated at the time of the exemptions and the DCP are also not covered, including the installation of solar panels.

Generally, the site-specific exemptions reflect the specifics of the negotiations and the land use planning and development matters that were 'on the table' and affected by the listing process. The residential subdivision development at Braidwood Heights, for example (see site-specific exemption 2(b)), is still an active exemption and development there is ongoing. The development includes several works and activities that do not comply with the DCP. This development, combined with other residential subdivisions on the fringe of the Georgian town plan, such as Summerfield, impact some of the very values that Braidwood was listed for, particularly the contrast between the townscape and the surrounding pastoral landscape. The development applications (DAs) for both developments were

referred by the QPRC to the then Heritage Office, and the concerns were outlined in the Heritage Office's advice. Residential subdivision was, and continues to be, a somewhat contentious issue and some matters have been the subject of proceedings in the NSW Land and Environment Court. Where heritage concerns have conflicted with the relevant development controls, adequate safeguards would need to be written into the controls to reflect agreed standards and requirements for the protection of the item's significance.

It is not clear what is required in terms of the process when a site-specific exemption applies for Braidwood. While the Heritage NSW website now provides up-to-date and detailed guidance regarding standard exemptions, there is no guidance available regarding the application process, or what is required in the event that a site-specific exemption applies to the proposed works. The Heritage NSW approvals pathway decision tree (Figure 4.0) and process omits site-specific exemptions.

Site-specific exemptions can regulate certain specified and described activities to streamline approval processes, whilst ensuring the desired future character of Braidwood and its Setting is aligned to the conservation and celebration of the place's heritage significance. Where appropriate, and subject to further discussion with Council, the site-specific exemptions should be reviewed. Ideally there would be one set of site-specific exemptions that covered a range of 'minor' works as agreed between Heritage NSW and QPRC.

4.2.5 Standard Exemptions

Standard exemptions which apply to all items on the SHR generally include minor and non-intrusive works and are subject to certain requirements. Typical exempted works include maintenance (to buildings and grounds), minor repairs and repainting in approved colours.

From 1 December 2020 some standard exemptions no longer require notification to Heritage NSW. Works carried out under exemption must be conducted by people with appropriate knowledge, skills and experience. Records of the activities undertaken under exemption must also be maintained in accordance with the documentation standards.

Please note that standard exemptions do not apply to the destruction, disturbance, removal or exposure of archaeological 'relics'. The standard exemptions are listed below.

- Standard exemption 1: maintenance and cleaning;
- Standard exemption 2: repairs to non-significant fabric;
- Standard exemption 3: alteration to non-significant fabric;
- Standard exemption 4: alterations to interiors of non-significant buildings;
- Standard exemption 5: repair or replacement of non-significant services (mechanical, electrical and plumbing);
- Standard exemption 6: non-significant telecommunications infrastructure;
- Standard exemption 7: fire safety detection and alarm systems;

- Standard exemption 8: excavation;
- Standard exemption 9: painting;
- Standard exemption 10: restoration of fabric that forms part of the significance of the item (significant fabric);
- Standard exemption 11: subdivision of non-significant buildings;
- Standard exemption 12: temporary structures;
- Standard exemption 13: vegetation;
- Standard exemption 14: burial sites and cemeteries;
- Standard exemption 15: signs;
- Standard exemption 16: filming;
- Standard exemption 17: temporary relocation of moveable heritage items;
- Standard exemption 18: compliance with minimum standards and orders;
- Standard exemption 19: safety and security; and
- Standard exemption 20: emergency situations and lifesaving.

4.2.6 Review of Standard Exemptions

The standard exemptions under subsection 57(1) of the Heritage Act made under subsection 57(2) apply to all items listed on the SHR and are secondary to the site-specific exemptions. The exemptions do not permit the removal of significant fabric, which is defined to mean all the physical material of the place/item and includes all elements, fixtures, landscape features, contents, relics and objects which contribute to the heritage item's significance. All works that do not 'fit strictly' within the exemptions still require approval.

The proper application of the standard exemptions depends entirely on a detailed understanding of the significance of an item and its historical fabric. This is required to be supported by appropriate heritage knowledge, skills and expertise. In the example of Braidwood, although there are heritage advisory services available to owners and applicants, and in theory the standard exemptions could streamline minor works in the SHR area, given the many historical properties that have not been subject to heritage assessment there is generally insufficiently detailed and inconsistent guidance and standards upon which to support the exemptions. In some instances, the standard exemptions could be considered antithetical to the significant heritage values of 'Braidwood and its Setting'. For instance, 'Standard Exemption 13: Vegetation' permits new plantings of species sympathetic to the item. However, new planting may not be considered sympathetic in some areas of the listed area, for example where the open pastoral landscape is to be maintained.

In the case of Braidwood and its Setting proponents need to first ascertain whether any of the site-specific exemptions apply to the works they are proposing. This then brings the DCP in to play under site-specific exemption 1(b). Due to the broadness of the DCP, residents or proponents can typically

demonstrate that the proposed works are compliant with the DCP provisions. Therefore, it is unclear how much the new standard exemptions are being utilised in Braidwood.

Under the exemptions there is no requirement to apply to or notify the QPRC. As such heritage consultants become solely responsible and the ‘de facto’ approval authority for the use of standard exemptions for certain changes to SHR items. This presents a dilemma regarding who ultimately takes responsibility for the exempted works. A heritage impact assessment is effectively the ‘self-assessment’, as it becomes the record of use of the exemption and ‘may be audited’ and ‘cannot be relied on as a defence to prosecution’. It is worth noting that heritage consultants have more responsibility but no authority to compel a proponent to prepare a clear scope of works, nor to compel the proponent to undertake the works in accordance with the exemption.

Overall, the issue with the site-specific and standard exemptions is that the process is convoluted and complex. It effectively requires three steps be undertaken to determine which planning assessment and approval pathway the works fit into—that is, whether the works are exempt under the site-specific or standard exemptions or whether a section 60 works application under the Heritage Act is necessary. Although the new standard exemptions streamline certain works, they also potentially create new risks.

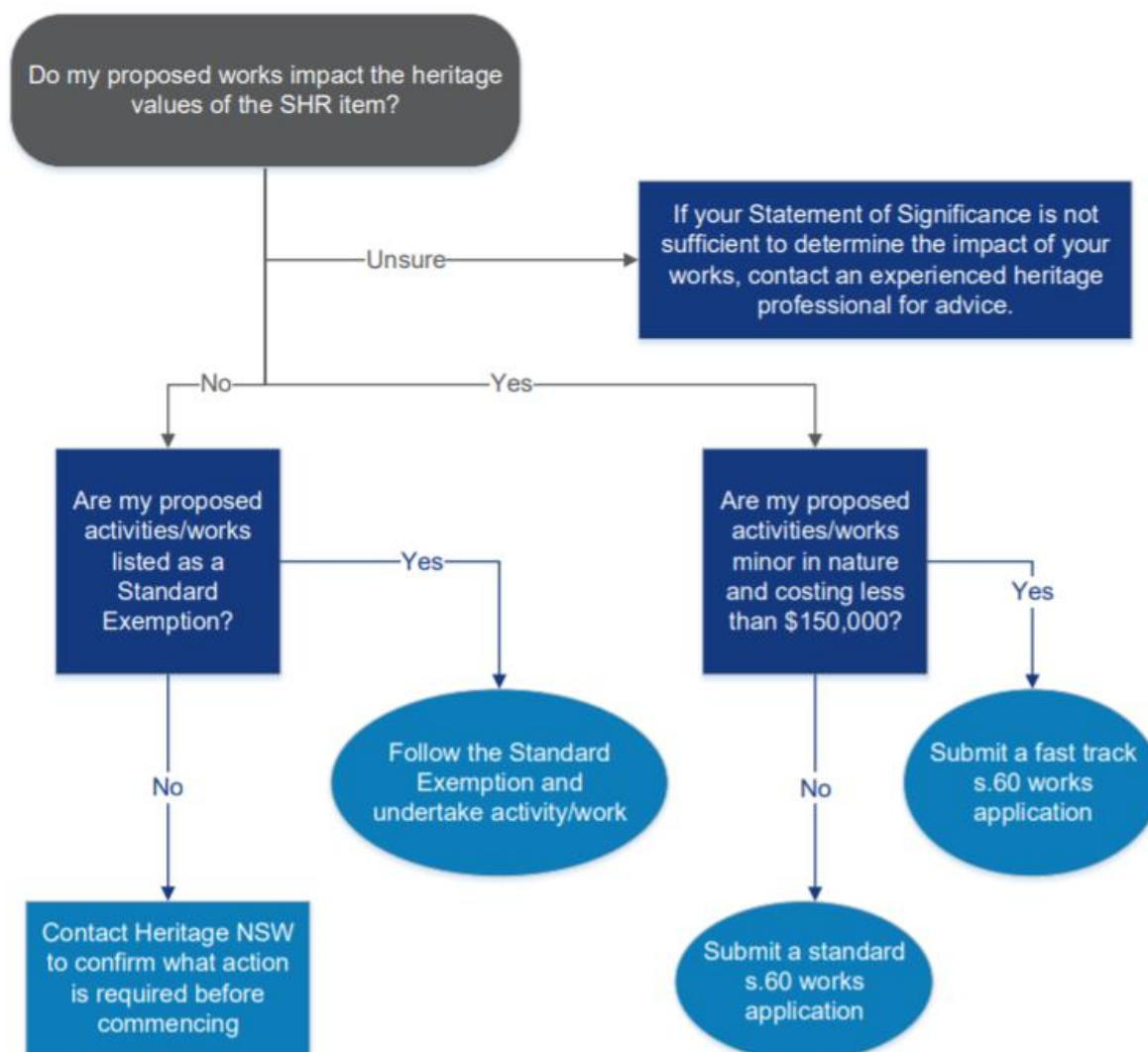


Figure 4.1 Heritage NSW Approval Pathway Decision Tree, which sets out the process with regard to standard exemptions. (Source: Heritage NSW)

4.2.7 Minimum Standards of Maintenance and Repair

Under the Heritage Act, owners of items listed on the SHR are obligated to maintain the item to a level compliant with the minimum standards of maintenance and repair outlined in the Heritage Regulation 2012. The minimum standards cover the following areas:

- weather proofing;
- fire protection;
- security; and
- essential maintenance.

An inspection to ensure that the item is being managed in accordance with the minimum standards must be conducted at least once every year (or at least every three years for essential maintenance and repair standards).

Failure to meet the minimum standards may result in an order from the Heritage Council of NSW to do, or to refrain from doing, any works necessary to ensure the standards are met. Failure to comply with such an order can result in the resumption of the land, a prohibition on development, or fines and imprisonment.

Within the SHR listed area of 'Braidwood and its Setting' the properties evidence varying standards of maintenance and repair. Some properties are maintained to a high standard, whereas other properties and features require significant essential maintenance and repair. This poses a potential risk to the integrity of the SHR listed item and does not reflect well on the state's heritage management system.

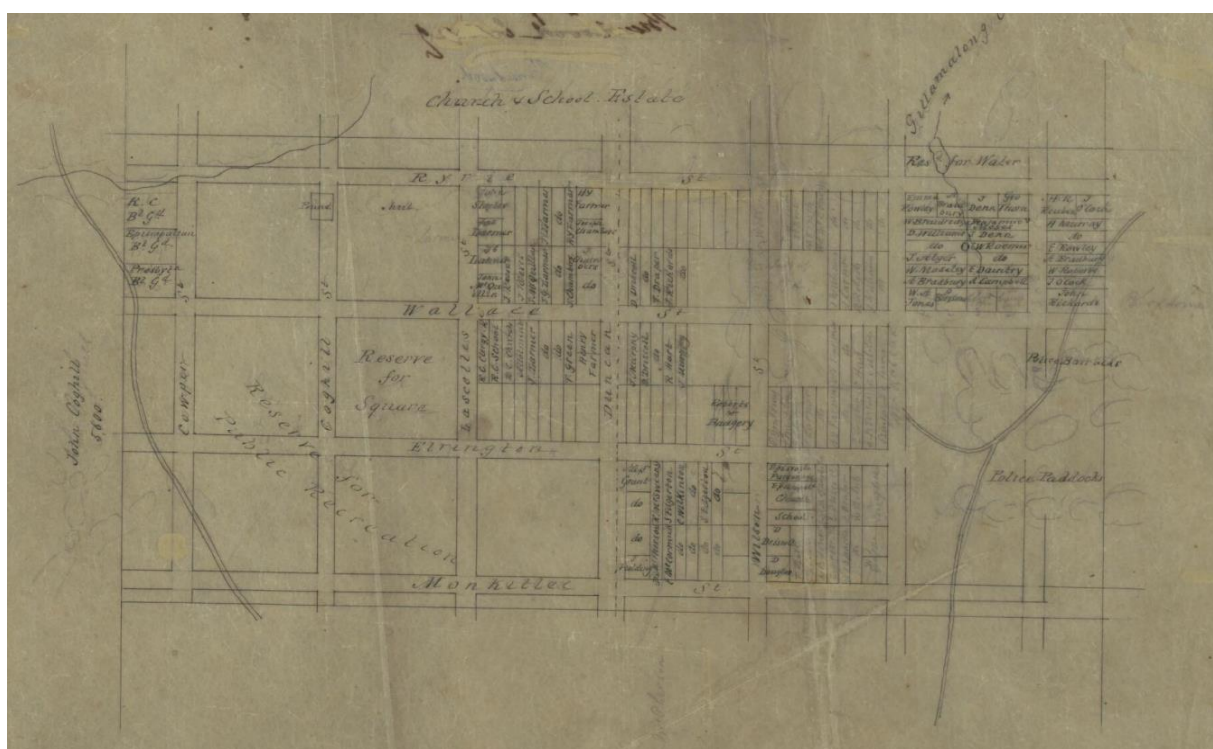


Figure 4.2 Braidwood town plan, c1838. (Source: National Library of Australia, Map F791 <<https://nla.gov.au/nla.obj-230000477/>>)

4.3 Palerang Local Environmental Plan 2014

The PLEP 2014 is in force and applicable to Braidwood at the time of writing. Items of heritage significance within the curtilage of Braidwood and its Setting and the SHR listing are afforded statutory protection at the local government level through this planning instrument. Clause 5.10 outlines the heritage objectives for the Palerang LGA.

The objectives for heritage conservation in PLEP 2014 are:

- To conserve the environmental heritage of Palerang,

- *To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- *To conserve archaeological sites, and*
- *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

Further, Clause 5.16 of the PLEP 2014 provides provisions for subdivision in specific land use zones and applies to Braidwood. Some of these zones are within the SHR listing or within close proximity to the curtilage of the SHR listing. Clause 5.16 has been implemented to minimise potential land use conflict between existing and proposed developments. Proposed subdivision within and adjacent to the curtilage of the SHR listing can have detrimental impacts on the rural setting of the listing. This is further discussed in relation to Samowill Pty Ltd v Heritage Council of New South Wales in Section 4.5.7 of this report. Clause 5.16 reads as follows:

5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones

- (1) *The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).*
- (2) *This clause applies to land in the following zones—*
 - (a) *Zone RU1 Primary Production,*
 - (b) *Zone RU2 Rural Landscape,*
 - (c) *Zone RU3 Forestry,*
 - (d) *Zone RU4 Primary Production Small Lots,*
 - (e) *Zone RU6 Transition,*
 - (f) *Zone R5 Large Lot Residential,*
 - (g) *Zone E2 Environmental Conservation,*
 - (h) *Zone E3 Environmental Management,*
 - (i) *Zone E4 Environmental Living.*
- (3) *A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—*
 - (a) *subdivision of land proposed to be used for the purposes of a dwelling,*
 - (b) *erection of a dwelling.*
- (4) *The following matters are to be taken into account—*
 - (a) *the existing uses and approved uses of land in the vicinity of the development,*
 - (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*

- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

Clause 5.16 has been adopted for the Draft Queanbeyan-Palerang Comprehensive LEP 2020 and includes further considerations.

Under Clause 5.10 (3) of the PLEP 2014 and the *Queanbeyan Local Environmental Plan 2012*, QPRC has prepared a Minor Heritage Works Application process and form. The application process covers the following clause in the LEPs:

- (3) *When consent not required. However, development consent under this clause is not required if—*
 - (a) *the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—*
 - (i) *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*
 - (ii) *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*
 - (b) *the development is in a cemetery or burial ground and the proposed development—*
 - (i) *is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and*
 - (ii) *would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or*
 - (c) *the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or*
 - (d) *the development is exempt development.*

4.3.1 Development Application Exemption for Minor Heritage Works

Under Clause 5.10 (3) of the LEP applicants may apply for DA Exemption for Minor Heritage Works. Applicants can use the minor works form to gain an exemption from requiring development consent. The application relates to minor works or maintenance of heritage items or within heritage conservation areas.

Generally, if a place is listed as a state heritage item, applicants first need to obtain an approval/exemption from the Heritage Council of NSW under subsection 57(1) & (2) of the Heritage Act. The QPRC Minor Heritage Works Application form under Clause 5.10 (3) of the PLEP 2014 and the *Queanbeyan Local Environmental Plan 2012* is available via Council's website. The application form is simple and does not provide any specific guidance regarding the types of works that may be considered 'minor'. It asks the applicant to describe the minor works, 'E.g. proposed materials, colours and location of the works. NOTE: Any documentation including plans for the proposal can be attached

to this application.¹ Some other councils provide additional guidance about what is considered ‘minor’. For example, new exterior and interior openings are not considered ‘minor’, nor is tree removal.

It is not clear how QPRC applies this minor heritage works application. Nor is it clear how it applies to the SHR listed ‘Braidwood and its Setting’ and listed heritage items within it. Many of the matters covered under this LEP clause and the application are potentially, to some degree, duplicated by the site-specific and standard exemptions for the SHR listed area and the controls in the DCP. If QPRC wants the Minor Heritage Works under the LEP to be exempt from the SHR listing a new site-specific exemption would need to be drafted.

4.4 Braidwood Development Control Plan 2006

The *Braidwood Development Control Plan 2006* (DCP 2006) outlines specific development controls for the SHR listed area. The DCP 2006 is the only guiding management document for the SHR listing. It should be noted that the DCP 2006 was repealed on 27 May 2015, when the *Palerang Development Control Plan 2015* (DCP 2015) came into effect. However, the DCP 2015 does not apply to the SHR listing. The DCP 2006 continues to operate for the subject area under the Heritage Act. Any development proposed in the SHR listed area that does not comply with the provisions of the DCP 2006 or that is covered by the standard exemptions requires approval under the Heritage Act, and is integrated development under Division 5 of the *Environmental Planning and Assessment Act 1979* (NSW) (EPA Act).

It should be noted that the DCP 2006 identifies a broader curtilage for Braidwood than the SHR listing. The boundary identified in the DCP 2006 includes the northeastern slope of Mount Gillamatong and the residential area west of Ryrie Street (Figure 4.5).

The DCP 2006 predates the 2019 Braidwood AMP and does not identify controls to assist in the appropriate management of Aboriginal cultural heritage or potential historical archaeology.

The DCP 2006 provides development controls for the following:

- Land Use.
- Development (Exempt and Complying and Development Applications).
- Precincts.
- Subdivision.

¹ By contrast the City of Sydney includes the following on its Heritage Minor Works application form: *Applications cannot be made for works already or partly completed. This form cannot be used for tree removal or lopping. Council officers will only agree to this request if the proposed works are minor and would otherwise be considered exempt development if not for the site being a heritage item or in a heritage conservation area. Principally this includes ‘like for like’ replacement /rectification works. Important Note: Do not use this form for new intrusions into the building exterior such as new window openings, skylights and the installation of partition walls/reconfiguration of rooms.*

- Heritage Listed Items.
- Streetscapes.
- Public Domain.
- Engineering Works.
- Signage.
- Miscellaneous Provisions.

The DCP 2006 aims to:

- a) *highlight to landowners and developers the need for full and proper consideration of environmental constraints and servicing requirements in relation to proposed development;*
- b) *facilitate the conservation of Braidwood's state and local heritage significance and ensure that heritage issues are given appropriate consideration; and*
- c) *allow for public participation in the determination of development proposals.*

The objectives in the DCP 2006 ensure the continuing protection of the heritage significance of Braidwood regarding future development and the town's character. This includes Braidwood's historical streetscapes, and the township's interface with the rural setting and its surrounding landscape's historic and aesthetic values. The DCP 2006 also includes specific objectives for residential, commercial and industrial development as well as subdivision.

4.5 Review of Braidwood Development Control Plan 2006

There is much to commend in the Braidwood DCP; however, the DCP is inconsistent with Council's other planning documents and also lacks the detail and specificity necessary to adequately control development. Many of the controls are broad and open to interpretation. There are significant gaps in the DCP that have created confusion for Council's officers and Heritage NSW when undertaking assessments. This has been further emphasised by the passage of time that has elapsed since the SHR listing and the DCP's drafting, both in regard to legislative change, local government amalgamations, strategic and assessment planning matters and considerations, but also as a result of broader socioeconomic change and development within the region.

4.5.1 Planning Approvals

The DCP outlines the approval requirements that apply to DAs, which are in turn related to land zoning.

On land within the 2(v) Zone (Village Zone) (now RU5), development applications are required for all development other than exempt and complying developments (refer to clause 9A of the TLEP 1991). On land within the 1(a) Zone (A-1 Zone Light Agriculture), development applications are required for all development with the exception of agriculture, periodic public entertainment and tree planting, and exempt and complying development. On land within the 1(c) Zone, development applications are required for all development with the exception of agriculture and exempt and complying development.¹

Exempt and complying development relates to certain low impact works that do not require a full merit-based assessment. There are general requirements for ‘exempt development’ under Division 2 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP). To be exempt under the policy, development must not be carried out on land that is, or on which there is, an item that is listed on the SHR under the Heritage Act, or that is subject to an interim heritage order (Division 2 1.16 (c)). However, if the development meets the requirements and standards of the SEPP and has been granted an exemption under Section 57 (2) of the Heritage Act, or is the subject of an exemption under Section 57 (1A) or (3) of that Act, the development is exempt under the SEPP.

Likewise, there are specific requirements for complying development under the SEPP. To be ‘complying development’ the development must not be carried out on land that comprises an item that is listed on the SHR under the Heritage Act or on which such an item is located. Under the SEPP this requirement also applies to land that is subject to an interim heritage order or identified as an item of environmental heritage in an environmental planning instrument. However, if development is consistent with the SEPP and has been granted an exemption under Section 57 (2) of the Heritage Act, or is subject to an exemption under Section 57 (1A) or (3) of the Heritage Act, the development is considered complying development. There are some further provisions in the SEPP that basically regulate only that part of the land that the state or local listing applies to.

In a situation where a property is within the locally listed heritage conservation area and also within the state listed item, but is not identified as an individual heritage item, it is not immediately apparent what approvals, if any, the installation of solar panels, skylights or dormer windows would require. It may be managed through a Minor Heritage Works Application under Clause 5.10 (3) of the PLEP 2014, subject to the assessment of impacts on heritage values. Yet this does beg the question of the character, consistency and integrity of the listed area, and potentially sets up some precedents for development that is uncharacteristic of the area’s historic significance. There is currently little clarity on whether or not Clause 5.10 (3) applies within the state heritage listed curtilage or the approval process.

The many environmental planning instruments and controls that apply to Braidwood and its Setting make it difficult to interpret what is currently relevant and applicable to the SHR listed area. The various exemptions, combined with the provisions for exempt and complying development, also add to the complexity. This creates a range of risks in terms of the planning and assessment process. As discussed above, considerable effort is required to understand whether either of the sets of exemptions apply. It is also not readily apparent whether exempt and complying development also applies.

4.5.2 Development Control Plan Precincts

Nine precincts are identified within the listed area. Each precinct includes specific planning objectives, identified land uses, and specific controls for new development. The level of detail provided for each of the precincts is general and not specific to individual properties or items within the precincts. The historical character and heritage significance of the precincts are not described, nor are the special or distinguishing elements or features. The precincts discussed in the following sections, are significant areas within the town, that are facing development pressure.

Wallace Street Commercial Area—Precinct 1A

For example, there is the Wallace Street Commercial Area which comprises the central and northern part of Wallace Street and to a small extent the adjacent crossroads. A range of objectives and several preferred land uses are identified for the precinct. The objectives are to preserve the historical character of the precinct's townscape and the contributory and individual significance of the individual items within it, to ensure that development in the vicinity of buildings with historical significance is in harmony with the form and scale of those buildings, and to encourage the location of retail, office and commercial enterprises which service the needs of the area.

A range of specific controls to manage new development, shopfronts, verandahs, roof form and pitch, signage and setbacks are outlined. The key characteristics that define and exemplify the values of the precinct are not identified in the DCP. The precinct descriptions do not include a statement of significance, nor do they include a character statement that relates to the overarching significance of the SHR listing for Braidwood. The lack of detail in terms of 'ranking' or contribution of the significance of individual properties or features with regards to the SHR listing and heritage conservation area is a risk. Unnecessary uncertainty is created by not clearly identifying the contributory, neutral and detracting buildings or features, such as heritage streetscapes, that would help guide both Council and applicants in understanding which controls apply to a property and which characteristics are important. Buildings and features within heritage conservation areas and heritage streetscapes should ideally be identified on contributions maps as they relate to the character and heritage significance of the heritage conservation area or streetscape.

Contributory Items

The contributory status of a building within a heritage conservation area is determined by its ability to demonstrate, and contribute to, the significance and character of the heritage conservation area.

- Contributory buildings should be tethered to the heritage significance of the area and clearly display the key characteristics of the area through their period, style and typology, scale, form, features and materials.
- Neutral buildings usually originate from the original era of development but typically have been altered, although the alterations can usually be reversed. Contemporary buildings that respond to the significant scale and character of the heritage conservation area can also be neutral.
- Uncharacteristic buildings are usually buildings from a later era that are inconsistent with the scale and form of characteristic development.

When providing a rationale for a building's classification, the key factors to determine and articulate are:

- When was the building constructed—was it the significant era of development for the heritage conservation area (Georgian, Victorian, interwar period)?
- Its style and character—does it display the key features and built characteristics of the significant period?
- Its integrity—how much has it been altered? Are the alterations reversible?

The rationale for classification should clearly state whether the building originates from the significant era, if it has been altered and how much, and what level of contribution it has to the significance and character of the heritage conservation area. Long descriptions of the property are not required for this purpose.

For example:

- The property contains a single-storey face brick cottage built in the Federation period. It has a steep pitched terracotta tiled roof, projecting front gable and timber windows and doors, and retains original decorative joinery and fretwork to the front verandah. It sits within an established garden setting and makes a strong contribution to the significance and character of the conservation area.
- The property contains a single-storey cottage that originates from the Federation period. However, it has been the subject of unsympathetic alterations. The original terracotta tiles have been replaced with concrete tiles, some of the original windows have been replaced with aluminum windows and original verandah joinery has been removed. It has a high front fence that obstructs some views of the house from the street. Although altered, the alterations can generally be reversed. This building makes a neutral contribution to the significance and character of the HCA.
- The property contains a newly completed three-storey dwelling with rendered masonry walls, flat roof and large areas of glazing. The building does not originate from the significant era of development of the conservation area, nor reflect its key features or established character. This building is uncharacteristic to the significance of the conservation area.

Residential within the Historic Town Boundary—Precinct 2

The objectives for this precinct are to preserve and enhance the character and residential amenity of the area. Development that is in the vicinity of buildings with historical significance must be in harmony with the scale and form of those buildings. Historically significant items, views and streetscapes are to be conserved. Uses other than residential are only appropriate where they are compatible with and incidental to the residential use. The continuation of existing light industrial is supported.

New development within this zone is not to dominate the historic character and the provisions include that dwellings be single-storey, though an attic or split level development within the roofline is possible. Generally, two-storey structures are not permissible. The maximum height for development in the precinct to the top of the ridgeline is 6.8 metres. From the top of the finished ground to the underside of eaves the maximum is 4.2 metres, and above natural ground at a boundary it is 2.7 metres. Setbacks are to reflect adjacent buildings. New development that is likely to give rise to an adverse impact may be required to have a greater setback than the adjacent buildings.

Ryrie Park—Precinct 5

Ryrie Park is included in the DCP as Precinct 5. In the DCP Ryrie Park is noted as being significant for its historic associations with the town's early planning process. It is assessed as having both aesthetic and social values and, given its location in the main street, it plays a prominent role in the townscape. The key objective for this precinct is to ensure that the historic and aesthetic values of Ryrie Park are managed appropriately. Controls for the park require that development be guided by the Park Lane Square Conservation Management Plan, February 1997, and subsequent amendments. Other

controls enable development, including for public facilities, paving, trees and signage, subject to a site-specific masterplan.

In 2019 a masterplan for Braidwood town centre was prepared by Phillips Marler following extensive community consultation. Ryrie Park was one of the locations considered in the masterplan. Following the masterplan, a new playground has been constructed with government funding in Ryrie Park North. The facility provides an inclusive, intergenerational play space (Figures 4.3 and 4.4). The project cost \$711,000.

Provided a masterplan has been prepared, the existing DCP controls enable new development within the park. It is generally accepted that conservation management plans, albeit not statutory planning documents, establish the significance of heritage places and provide conservation policies to manage and protect that significance. The Park Lane Square Conservation Management Plan aims to assess and define the significance of the park to ensure its continuing protective care. The park is identified as one of the singularly most important historic features of the Braidwood town plan. The conservation management plan proposes a range of strategies for reinterpreting the park's late Victorian style and character.

While the park should provide community public facilities, the controls do not provide strong or sufficient design guidance to ensure development is appropriate and consistent with the historic character and aesthetic values of the Georgian town plan. This public park occupies a visually prominent corner site on Wallace Street and is a characteristic component of the Georgian town plan. The design of the playground is innovative and engaging. Yet whether it is appropriate given the significance of the park, and its importance as a characteristic element of the Georgian town plan, is perhaps arguable.



Figure 4.3 Initial playground design Ryrie Park. (Source: *Braidwood Times*, 9 April 2019 <<https://www.braidwoodtimes.com.au/story/6000596/first-look-for-playground/>>)



Figure 4.4 All access playground as built in Ryrie Park, Braidwood. (Source: Creative Recreation Solutions <<https://www.crs.net.au/projects/ryrie-park-braidwood/>>)

Rural Land Surrounding the South, East and North Edges of Town—Precinct 7

The rural landscape setting to the southeast and northern edges of the historic township retains evidence of the nineteenth-century subdivision and settlement patterns. The contrast between the layout and form of the Georgian town plan set within the pastoral landscape is part of the heritage significance of the item at state level.

The DCP objectives for this precinct include retaining the rural setting for Braidwood and a landscape buffer zone around the southern, eastern and northern perimeter of the town. The relationship between the form and pattern of the town, and its contrast with the rural landscape, is part of the item's historical and aesthetic significance. Rural views from the town to the surrounding countryside contribute to the appreciation and understanding of this aspect of significance. Controls in the DCP for this precinct provide guidance on the desired character of future development, subdivision development, and development on Wilson's Hill.

A plan is included in the DCP for this precinct. It shows the areas of land surrounding Braidwood, including the buffer zone, Wilson's Hill and the visual curtilage. A strip of land along the eastern edge of the township is designated as a 'buffer zone'.

The land to the northern and eastern edges of Braidwood is zoned RU1. Land to the south is zoned RU1 and E4. The RU1 Primary Production land use zone covers a broad range of permissible activities, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining, and extractive industries. E4 Environmental Living is for land with environmental or scenic values where residential development can be accommodated. Development in this zone is to give priority to the environmental qualities of the land.

Essentially the RU1 zoning and the controls permit residential subdivision and built form to a maximum height limit of 9.6 metres to the top of the ridge within this 'rural' land that is within the visual curtilage of Braidwood. This presents a major risk to the conservation of the heritage values and to a key aspect of the heritage significance of the item, which is the juxtaposition between the geometry and form of the townscape and its pastoral setting. The impact of residential subdivision on this relationship is evident along the eastern and southern edges of the town. Braidwood Ridge at the southern end of the township and the Summerfield retirement village off Little River Road to the northeast are both situated within the 'visual curtilage' identified in the DCP.

Approach Roads—Precinct 9

There are four main approach roads to the historic township of Braidwood. Two of the approach roads are from the north, while the Kings Highway and Little River Road come into the township from the east. The objective in the DCP for this precinct is the protection of the rural character of the main roads and the visual and landscape setting that contrasts with the townscape.

Ribbon development along the approach roads is discouraged, as is 'unattractive or inappropriate industrial and other development' within the precinct. Effectively the controls for this precinct aim to retain the rural setting along the approaches into the Georgian town. The precinct controls generally require setbacks from the road boundary. The controls also regulate roof height and pitch. Permeability of fence lines is encouraged and no solid or metal sheet fencing is to be erected within 100 metres of the highway boundary.

The Approach Roads Precinct and the linear setback zones are indicated in Figure 16 of the DCP. Perhaps understandably, the controls are focused predominantly on the management of built form in the setback zones. Mona Farm is a historic 124-acre property situated between Little River Road to the north and the Kings Highway to the south. Since the SHR listing in 2006, Mona Farm has changed hands twice, and each owner has introduced significant change. In 2013 an Olympic sized equestrian centre was developed on the property. Following its sale in 2018, the gardens have been remodelled and a collection of large-scale sculptures have been installed across the landscape, many of which are visible along the approach roads (Figure 4.4). The garden design includes long, sinuous lines of trees along the property boundaries and along internal property driveways and roads.

It is evident from aerial photographs of Braidwood and its setting that the landscape setting along these approach roads has changed significantly. An aerial photograph from 1963 (Figure 5.1) captures the open pastoral landscape surrounding Braidwood and provides an indication of the nature and extent of the change within Braidwood and its setting. The controls for the approach roads reflect some important principles in terms of built form setbacks, yet also need to contemplate other forms of 'development' such as tree planting and the installation of large-scale sculptures.



Figure 4.5 A selection of the garden sculptures at Mona Farm, a luxury estate to the east of Braidwood, situated between Little River Road to the north and Kings Highway to the south. (Source: <monafarm.com.au/discover>)

Summary of Precincts

The DCP precincts contain objectives and controls to manage various types of development to conserve and protect the heritage significance and character of the precincts within the SHR listed area. Generally, we consider the objectives to be overly broad and the controls to lack the specificity and clarity required to effectively manage development.

The special character and importance of each of the precincts and its various distinguishing elements are not clearly identified and defined. Elements including historic streetscapes and built form (including various building typologies, materials and so on) are fundamental to the significance and character of the place. The character elements represent the distinguishing features of the area that are to be retained. If clearly identified, applications to change the character elements can then be assessed against the desired future character controls. Therefore, the precincts are perhaps best considered as 'special character areas' that contribute to Braidwood and its Setting.

When considering new development or change, the heritage significance of the historic setting should be taken into account. This is expressed in the statement of significance for Braidwood and its Setting and should be reinforced in the DCP by desired future character statements. Development would then be orientated to achieve the outcomes expressed in the desired future character statement and applications/proposals would be assessed according to their ability to satisfy those outcomes (and other matters) as relevant.

Contributions maps for each precinct that classify existing buildings as contributory, neutral or detracting would be beneficial. The contribution of any building or feature to the character and heritage significance of the area is then guided by and based on the contribution. Further consideration could be given to identifying heritage streetscapes. Braidwood is a living place and will be subject to change over time; Council should seek to encourage new development of a high design standard which respects the significance of the area.

Careful consideration needs to be given to the pastoral landscape surrounding Braidwood, including the approach roads, which in part constitutes the SHR 'setting'. Notwithstanding the site-specific exemptions that have enabled uncharacteristic subdivision within the SHR area, the DCP controls only countenanced certain forms of development. Some types of change permissible under the DCP have given rise to outcomes that are not entirely sensitive to the item's significance. This presents a risk to the heritage values, specifically the contrast between the Georgian townscape and its increasingly 'designed' rural setting.

4.5.3 Vicinity Controls

There are no vicinity controls in the DCP. Although reference is made in some sections of the DCP to development in the vicinity, making such controls explicit is important. Development in the vicinity of a heritage item may impact upon the heritage significance of the item, generally through an impact on its setting.

Determining whether a property is within, or impacts upon, the setting of a heritage item is a necessary component of the site analysis of a proposal. Specialist heritage advice may be required to assist with this process and should be done prior to the application being lodged.

The setting of a heritage item needs to consider the historical property boundaries, significant vegetation and landscaping, archaeological features, and significant views to and from the property.

As such, vicinity controls should ensure that development is designed and sited to protect the heritage significance of the item. These controls would ideally include alterations and additions to structures, and would require new development in the vicinity of a heritage item to be designed respectfully with regard to: the building envelope; proportions; materials, colours and finishes; and building and street alignment.

Development in the vicinity of a heritage item is to minimise the impact on the item's setting through the provision of an adequate area around the building to allow interpretation of the heritage item. It should also retain original or significant landscaping, protect and support the interpretation of archaeological features as much as possible, and retain significant views to and from the heritage item.

4.5.4 Subdivision

Land subdivision is covered in 'Part 5 Subdivisions' of the DCP. This section covers amalgamation and consolidation, multi-unit development, subdivision applications and road requirements and objectives. It is noted in the background to this part of the DCP that the residential subdivision pattern of Braidwood has retained its Georgian character, exemplified by large lots that are deep but relatively narrow and aligned to the rectangular street grid. This subdivision pattern reflects the history of the area's development and is a key characteristic exemplifying its heritage significance. The subdivision pattern has given rise to a distinctive arrangement and pattern of built form.

The objective of the subdivision guidelines in the DCP is to retain the evidence of the historic subdivision pattern and to ensure that new subdivisions, and development enabled by subdivision, are sympathetic to the heritage significance of Braidwood including its historic plan and streetscape. While some of the controls are strong (such as that the amalgamation of blocks should not be consolidated across historic boundaries), others may potentially encourage outcomes that are not consistent with the character of the listed item or conservation area and should be tightened. For example, given the significance of the 1839 town plan, no lot boundary changes should occur in areas where that original subdivision pattern is significant and remains intact. In other locations, lot boundary changes within the heritage listed item or heritage conservation area should be required to demonstrate that there will be no impact on the heritage streetscapes or heritage items. This should include ensuring that the setting of an existing significant building on the subject site, or the setting of development on adjoining sites, is not compromised. Furthermore, significant features associated with the lot or adjoining lots, including the streetscape and landscape features, trees, fences, outbuildings and gardens, should not be adversely impacted. Lot boundary changes to larger sites should demonstrate consistency with the original, significant lot configuration; the resultant allotment size should be similar to the existing subdivision pattern in the vicinity of the site and satisfactorily provide for the continuation of the dominant pattern. The Land and Environment Court proceedings discussed at Section 4.5.7 also provide an important insight into the issues with respect to the significance of the historic town plan and associated values such as archaeology, views, the legibility of the spatial expanse and so on.

4.5.5 Public Domain

Part 7 of the DCP focuses on streetscapes and the public domain. This includes footpaths, streets, parks, laneways, carparks and generally publicly accessible areas. Most streets in Braidwood are characterised by generous carriageways, grass verges, mature trees and distant views that, combined with historic building stock, create significant streetscapes of high historic and aesthetic value. Many

residential streets comprise a central carriageway edged by gravel and grass swale gutters and footpaths. One of the unique characteristics of the streetscape in Braidwood is the use of stone to form gutters and other landscaping features.

The controls for the carriageway note that the bitumen seal should generally remain as is, though a small concrete or other border may be laid along the edge. The verge area between the bitumen and gutter is to remain grass or decomposed gravel. Gravel and grass may be hardened through the use of suitable reinforcing laid beneath the turf. As noted, the stone and grass gutters in Braidwood are part of the town's streetscape character.

Street trees are noted for their contribution to the town's aesthetic value, including views and vistas. Street trees are only to be removed where they pose significant risk to public safety. They may be pruned when near power lines and replaced by trees of historically appropriate species and habit. The historically appropriate species are not specified in the DCP.

The street pattern layout, including that of the laneways within the historic town boundary, is not to be altered other than roads that were part of the gazetted 1839 town plan. The entry and exit roads that are historic are to remain in the historic pattern in relation to the town grid. The DCP indicates which roads this control applies to, including those to Canberra, Batemans Bay and Mongarlowe.

In 2018 QPRC adopted a streetscape plan that was focused on Wallace Street north, Ryrie Park north, Ryrie Park south and the commercial precinct. The objectives in the DCP do not make clear the status, or importance, of the streetscape plan for the public domain and how to retain the historic and aesthetic character of the streets.

The DCP in 'Part 7 Streetscapes' identifies various elements within the public domain that are important in demonstrating key aspects of the significant character and heritage value of the listed area. More specific information should be provided to help proponents understand which features are deemed significant at state or local level and where they are located within the listed area. Reproducing the gazetted town plan from 1839 in the DCP would help aid understanding of where these controls apply. Certain public domain features are not identified and could be expanded to also include statuary, fountains, signposts, boundary markers, and steps.

The objectives should ensure that street furniture and other public domain items are not intrusive in the heritage conservation area or heritage streetscape and do not negatively impact heritage items, buildings and sites in heritage conservation area. Significant public domain features and spaces should be retained, and development should not have a detrimental impact on the heritage significance of public domain features. Original or significant signposts, milestones, boundary markers and the like are to be retained. Significant steps and supporting walls are to be retained. New steps should allow for the retention and preservation of original or significant steps, and the use of appropriate materials. Evidence of significant early road surfaces and features should be retained where possible. Significant kerbing should be maintained and, where necessary, replaced with matching materials. The reinstatement of cantilevered balconies, street verandahs and awnings is encouraged where documentary or physical evidence of the original is available. Detailing should be based on this evidence.

4.5.6 Other Development Control Plan Matters

- Definitions should be provided to ensure there is a common understanding of key terms such as conservation, character, curtilage, building envelope, facade, fabric, form, integrity, intactness etc.
- The DCP contains no controls or guidelines for proponents with regard to the management and conservation of Aboriginal cultural heritage.
- The listed buildings section has a focus on exteriors; a future review should consider incorporation of significant interior features (joinery, finishes) and movable heritage.
- Additional controls relating to building types could be developed including weatherboard buildings, commercial buildings, retail shopfronts, pubs and hotels, community and public buildings etc. The objectives and provisions could be applied together with the other objectives and provisions of the DCP.
- The range of different controls applying to LEP listed and unlisted properties under the Braidwood DCP creates a range of problems where an item that is contributory to the SHR listing should be listed on the (Tallaganda) LEP, but for whatever reason has not been. In essence this approach only works if all locally significant or contributory items to the SHR listing are listed.
- It would be helpful to explain the DA requirements and to provide guidelines for preparing heritage assessments, conservation management plans, heritage impact statements, and demolition reports.

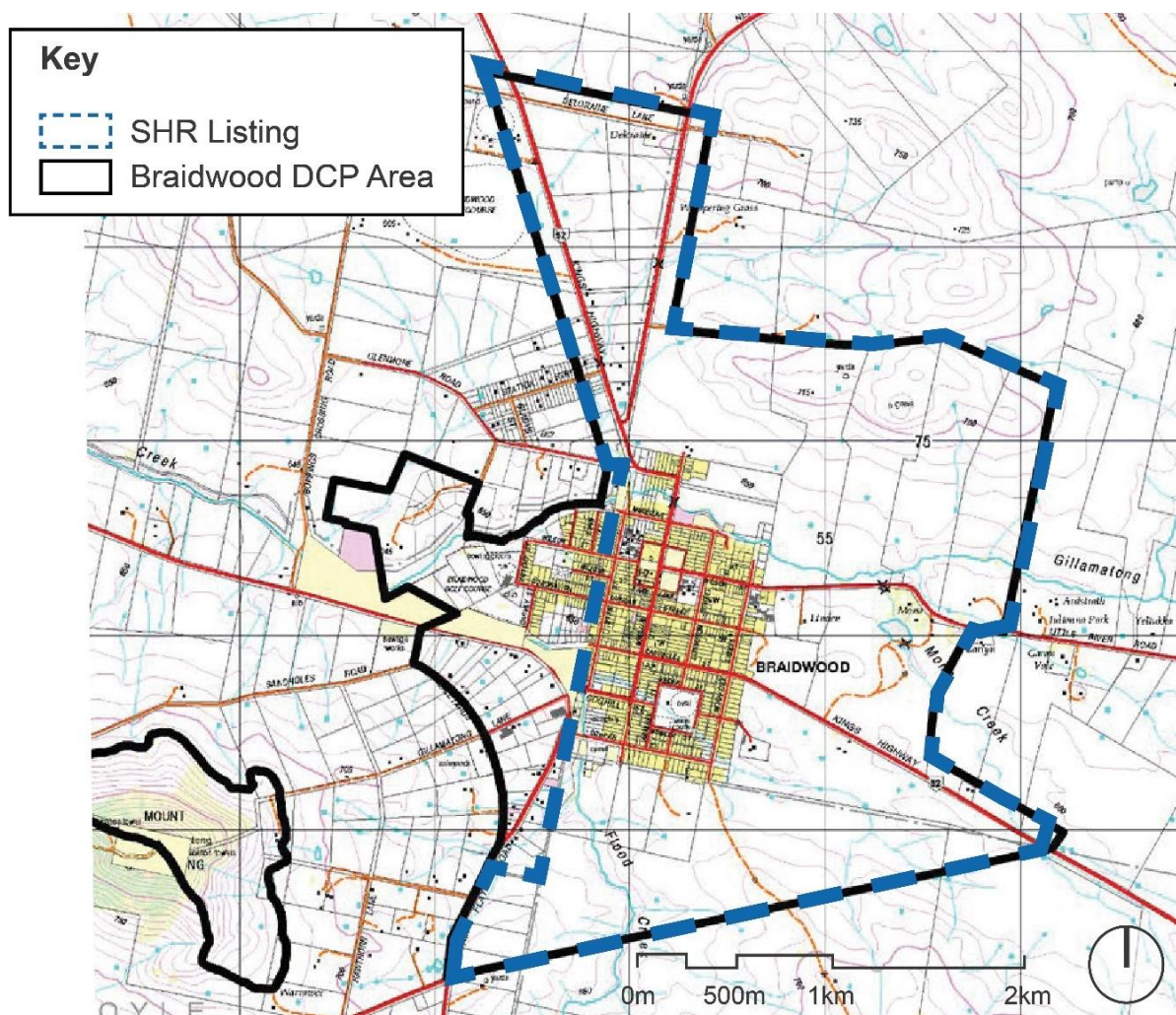


Figure 4.6 Map showing the SHR listing curtilage in blue and the extent of the Braidwood DCP 2006 curtilage in black. (Source: Braidwood DCP 2006, with GML overlay, 2021)

4.5.7 Samowill Pty Ltd v Queanbeyan–Palerang Regional Council; Samowill Pty Ltd v Heritage Council of New South Wales [2017] NSWLEC 1550

The case *Samowill Pty Ltd v Queanbeyan–Palerang Regional Council; Samowill Pty Ltd v Heritage Council of New South Wales* [2017] NSWLEC 1550 details the Class 1 appeal made by Samowill Pty Ltd and Stephen John Northcott to a determination of refusal by QPRC for a proposed residential subdivision for five lots at 199 Wallace Street, Braidwood (DA.2014.254). This site is part of land locally known as the ‘Police Paddock’ and is located within the SHR listed area.

The DA application was lodged on the last day the Tallaganda LEP 1991 was considered valid. The proposed residential subdivision was non-compliant with Council’s planning instruments. The case discusses how the DCP provisions should be interpreted in a DA assessment, with reference to case law. The Commissioner’s findings discuss the issues with the LEP 2014. The Commissioner’s statement concludes (74) that:

it is my view that the heritage listing has the effect of limiting development on the site such that subdivision, whilst a permissible use in the relevant zone, may not be able to be achieved in the form proposed by the current application.

Council refused the DA due to the development's detrimental impact on the state heritage item, Braidwood and its Setting. The application was not provided concurrence from the Heritage Council of NSW due to the development's detrimental impact on the heritage item. Council and the Heritage Council of NSW refused the development application for the following reasons:

1. *The proposed development will have an unacceptable adverse impact on the heritage significance of "Braidwood and its Setting" as listed in the State Heritage Register ('SHR');*
2. *The concept plan filed by the applicants does not retain the appearance of traditional lot development suitable for Braidwood; and*
3. *The development is inconsistent with the controls in Council's planning instruments.*

The Police Paddock site and surrounds demonstrated visual cohesiveness as a single large expanse, which further contributed to its importance, and the significance of the SHR item. The area was also seen to contribute to the rural buffer that surrounds the town and preserves the pastoral landscape that contributes to Braidwood's significance.

The proposed subdivision would interrupt these views and was not consistent with the Georgian town grid pattern. The proposal was found to detrimentally impact on the SHR heritage criterion (a) (historical significance), and the inclusion of the Police Paddock within the historic bounds of the town was recognised in the listing as part of the historic form and fabric of the town SHR heritage criteria (f) rarity and (g) and representativeness. The proposed subdivision was not considered to align with the simple grid design of the town and would have had a detrimental impact on the significance of the item, especially criterion (g). It was noted that the former police barracks was sited on a rise within the site's topography. The subdivision was not regarded as being of sufficient merit to warrant variations to Council's controls.

The Court heard evidence from several residents in Braidwood who noted the significance of the area, specifically the views into and from the state heritage area, the intact Georgian town plan, the potential presence of archaeological remains and the town's pastoral landscape.

Pursuant to s79C(1)(b) of the EPA Act, the Commissioner found the determination of refusal to be appropriate, and dismissed the appeal based on these claims. The findings of the case specifically state that:

notwithstanding that the LEP provides for residential subdivision, in and of itself that is not sufficient to determine the appropriate development on the site... In this matter the heritage listing, and the statement of significance, act as an additional layer of parameters to consider the merit assessment of the application.

In this case, the Commissioner considered that the statement of significance acted as an additional layer of parameters to consider in the merit assessment of the application. The Commissioner took the view that the heritage listing had the effect of limiting development on the site such that subdivision, albeit a permissible use in the relevant zone, may not be achievable in the form proposed by the current application.

The case reflects the current development pressures for new residential development within Braidwood. The new development estate of Braidwood Ridge, located off Elrington Street, is an example of the type of new development being constructed in the town. The development was approved prior to the SHR listing and is an example of the types of developments that would continue throughout the town. Braidwood Ridge is now located within the SHR listed area, but on a lower plain that does not fracture the views of the rural buffer that surrounds the state heritage item and makes up part of its curtilage. It is likely that this type of residential development would not have been approved if the town was already listed on the SHR.

The inconsistencies between the LEP, DCP and site-specific exemptions creates confusion about what types of development are appropriate for Braidwood. There are several approved developments, including Braidwood Ridge, that are not consistent or appropriate for the town's heritage significance. The lack of clarity, cohesion and consistency between the planning controls risks allowing for further developments that will potentially negatively impact the significant heritage values of Braidwood.

There are other examples of Class 1 appeals where applications were refused because they were detrimental to a heritage item or a heritage conservation area. This includes *Grigorakis v Bayside Council* [2016] NSWLEC 1573. The judgement in this case also indicated that while the heritage significance of various items and conservation areas would be affected, the proposed application also proposed a variance from the planning controls for the area.

The case indicates that QPRC requires a consolidated and robust DCP for the township of Braidwood. The inconsistencies between the PLEP 2014 and Braidwood DCP 2006 allow for new development in Braidwood that may impact the heritage values of the place. Areas within and outside the listed area should be identified for future development to allow for appropriate growth. The PLEP 2014 should be reviewed and amended to restrict inappropriate development in land zonings near and within the state listed area. The Braidwood DCP requires specific guidelines for conservation and development. A comparative analysis of development guidelines prepared for similar towns could be undertaken to formulate these controls.

4.5.8 Palerang Development Control Plan 2015

The *Palerang Development Control Plan 2015* (DCP 2015) is the current guiding document for new development within the Palerang LGA. The DCP does not apply to the SHR listed area, but does apply outside the SHR curtilage. The DCP provides general heritage guidelines for built heritage, Aboriginal cultural heritage, and natural heritage. This DCP will be replaced by a comprehensive DCP for the entire amalgamated LGA, which will include the SHR listing and remove the need for the Braidwood DCP 2006. Council is currently using the Braidwood DCP 2006 and Palerang DCP 2015 to make decisions about new development within the SHR listed area and wider town. This has created an element of confusion for Council's officers as the documents provide varied guidelines.

4.6 Draft Controls

During preliminary discussions with QPRC we were advised that a new Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan has been prepared and submitted to the DPIE. In addition, QPRC advised that it was looking to commence a review of the Queanbeyan-Palerang Council Development Control Plan, in order to ensure a more comprehensive approach to managing

development across the Council area, which would include specific provisions for managing heritage in Braidwood.

4.6.1 Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan

The Draft Queanbeyan-Palerang Comprehensive Local Environmental Plan has been prepared to consolidate the existing LEPs that applied to the former Queanbeyan and Palerang LGAs prior to amalgamation. The draft LEP will merge the heritage listings under Schedule 5 of each current LEP into the comprehensive plan.

In particular, Council is recommending that dual occupancy development be prohibited in rural and environmental zones across the combined LGA. Instead, ‘secondary dwellings’ will be permissible in all these zones. This has been proposed as it is difficult to sell properties with two large existing dwellings in the LGA and, subsequently, applicants often seek to subdivide these developments in a manner not permissible under Council’s respective planning controls.

The LEP zoning plan shows the SHR listing adjoins the E4 Environmental Living zone and part of the rural landscape outside the SHR listing includes land zoned R5 Large Lot Residential where these changes will apply. These changes will result in two smaller dwellings on the same lot, a consistent streetscape and potentially battle-axe style allotments, or fewer applicants for subdivisions. This will impact the appearance of the rural landscape surrounding the SHR listing, but will potentially provide a more appropriate subdivision pattern within the rural living zones. It should also be noted that dual occupancy development will still be permissible in the R2 Low Residential Zone. A large area of the SHR listing is zoned R2 Low Density Residential. The draft LEP will include a minimum lot size to restrict a significant increase in density.

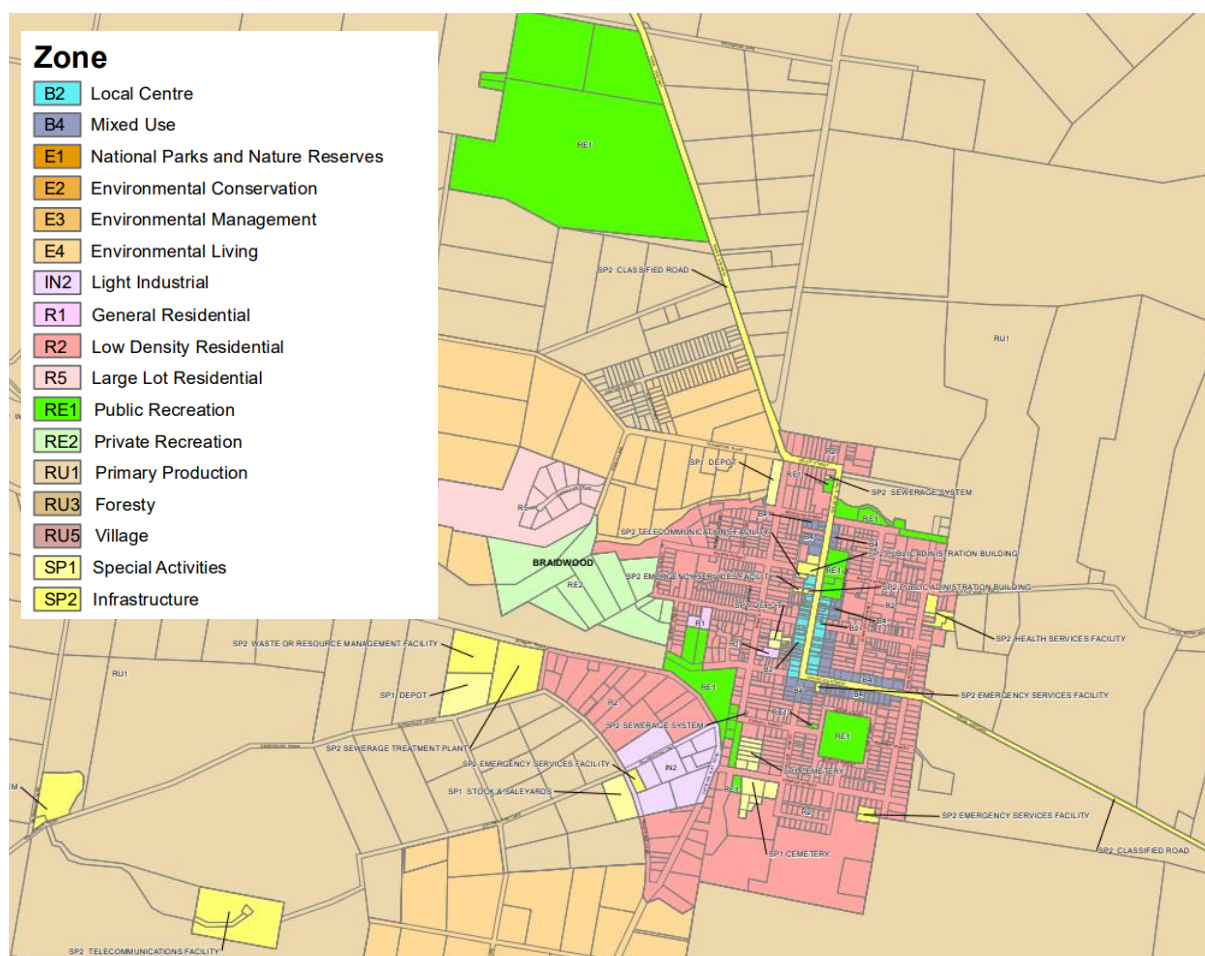


Figure 4.7 Palerang LEP zoning map of Braidwood. (Source: PLEP 2014)

4.6.2 Draft Braidwood Development Control Plan

Council is in the process of preparing a standalone DCP that will specifically apply to Braidwood. The new DCP would sit alongside the new Queanbeyan-Palerang Comprehensive LEP. This will provide one consolidated document that guides development for the entire amalgamated LGA. The DCP will include guidelines for Braidwood and the SHR listing, and this will remove the need to refer to the now outdated Braidwood DCP 2006.

As part of the drafting process, Council should seek input from the community, specialists and, in particular, heritage professionals and archaeologists when drafting the future controls for Braidwood and the SHR listing. The update of the DCP should also address the gaps that have been identified in the previous DCP 2006. In addition, the updated DCP should include guidelines for the management of Braidwood's archaeological resource. A completed Stage 2 AMP would ideally inform the development controls and planning processes. To that end, sourcing of funding to undertake the final stages of the AMP should be a priority.

4.7 Heritage Advisor

QPRC provides a free heritage advisory service to members of the public within the LGA. The service is jointly funded by QPRC and Heritage NSW. The heritage advisory service operates on the second

Thursday of the month for Braidwood and the surrounding area. The role of the heritage advisor is to provide advice to property owners that may be considering proposals and DAs to LEP listed heritage conservation areas, as well as individually listed heritage items within the LGA.

A brochure describing the role of the heritage advisor, and providing relevant contact details, is available on the QPRC website. The brochure includes a summary overview of heritage in the LGA, and specifically mentions the SHR listing of Braidwood. The brochure provides a simple introduction to the statutory listing of heritage items in LEPs as either state items or local items, as well as properties within heritage conservation areas. Readers are informed that designated properties will be subject to particular planning regulations where development works are proposed. The brochure and Council's website has several links to supporting documents including the LEP schedule of individual listed heritage items, planning controls, the Heritage Consultants Registry and the NSW Heritage Office (now Heritage NSW).

The heritage advisory service is of value to QPRC and property owners in Braidwood. Given the size of the SHR listed area and the number of listed items within Braidwood and its Setting, combined with population growth and demographic change, the QPRC should consider whether the capacity and frequency of the heritage advisory service is sufficient to meet demand.

4.8 Discussion

Just as many regional towns and centres are changing, so too is Braidwood. In the 15 years since the success of the 'experimental' SHR listing of Braidwood several complex issues have emerged that are making it increasingly challenging for both Heritage NSW and QPRC to manage. In an era of declining resources available for heritage, combined with population growth and development pressures in regional towns—exacerbated by a range of economic and social issues—places such as Braidwood are at a turning point. The significant heritage values that many locals and others consider to be of outstanding value to the state are also the very values that many others see as the primary cause of onerous and procedurally complex planning processes.

Council's records identify the types of development and works that have been proposed in Braidwood since 2006. These include new dwellings, alterations and additions to existing dwellings, studios, sheds, detached garages, tree removal, subdivision, signage to existing shops and buildings, applications for new small businesses, and upgrades to roads and infrastructure.

The majority of new residential development has been to the south of the SHR area along Badgerys Street, Elrington Street and Nomchong Street that forms part of the residential estate of Braidwood Ridge. To support the growing population, a hospital, an aged care facility and a new school have been constructed in Braidwood since the listing. Further new infill development has continued to be constructed in Braidwood along Solus Street, McKellar Street and Coghill Street. In short, applications for residential and commercial development have steadily increased in Braidwood since 2006.

In recent times there has been unapproved development to the east of the town, associated with the change from rural use to 'boutique' accommodation and reception centre use. This, combined with other homestays for vacation rentals, and accommodation facilities, reflects not only the area's changing demography but also the significant growth and change in the tourism industry.

Notwithstanding the impact of the COVID-19 pandemic on tourism, it is unlikely that applications for such development will decline given Braidwood's location, character and comparatively affordable land and building stock.

The National Archives of Australia includes a black and white aerial photograph of the township of Braidwood and its surrounding pastoral setting dating from 1963 (Figure 4.8). The 1839 Georgian town and street pattern is clearly visible. The structure and geometry of the street pattern and allotments create a strong contrast to the gently undulating and expansive surrounding pastoral landscape. Vegetation is sparse within the township and relatively few mature trees are discernible. By contrast, the 2021 aerial photograph of Braidwood and its surrounding landscape at Figure 4.9 shows the extent of development within and surrounding the Georgian town plan. While the structure of the street pattern layout within the historic town is evident, so too is peripheral development and the consequent spread of the township. This has created a different development pattern and relationship between the ‘historic core’ and the surrounding pastoral landscape setting. Should such development patterns continue, the heritage significance and distinctive character of Braidwood and its Setting, particularly the contrast between the townscape and the pastoral landscape, will be compromised.



Figure 4.8 Aerial view of Braidwood, NSW, 1963. (Source: National Archives of Australia, Item ID 11705837, Series Control Symbol A1200L44249)



Figure 4.9 Aerial photograph of Braidwood. (Source: Nearmap, 2021)

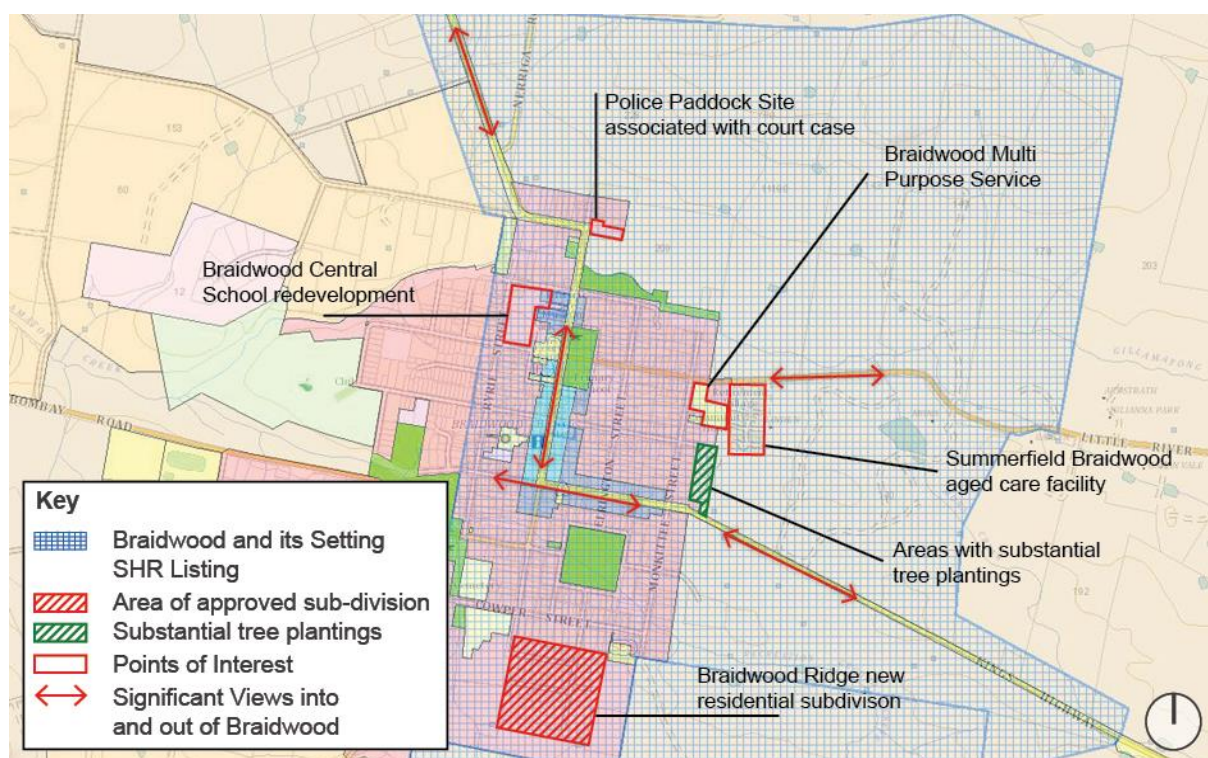


Figure 4.10 Points of interest in Braidwood. (Source: Planning Portal 2021, with GML overlay)

4.9 Summary

At the time it was developed, the statutory planning framework for Braidwood was without precedent and provided an innovative response to the state heritage listing of an entire township and surrounding landscape. With the various changes to the planning system, local government, Heritage NSW and the Heritage Council, and the 'lessons learnt' over last several years, the changes to the LEP and the preparation of an updated DCP provide an opportunity to provide greater clarity and certainty in the land use planning and development approval context for Braidwood.

The DCP covers many aspects of what is important about Braidwood. Yet in 'Part 11 Public Domain' of the DCP the specificity and detail required to adequately inform and guide DA planners and applicants is lacking. A good example of this is the reference to streetscapes, wherein the assessment is without the necessary description. This stems in part from the lack of precision in the SHR listing itself, as the significant streetscapes are neither identified, defined or described. This leaves the streetscape and the protection of its character and integrity open to interpretation, potentially creating uncertainty 'downstream' for applicants and planners at development assessment stage.

It is generally accepted, for example, that the distinctive kerbs and gutter treatments in some streetscapes, and soft verges in others, and some footpath treatments have heritage value. In fact, such features contribute to the item's overall integrity. While the carriageway, verge, gutter, footpath and street trees are mentioned in the DCP, the listed area has not been subject to a detailed study that identifies where these features are located, and which ones in particular contribute to the significance of Braidwood. Given much of the listed area is designated as a heritage conservation area, Council could consider identifying which features make an important and significant contribution to the character of a heritage conservation area, or the heritage streetscapes that evidence a reasonably high degree of integrity and date from a key development period of significance. Contributory buildings could also be identified. They would be defined as buildings from a significant historical period, highly or substantially intact or altered yet recognisable and reversible.

If such features are not included in an assessment there is a risk that they may not be considered as important when change is proposed. This means they may be vulnerable to removal or unsympathetic change. Individual changes, as well as cumulative effects, threaten historic integrity. Loss or relocation of some features may not affect a property's overall historic integrity. Given the pressures on Braidwood some areas may be identified that have a greater tolerance for change. But ongoing loss, or change to buildings, structures, roadways and small-scale features, as well as gradual changes to boundaries and land uses, may cumulatively impact an item's overall integrity without some overarching strategic assessment.

Vegetation is an important feature of most landscapes. The listing of Braidwood includes specific reference to the surrounding pastoral landscape, but it does not provide a description of the distinguishing features of that landscape typology. Landscape is dynamic and constantly changing. Each season brings variation. Vegetation matures, is pruned, and reaches the end of its life. New plantings are often added, and sometimes plantings are subject to change through other forces. Changes in vegetation can impact historic integrity. This is determined by the extent to which the general character of the historic period is evident, and the degree to which elements obscuring that character can be reversed. As vegetation matures, a change in tree canopy, scale, and overall

massing may affect the overall character of the landscape. It is important to consider not only changes to the individual feature but also how such changes affect the landscape as a whole.

In the context of the township of Braidwood, change in the landscape setting may have an impact on its integrity. Major encroachments adjacent to the town, such as highways, parking lots, new buildings and new plantings, may impact the significant values. Views to and from the town, for example, that were pastoral but that are now residential, or views that were established along sight lines to buildings, monuments or other features that have been destroyed, may impact the integrity of the historic landscape.

Given the primary management intent of the SHR listing is to identify, manage and conserve the significant values of the heritage listed item, the evaluation and analysis of contributing landscape characteristics and features will assist managers and specialists in determining treatment and best practice management decisions, and recording these decisions. Without clear and direct identification, description and assessment of significant values and features, there is a risk that the integrity of the listing and its values will be impacted through the lack of specificity and continuing incremental change.

Any amendments to the listing's site-specific exemptions, and/or planning controls, including the new DCP for Braidwood and its Setting, will need to demonstrate a strong alignment between the heritage values and land use/development planning to ensure the long-term management and conservation of heritage significance is effective.

4.10 Endnotes

¹ Palerang Council, *Braidwood Development Control Plan 2006*, p 4.

Comparative Analysis

5 Comparative Analysis

5.1 Introduction

When the township of Braidwood was listed on the SHR in 2006 it was compared to several other sites as part of a comparative analysis. Other regional towns that were reviewed in the comparative analysis included Bungendore, Queanbeyan, Gundaroo, Goulburn, Berrima and Yass, all of which either never consolidated their nineteenth-century built form, or lost their integrity as a result of extensive twentieth-century development. The analysis found that Braidwood was a rare example of a Georgian township.

This report has identified some heritage listed places that are comparable examples of complex locally listed landscapes/townscapes. A consideration of some of these comparable historical places may assist in identifying best practice heritage management and in streamlining statutory planning and development approval processes.

5.1.1 Haberfield Heritage Conservation Area

The suburb of Haberfield is listed as a conservation area under the *Ashfield Local Environmental Plan 2013* (C42). Haberfield is significant in the history of town planning in NSW as the first privately developed Garden Suburb in Australia and for its intact collection of fine Federation houses and shops.

The Haberfield DCP provides objectives and standards for development within the Haberfield Heritage Conservation Area in addition to LEP controls. The DCP was developed in consultation with heritage specialists who undertook a detailed study of Haberfield in 1986–1988.

The DCP provides residents, landowners and developers with detailed planning measures for residential and commercial properties. The objective of the plan is to ensure that the heritage significance and character of the suburb is maintained whilst allowing for necessary and appropriate change, including sympathetic alterations and extensions to existing buildings or carefully designed new buildings.

The planning measures cover key aspects which contribute to the suburb's significance as both a planned suburb and for its collection of fine Federation buildings and gardens. These measures include the pattern of development, building form, height and site setbacks, as well as more detailed controls on the treatment of windows, verandahs, garages, fences, gates, garden elements and paint schemes.

Each planning measure contains a description, an explanation of how it contributes to the significance of the suburb, and controls. Most controls are also accompanied by drawings and diagrams which assist in understanding the objective of the controls.

5.1.2 Broken Hill

Broken Hill is listed on the National Heritage List (Place ID 10586). The City of Broken Hill is a rare example of a long-established mining town in Australia, with a strong industrial history. The city is nationally significant for its historical, rarity, social, research and aesthetic values. Broken Hill contains a unique mix of architecture and mining infrastructure, set in a vast, arid landscape. The city retains its

1883 grid plan character and has been minimally impacted by changes to its urban structure or redevelopment.

Certain areas and items within the city of Broken Hill are also included on the Broken Hill LEP 2013 and SHR. National heritage values are referenced in the Broken Hill DCP, but are not subject to local planning controls or assessments. As a result, places that are part of the National Heritage Listing, but not the LEP, do not have specific heritage control or management at the local level.

Section 8 of the Broken Hill DCP provides heritage controls which apply to heritage precincts and items. The DCP contains a statement of significance, guidelines for all development (excluding Broken Hill Mining Zone), residential development, commercial development and development in the mining zone. The sections generally contain objectives, design guidance and controls. The controls provide a good framework for managing development, but could be more thorough and include further design guidance and controls for additional types of civic buildings and infrastructure.

5.1.3 Goulburn

The City of Goulburn is listed as a heritage conservation area on the *Goulburn Mulwaree Local Environmental Plan 2009*. The area includes the Central Business District of Goulburn and is generally bounded by Mulwaree River/Blackshaw Road, Clinton Street, Bradley Street and Cowper Street. The heritage conservation area includes extensive heritage buildings and streetscapes that are significant to the development of Goulburn.

The area contains a mix of major retail, civic, office and administrative functions of the City of Goulburn as well as several ecclesiastical, educational and rail related services. The road pattern is based on the original grid pattern set out in Goulburn and assists in providing dramatic vistas and view corridors.

The City of Goulburn is significant as an outstanding example of a historical townscape and for its cultural continuity since the early 1800s. Goulburn includes a large number of building types dating from the Victorian and Federation periods, reflecting the setting and character of Goulburn as an important administrative regional centre in the mid–late nineteenth century and early twentieth century. The area demonstrates a good diversity of building types and styles as development ranged from the Georgian style workers cottages of the early 1850s to Victorian civic and ecclesiastical buildings and Inter-War commercial buildings.

Development within the conservation area is managed under the *Goulburn Mulwaree Development Control Plan 2009*. Section 3.3.23 of the DCP is dedicated to the City of Goulburn Heritage Conservation Area and contains sections relating to its history, character and significance, as well as objectives and controls for its future development.

In addition to this section there are several comprehensive development controls that relate to all heritage items and conservation areas at Sections 3.2 and 3.3 of the DCP. These include objectives and controls on alterations and additions, adaptations of heritage buildings or sites, change of use, signage to heritage buildings, and building materials, colours, finishes, forms, scale and styles. The sections are thorough and are accompanied with several diagrams and images to assist users with understanding the objectives of the controls.

5.1.4 Beechworth

Beechworth is located within the Indigo Shire Council LGA. Other historical townships within Indigo Shire include Chiltern, Rutherglen and Yackandandah.

In 1852 the township of Beechworth, Victoria, developed following the discovery of gold at Spring Creek. Such was the rush to the gold fields that by July 1853, Beechworth's town plan had been surveyed and gained formal recognition with the declaration of Beechworth as a town. Just as in Braidwood, in Beechworth the original surveyed town plan of 1853 is still largely evidenced through the size of blocks, laneways, and designated land uses (churches, public buildings and parklands). The township's subsequent development as a major administrative centre during the 1850s and 1860s is reflected in its historical built form, supported by the construction of government buildings, but also through controls that required commercial and residential buildings of the period to conform to certain requirements.

Although Braidwood and Beechworth were developed during different historical periods, they are comparable in the aesthetic qualities of the respective townscapes and the streetscapes along with their degree of intactness. Both townships evidence consistency of scale, uniformity and quality in their streetscapes. Like Braidwood, Beechworth is unusual for its intactness and integrity, as the twentieth century has only lightly touched most of the township. Just as there is a recognised and tangible relationship between Beechworth's nineteenth-century establishment as a gold-mining town and the extant mining sites and artefacts in the surrounding areas, there is also an appreciable relationship between the township of Braidwood and its surrounding rural and agricultural landscape.

In Victoria, planning schemes are made up of maps and ordinance. The ordinance contains the policies and written clauses and the maps illustrate where the zones and overlays apply within the planning scheme area. Under the Indigo Planning Scheme, a Heritage Overlay (VPP 43.01) applies to the heritage listed places and its associated land within Beechworth. The heritage listed places in the overlay include a series of conservation precincts and local items as well as those places listed under the Victorian Heritage Register.

Each of the Beechworth conservation precincts is described in terms of its distinctive historical character, including its streetscapes, granite kerb and guttering, street tree plantings and commemorative monuments, etc. The integrity of each of the precincts is considered to be high. The historical, architectural, social, technical, aesthetic and archaeological significance is stated.

The Heritage Overlay is indicated on the planning scheme map by the 'HO' prefix. A schedule accompanies the Heritage Overlay (LPP43.01). All places, structures and items of cultural heritage significance and all individual items listed in the Schedule to the Heritage Overlay are considered integral to the significance of the place and its various precincts.

The purpose of the Heritage Overlay is detailed in the bullet points below:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.¹*

In the heritage schedule that supports the heritage overlay, each heritage listed property is itemised and further information is provided regarding the application of other controls and policy. This includes external paint colours, internal alterations, tree controls, outbuildings and fences, prohibited uses, and Aboriginal heritage. In short, the controls are detailed and fine grained. The planning scheme, heritage overlay and accompanying heritage schedule, combined with the other policies, provide specific guidance related to many key heritage planning matters.

5.1.5 Colonel Light Gardens

Colonel Light Gardens in South Australia is a state heritage listed suburb. It is regarded as an exemplar of the work of Charles Reade, Australia's first appointed town planner and a leading advocate of garden city design. The suburb Colonel Light Gardens includes a significant collection of homes built under the 1920s mass housing project known as the Thousand Homes Scheme.

Colonel Light Gardens was designated as a State Heritage Area in 2000. Just as state listing in NSW ensures future development is managed in a way that protects heritage values, so too does listing under the *Heritage Places Act 1993* (SA). Colonel Light Gardens was designed as a model suburb and reflects the influence and application of the international Garden City movement.

In April 2021 Heritage Standards were prepared for the state listed area following the new planning system for South Australia. The standards were prepared by Heritage South Australia (Heritage SA) and align with the state's environmental planning legislation, the *Planning, Development and Infrastructure Act 2016* and the *Planning and Design Code*. The standards are considered supplementary to the Planning and Design Code and are tethered to the State Heritage Area overlay. The Heritage Standards form an integral component of the planning system and are used to guide decisions about development proposals under the *Heritage Places Act 1993*. Heritage SA, Department for Environment and Water (DEW), is the Minister's delegate for decisions on referred applications. Procedural matters referrals set out the types of development to be referred to Heritage SA for assessment and direction. Exemptions to the definition of development are set out in Schedule 5 of the regulations for the *Planning, Development and Infrastructure Act 2016*. The standards were prepared in close consultation with the local council, the City of Mitcham, and with Planning and Land Use Services and community groups. Public consultation on the standards provided local residents and the broader public an opportunity for review and feedback.

Most of Colonel Light Gardens is situated within 'an established neighbourhood zone'. This zoning reflects the suburb's established character and is applied to areas that are not expected to experience significant change. The zoning is for low-scale residential and includes clear controls regarding built form such as roof pitch, wall height, density, building height and side setbacks. The zone's focus is to protect the area from development that is not aligned with its existing character and built form.

The Heritage Standards are richly illustrated with both diagrams and photographs. They are arranged in three parts. The first part provides background information, including a summary history, and the key principles that exemplify the area. Part two includes a detailed statement of significance, a context statement and description of the key values. Part three provides the heritage principles and the acceptable standards of development within the State Heritage Area. This information is location-specific and detailed to illustrate how development may be carried out in such a manner that it protects significance. It is made clear in the standards that the State Heritage Area includes both

public and private spaces and that the standards are applicable to development within the entire area. The new Heritage Standards for Colonel Light Gardens have been prepared to ensure development in the suburb is compatible with the heritage values of the area. Heritage SA intends to create new heritage standards for the other state listed areas over the next few years.

The standards detail what is acceptable with regard to land use, new built form, alterations and additions, ancillary development, including carports, fences, gates, signage, solar panels, rainwater tanks and land subdivision, as well as the landscape context and streetscape. Footpaths, driveways, rear laneway, kerbing, street trees and verges, and parks and open spaces are also covered.

Features within the State Heritage Area which contribute to the heritage value of the State Heritage Area include:

- a. Hierarchy of straight and curved symmetrical roadways of a variety of lengths, rounded street corners, and rear laneways, which discourage through traffic and are designed to create unfolding sequences of attractive, green and varied spaces and terminal vistas.



- b. A planned mix of wide and narrow streets with a dominant, established park-like landscaped character, with extensive reserve planting based on the original design intent (street tree species and layout, lawn, footpaths, vertical kerbing and simple pedestrian cross overs). Laneways without kerbs and paving.



- c. Large river red gums in Freeling Crescent, Doncaster Avenue and Flinders Avenue.



- d. Suburb zones initially planned by function and location, including residential, commercial and educational, religious and recreational precincts

(part) Colonel Light Gardens 'as it will appear when developed'. Coloured birds eye perspective of the model garden suburb in Colonel Light Gardens: Comfort, Convenience, Beauty [1921]. Courtesy of Architecture Museum, University of South Australia



- e. The formality, planned purpose and abundance of open public reserves, formal street gardens and pocket parks, including shared parks to the rear of properties in the north of the suburb.



Figure 5.1 Colonel Light Gardens, SA, State Heritage Area. This excerpt from the *Heritage Standards* clearly shows the key characteristics that contribute to the heritage significance of the area. (Source: *Heritage Standards*, Government of South Australia, March 2021)

5.2 Summary

The examples of other heritage listed towns and listed areas noted above present learnings that could inform the approach to the future management of the heritage significance of Braidwood and its Setting. Analysis of the existing planning system and applicable controls for the listed township of Braidwood and its surrounding pastoral landscape has shown that navigating the approvals pathway is complex and, while the development guidelines and standards were well intended when drafted, today substantive review is required to assist both proponents and Council assessment staff in assessing and determining DAs.

Fundamentally the comparative analysis demonstrates that strong clear controls are required. The controls need to be tethered to a robust and comprehensive statement of significance, or at the very least a heritage values assessment and statement that specifies the characteristic features of the listed area. The level of detail in the other planning schemes that we have considered forms a solid foundation to varying degrees. With strong foundations, clear controls can guide property owners and proponents that may be planning development or change. A tiered planning system in which each level of government takes responsibility, collaborates effectively and works toward the shared goal of conserving and managing state and local heritage is the bedrock of a clear and cogent system of heritage planning. Where places are listed at state and local levels, the respective roles and responsibilities of each authority need to be clearly understood and adequately resourced.

Information must be communicated plainly and comprehensively so that the community can clearly understand what actions would or would not be acceptable in a heritage listed town/conservation area. This review has demonstrated that a detailed and systematic process of identifying the significance, characteristic and uncharacteristic attributes of Braidwood and its Setting at state and local levels is required to better manage and control development. In our view the model adopted in South Australia for the state listed Garden Suburb of Colonel Light Gardens, in particular the Heritage Standards, provides a potential way forward for the Heritage Council of NSW that would assist QPRC and the community in better understanding the expectations and requirements for Braidwood and its Setting.

5.3 Endnotes

- ¹ Victorian Planning Provisions, Heritage Overlay VPP 43.01, accessed 14 June 2021 <https://planning-schemes.api.delwp.vic.gov.au/schemes/vpp/43_01.pdf?_ga=2.95223193.48754891.1623631781-1109744899.1623631781>.

Community Understandings



6 Community Understandings

6.1 Introduction

During the nomination and listing process in 2006 many members of the community voiced their concerns with Council, the then Heritage Office and the National Trust (NSW) regarding the potential SHR listing of Braidwood. The listing required extensive consultation by the Heritage Office, spanning over nine months. At the time it was the longest period of consultation ever associated with a SHR listing process.

The community of Braidwood was divided about whether state heritage listing was the best option for the town, and many were concerned that heritage listing would restrict future development. The community's response to the proposed listing gathered mainstream press coverage. The *Sydney Morning Herald* published an article stating, 'Not everyone in Braidwood was happy about the heritage listing.'¹ In January 2006 the ABC reported that the 'Braidwood heritage listing row was heating up'.² On 30 March 2006 ABC News reported that the listing had given rise to a 'bitter dispute' and a rift between those who supported the listing and those opposed to it.³

Some 15 years on, this section of the report outlines a few of the current perceptions of Braidwood to understand whether, given the passage of time, attitudes towards heritage in Braidwood have changed as a result of the SHR listing.

6.2 Perceptions of Heritage in Braidwood

6.2.1 Economic Performance Survey

Given the anticipated impact of the SHR heritage listing of Braidwood, an Economic Performance Survey was prepared periodically between 2006 and 2010 through surveys of local businesses. Prepared by the Western Research Institute the 2006 report found overall that over 60 percent of businesses surveyed responded that activity was 'good to very good', compared to 11 percent reporting 'poor to very poor' sales. The positive influences that were noted by business owners included improved management, but more importantly increased tourist trade stemming from the heritage listing. To a lesser extent this was offset by increased operating costs due to the town's heritage status.⁴

In 2010, the fifth and final Braidwood Business Performance Survey was prepared. Of the 87 local businesses that responded to the survey, the heritage listing was not specifically mentioned by any respondent in relation to the performance of their business. Yet two-thirds commented on the listing with regard to the town itself. Of the 87 respondents, about half considered that the heritage listing had had a positive influence on the town. Some 19 percent were ambivalent about the impact of the listing. A further 31 percent felt that the listing was detrimental to the future of Braidwood. The key factors contributing to the negative perception included that land and property development was being stifled, and that costs were rising. There was also a view that the heritage listing was not being fully capitalised. Overall, the results suggest that while business operators in 2010 did not necessarily consider that the listing directly impacted their business, they did perceive that to a degree the listing was impacting the town's growth and development.⁵

6.2.2 Preliminary Consultation

From the preliminary consultation undertaken for this stage of the project with several long-term local residents, who contributed based on the condition of anonymity, it appears that heritage in Braidwood is much appreciated and valued, but also still a source of some frustration within the local community. In discussions with long-term residents and other individuals who have associations with the area, including a former senior member of staff of the Heritage Office at the time of the listing, the concerns related to heritage are centred around these key issues:

Positive

- The town's heritage is part of its unique charm.
- Heritage has stimulated business in the area.
- The heritage building stock is appreciated.
- Heritage contributes to Braidwood's reputation as a tourism destination.

Negative

- Heritage is inhibiting the growth and development of the town.
- Heritage and the complexity of the planning approval pathways.
- Insufficient funding and investment in maintenance and public domain.
- Contentious planning issues often conflated as heritage matters.
- Access and BCA upgrades to heritage buildings.
- Lack of development opportunities due to heritage listing.
- Variable and inconsistent determinations of development applications.
- Fragmentation and changing nature of the 'open' rural landscape setting.
- Lack of skilled and experienced artisan tradespeople for heritage buildings and public infrastructure upgrades.
- Lack of understanding of the significant values of Braidwood, loss of knowledge and resources.
- Incremental change that is potentially impacting on authenticity; an example included the upgrade to the Albion Hotel.
- Aboriginal heritage is overlooked.
- Limited understanding and appreciation about what heritage listing means to Braidwood.

6.2.3 Social Media and Braidwood

During April and May 2021 we analysed the hashtag #Braidwood to understand the perceptions of heritage in Braidwood as presented across various social media platforms. We identified three main themes in the posts, including tourism and visitor experiences, promotion of local businesses, services and groups, and local experiences. These posts communicate a varied range of explicit and implicit

perceptions of heritage from Braidwood community members and visitors. The list below shows the number of public posts that included the hashtag #Braidwood.

- Tourism and visitor experiences: 53 posts.
- Local business, services and groups: 82 posts.
- Local experiences: 83 posts.

Many of the posts also included other hashtags such as #VisitNSW, #TravelNSW and #LongWeekend. The top posts focused on tourism, the rural landscape, old buildings, Wallace Street, local businesses, local artists and food (Figure 6.1 and 6.2).

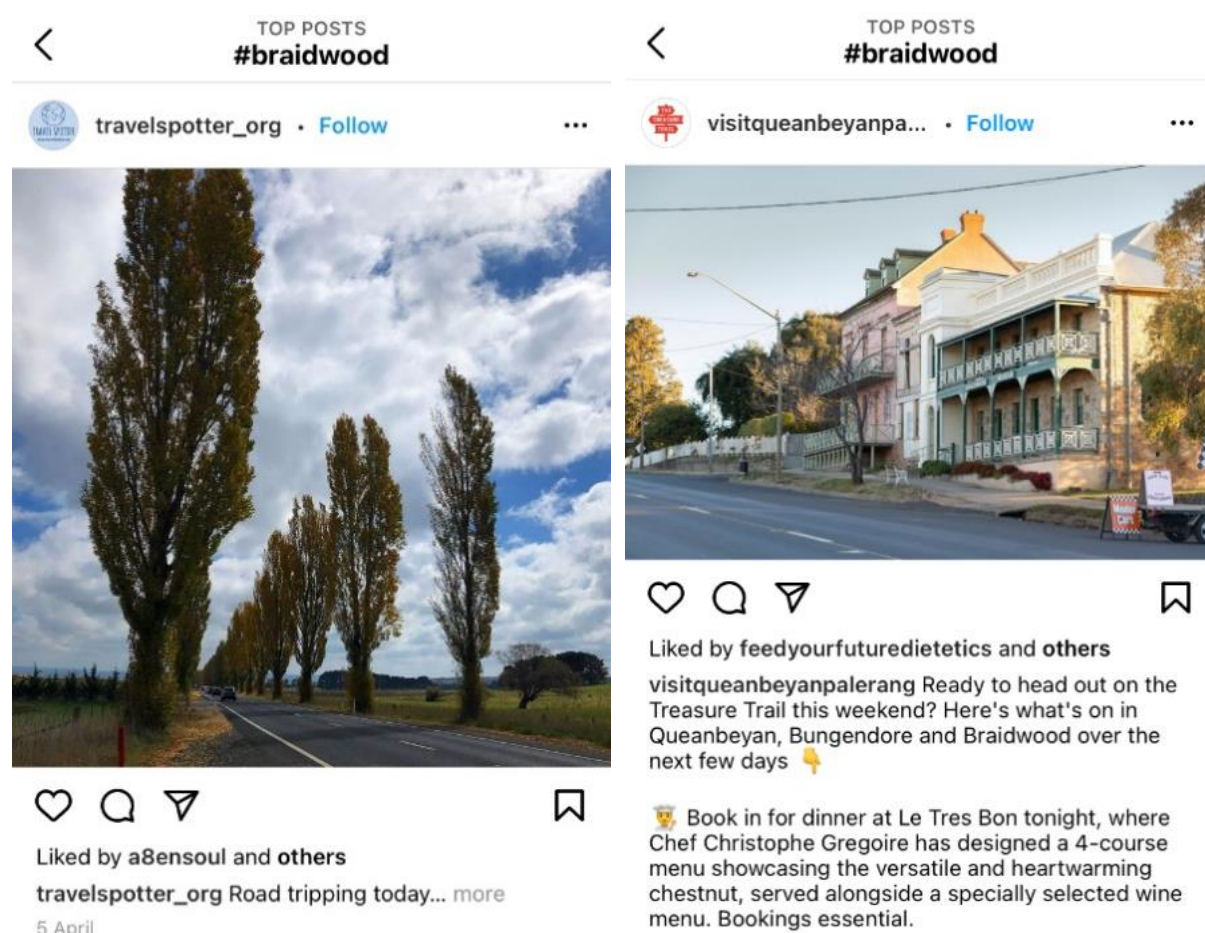


Figure 6.1 Top posts on Instagram about Braidwood. (Source: Instagram)

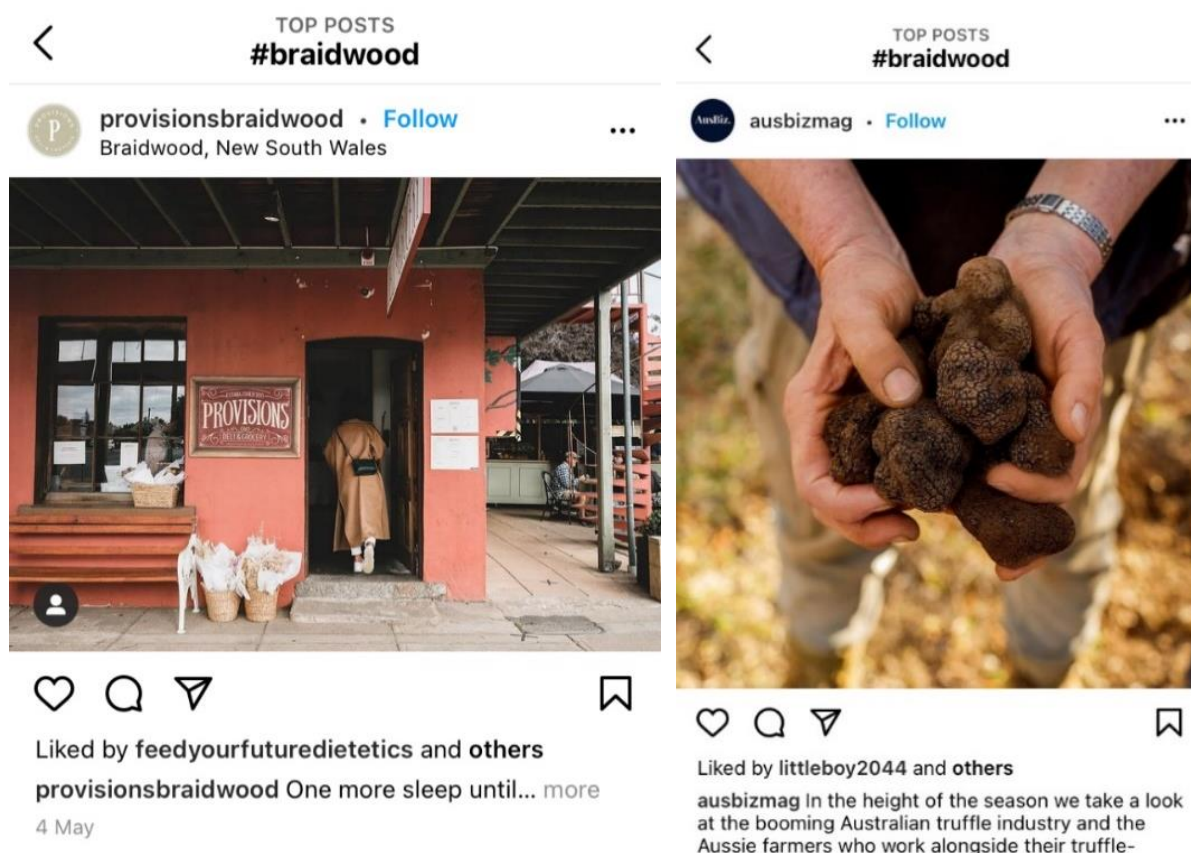


Figure 6.2 Top posts on Instagram about Braidwood. (Source: Instagram)

Further, search results from a Google search for 'Braidwood' included websites about tourism, real estate and heritage. Some of these included Visit NSW, Aussie Towns, TripAdvisor, The Weekender, *The Braidwood Times* and The Braidwood Museum.

Another search on Facebook revealed there is a public community group called 'People of Braidwood and villages' with 1,900 members. The group provides community updates on local news and events. These findings indicate there is considerable positive interest in Braidwood from a tourism and local perspective.

Braidwood has seen tourism steadily increase since the listing. In particular, on weekends visitors travel to Braidwood for the farmer's market held in the National Theatre on Wallace Street (the main street). This is in addition to the local Braidwood markets held at Ryrie Park on other Saturdays. Both markets have websites. The Braidwood markets has a Facebook page with over 1000 followers.

During targeted discussions, the residents of Braidwood commented that they try to avoid Wallace Street on Saturdays when the markets are held because of the crowds. The town sees enormous crowds on Wallace Street during the markets, which creates gridlock for vehicles travelling across the small town. The markets also impact the availability of on-street parking on Wallace Street and access to businesses. Tourism is expected to further increase if the proposed highway upgrade to Kings Highway is constructed. The upgrade will provide a shorter route for people travelling from Canberra to Batemans Bay but will direct traffic through Braidwood. This level of ongoing traffic would

overwhelm Braidwood and create a similar impact to the markets, yet on a daily basis. Braidwood is a historic destination that requires a reasonable level of tourism to support local businesses.

6.3 Targeted Discussions

As part of this first stage of this project GML undertook one-on-one discussions with some select stakeholders. The following observations were provided:

- At the time of the initial listing of Braidwood there was a six–eight month consultation program, which helped foster a positive relationship with the stakeholders, especially the farmers.
- The support of the farmers at the time of listing was critical to keeping the rural buffer that makes up Braidwood's landscape setting.
- Significant views and negotiations with individual landowners determined the final shape of the curtilage.
- The promotion and celebration of heritage should be a significant focus, followed by controls and regulations as a secondary consideration.
- It is important to find ways to fast-track small/minor works applications and quickly identify applications that impact on Braidwood's values.
- Figuring out the main street strategy, the required road upgrades and accessibility across the town is critical. There are various issues with town water, drainage and road improvement works. There are multiple footpath surfaces in the main street, for instance, which are of historic significance and need to be kept. Yet these surfaces are uneven and present a trip hazard. Accessibility is a key issue. For some residents with mobility impairments, it is difficult to access certain places. For example, at the Post Office, customers that aren't able to use the steps must telephone staff who then come out to the street with a portable ramp.
- The state heritage listing of Braidwood is a unique selling point; however, is not well promoted as part of the tourism experience across the online visitor platforms. It is important to market Braidwood tourism and ensure that websites, such as TripAdvisor and Expedia, tell site readers that Braidwood is on the SHR.

6.4 Queanbeyan-Palerang Regional Council

On 21 May 2021 members of the GML project team met with planning staff and other relevant staff from QPRC. The meeting was a preliminary conversation which was focused on tabling issues and challenges at various stages in the planning, development and assessment processes. The following issues were raised during the discussion.

Tree Management

There is no clear approval pathway for tree management in the SHR listed area. The controls are variable and there is a lack of certainty about what might be applicable within the SHR listed area.

Standard and Site-Specific Exemptions

There is a lack of clarity about how to interpret and apply the exemptions to Braidwood.

Planning Approval Pathways

There is a lack of clarity about the planning approval pathways generally, including minor works, exempt and complying development, DAs and integrated DAs.

Public Domain and Civil Works

Road, kerb and gutter, drainage, footpath upgrades, seating and bin replacements are challenging. The heritage requirements come with a range of considerations regarding practicality, cost, safety and standards. Suitable tradespeople are not always available for works, as speciality heritage trades are required for some civil works eg granite gutters.

Resourcing, Knowledge and Skills Transfer

There is a risk of loss of knowledge and expertise through restructuring within Council and Heritage NSW. There is a need to upskill and re-establish consistent standards and to ensure heritage values are being protected and conserved.

Relationship with Heritage NSW

Collaboration between QPRC and Heritage NSW

Heritage NSW staff are much valued when they are working collaboratively with Council to support and reinforce heritage requirements to applicants. It was noted that some members of the community are raising and reporting heritage matters directly to Heritage NSW. There have been some delays in receipt of advice.

No Dedicated Planning Officer

There is no dedicated planning officer with responsibility for the area, and this model has worked well in the past. Council's planning staff are responsible for a large LGA and Braidwood is but one area. Council has no one planning officer dedicated to Braidwood, and does not have a specialist heritage planner on staff. It accesses the heritage advisor to assist on heritage planning matters.

Lack of Consistency

There is a general lack of consistency in heritage advice, and little or no attention from Heritage NSW since the listing.

Funding

Mixed messages have been given to owners within the SHR listed area regarding funding and grants. Some owners have been advised that they are ineligible for funding as their individual property is not SHR listed. It has been difficult to access state funding.

Archaeological Management

Discussions indicated that Aboriginal and historical archaeological management is challenging for QPRC. The requirements are not clearly understood and there is little clarity about what is required when and where. The delivery of civic improvement works, including roadworks, kerbs and gutters, footpaths and water infrastructure, is hindered by uncertainty regarding the statutory approvals process. We were advised that the second stage of the AMP had not progressed, and more recently that an application for funding that had been submitted to Heritage NSW was unsuccessful.

Braidwood Heritage Advisory Committee

This was recognised as an effective community group that is used by Council and the heritage advisor. The committee looks at development applications, particularly where the proposal may be contentious, and gives advice or provides recommendations on heritage issues of a strategic nature within the SHR listed area. The committee does this work when requested by the heritage advisor, especially where the proposal for building work will be visible from the public domain. The committee also has a role in monitoring the application and interpretation of Council's heritage policy. It also raises community awareness through the promotion and celebration of heritage. Periodically it reviews funding submissions for access to Council's heritage funds. The committee meets monthly at Council's office in Braidwood.

6.5 Summary

Having considered some of the current perceptions about heritage in Braidwood through the review of periodic economic business survey reporting, online media and discussions with some members of the community and QPRC planning staff it is clear that the attitudes to heritage are many and varied. While the consultation for this project has not been extensive by any means, it appears that Braidwood's heritage is considered important and that the SHR listing is generally accepted. Certainly online, Braidwood's heritage 'brand' is strong, and is leveraged by local suppliers and businesses. Yet the recognition, promotion and celebration of the SHR listing is not prominent in the online promotion of Braidwood's businesses or tourism products or experiences. That is, the SHR listing is not presented as a unique selling point that differentiates the experience of Braidwood from that of other historic regional towns in NSW.

The community and Council staff that we consulted are consistent in their views, in so far as they want to ensure the heritage values of Braidwood are managed and conserved, while ensuring the township has a sustainable future.

6.6 Endnotes

- ¹ 'A pocket in time', *Sydney Morning Herald*, 27 January 2007 <<https://www.smh.com.au/lifestyle/a-pocket-in-time-20070127-gdpbao.html>>.
- ² 'Braidwood Heritage Listing Row Heats Up', 9 January 2006 <<https://www.abc.net.au/news/2006-03-30/braidwood-makes-heritage-list/1719980>>.
- ³ 'Braidwood makes heritage list', 30 March 2006 <<https://www.abc.net.au/news/2006-03-30/braidwood-makes-heritage-list/1719980>>.
- ⁴ *2006 Economic Performance Survey*, Western Research Institute, printed 22 March 2007.
- ⁵ *Braidwood Business Performance Survey*, Western Research Institute, 2010.

Consultation Plan

7 Consultation Plan

7.1 Introduction

In 2006 the proposed listing generated a significant response from the community. The SHR listing of Braidwood and its Setting was strongly supported by some members of the community, while others were strongly opposed to it. Given the passage of time since the listing, combined with the history of the heritage listing, developing an understanding of the community's attitudes to heritage today and into the future is considered to be a critical input to developing a best practice model for heritage planning and management.

In the lead-up to the SHR listing in 2006, extensive community consultation over a nine-month period was undertaken by the then Heritage Office to understand the various perspectives. Some 15 years on, consultation with key stakeholders and the community is once again necessary to better understand the heritage planning and conservation issues, concerns or opportunities so as to inform the ongoing future management of Braidwood and its Setting. This section of the report provides a proposed methodology for community consultation that could be undertaken during subsequent stages of this project.

7.2 Case Study—Millers Point Community Consultation

The Millers Point and Dawes Point Village Precinct is listed on the SHR. Recently the Heritage Council of NSW, in partnership with the City of Sydney, consulted with the local community about the precinct.¹ The consultation was independently facilitated.

Commencing in April 2021, the Millers Point and Dawes Point Precinct community consultation included a range of face-to-face and online activities and opportunities for engagement. A digital social engagement and mapping tool called 'Social Pinpoint' was used and open to the public for a period of five weeks. Social Pinpoint provided an opportunity for community members to record their views about specific places in an easy-to-use digital environment. Information about the community consultation was available on the Heritage NSW website and letters were also sent to residents.

Community members were invited to participate in workshops that were offered between May and June 2021. The purpose of the workshops was to gather community input about the future of heritage conservation within the precinct. Discussions were focused on how the heritage values of properties could be best conserved within the precinct, while recognising the need for change and modern amenity. In the case of Millers Point and Dawes Point there was an identified need for further clarity and practical guidance to assist residents. The community consultation activities have been documented in two key reports. This recent consultation program provides an example of a practical approach to heritage management of a complex and relatively large state listed area that may be relevant and applicable to Braidwood.

7.3 Methodology

One of the key issues that was raised early in this project is the need to coordinate any upcoming community consultation regarding the 15 Year Heritage Review project and the DCP. This will assist in avoiding any potential confusion within the community and help to capitalise on opportunities for

collaboration and engagement for the public benefit. Community consultation for the draft DCP could be planned to occur concurrently with any future stages of this Heritage NSW review project. This will help ensure alignment between both local and state governments regarding the ongoing conservation of Braidwood's significant state and local heritage. Depending on what process of community engagement QPRC is planning for the DCP, Heritage NSW could support the process to ensure heritage matters are well considered and integrated into the draft development controls. A 'joined up conversation' between QPRC and Heritage NSW is timely. It would provide an important opportunity for the community to actively participate in identifying and managing heritage planning matters to ensure Braidwood and its Setting functions well into the future and achieves goals for all stakeholders.

Alternatively the Heritage Council of NSW could separately run a community consultation program to better understand what the local community values, which specific items, features and elements within Braidwood and its Setting need to be conserved and protected, and how the future of heritage conservation in Braidwood could be most effectively planned. The output of the community consultation could take the form of Heritage Standards for Braidwood and its Setting, like that prepared by Heritage SA for the state listed Garden Suburb of Colonel Light Gardens. Such a document would clearly define the state values and distinctive features and provide standards and controls to ensure the continuing protection of the item's heritage significance.

Key areas to be covered during Heritage NSW community consultation could include:

- What do you think is of heritage significance in Braidwood?
- How are the heritage values to be conserved and managed?
- Is the planning approvals process understood by the community? Where can it be streamlined and improved?
- What guidance does the community need to help them understand the planning system?
- What are the ongoing concerns for the community, including residents, business owners, community and local service providers, developers and tourism operators?
- What are the issues and challenges posed in terms of new development?
- Where are the opportunities for change or improvement?
- How can heritage be celebrated?

Regardless of whether consultation is done with QPRC in parallel with the DCP, or conducted independently by Heritage NSW, the stakeholder consultation and community engagement could be planned to be undertaken in four key modes:

- focus group workshops;
- targeted discussions;
- community consultation sessions/drop-ins/town hall meetings; and
- an online survey.

The aim of the consultation would be to gather qualitative and quantitative information, and to gain insights and practical knowledge from those engaged in various aspects of the current process.

7.4 Key Stakeholders

Several key stakeholders and community groups should be consulted, including:

- QPRC staff planners;
- QPRC parks and maintenance staff;
- QPRC heritage advisor/s;
- QPRC Heritage Advisory Committee members;
- Heritage NSW staff;
- Heritage Council of NSW;
- Braidwood and District Historical Society;
- Braidwood Community Association; and
- Braidwood and Villages Business Chamber.

7.4.1 Group Workshops

The group workshops could be facilitated by the Braidwood project team, in collaboration with the QPRC and Heritage NSW. Workshops could involve facilitated focused discussion on key issues or practical work on a particular subject, with the individuals within the group encouraged to share their knowledge and experience.

It is proposed that two-hour workshops be facilitated in order to meet with engaged residents, community members, business owners/operators and special interest groups. Depending on the number of participants two or three workshops could be held.

These could be by invitation or expression of interest only as they require informed participation by QPRC, Heritage NSW and community members.

7.4.2 Expert Workshops

As a subset of the group workshops, a series of expert workshops could be hosted. Specialist experts could include Aboriginal cultural heritage experts, historical archaeologists, cultural landscape experts, heritage architects and collections staff. These workshops could be held online or in person, or in hybrid mode.

The purpose of the expert workshops would be to harness the diverse expertise associated with the research archive related to the heritage values of Braidwood and its Setting. There is an extensive grey literature on Braidwood and detailed background reports on various aspects of its heritage significance have been prepared at various points in time. In Section 1.4 there are several key reference reports listed and the authors of those reports could be contacted to gauge their interest in participating. Members of the Braidwood Heritage Advisory Committee and those involved with the initial SHR listing could also be invited to participate.

7.4.3 Targeted Discussions

It is proposed that one-on-one interviews be undertaken with selected participants. The aim of these interviews is to solicit specific input from stakeholders who are currently engaged in the management of Braidwood. Targeted discussion would be undertaken with individuals or small groups with detailed and specific information about Braidwood and its Setting. These discussions would provide an opportunity to develop a deeper insight.

7.4.4 Community Sessions

The consultation process should be designed to reach a diverse population sample from across the Braidwood area and surrounds. The community sessions could be undertaken in various face-to-face modes, in both formal and informal sessions during the week and on weekends. The engagement methods include:

- three four-hour community pop-ups (across different locations within Braidwood and different days of the week);
- two drop-in information sessions for community members to speak directly with QPRC, Heritage NSW and the project team; and
- one or two town hall sessions to present to the community information about the review, and solicit feedback and discussion about the draft DCP.

These engagement methods will be primarily qualitative, but quantitative data will be captured where possible to highlight priorities and areas of importance identified by participants.

7.4.5 Online Survey

An online survey can be developed to seek feedback from the community. The survey will be anonymous; however, it is critical to understand how the respondents in the survey are connected with the area (ie as residents, business operators, landlords etc).

The survey will provide the project team with quantitative and qualitative data related to key issues. As part of the survey there will be an opportunity for respondents to provide more detailed responses to issues or matters of interest relevant to their specific area of experience, knowledge or expertise.

The survey should be launched during the community sessions schedule, and attendees directed to the QPRC website to provide a detailed contribution to the process. It is recommended that the survey be hosted on the QPRC 'Your Voice' website. The Heritage NSW website could also include a news post and link to the Braidwood DCP project on the QPRC website.

7.5 Communications Planning

We understand that QPRC Council has a well-resourced communications and engagement team which has considerable experience in carrying out consultation and engagement (including online surveys) necessary in the preparation of policy documents such as a DCP. The team will provide Council's strategic planning staff with all necessary guidance, planning and resources necessary.

As part of the consultation and public engagement program for the DCP, Heritage NSW may wish to prepare a communications plan for the consultation relating to the 15 Year Management Review Project, and Council could collaborate with Heritage NSW in preparing that plan.

Communications planning between Council and Heritage NSW will help ensure that key messages are conveyed in a coordinated manner to key audiences. It will assist QPRC and Heritage NSW jointly identify which messages or topics will require promotion and which platforms/media are most appropriate. The plan can include a schedule or frequency of communication, and the delivery method. For example, the communications plan could include reference to the following communications methods as appropriate:

- formal presentations;
- a survey;
- newsletters;
- a web page;
- meeting summaries; and
- updates and status reports.

7.6 Summary

Consultation with the community and individuals and organisations with specific knowledge or interest in the heritage values and significance of Braidwood is a key ingredient to ensuring the heritage values of Braidwood and its Setting are planned for, managed and conserved. Community engagement, including understanding their experience of the planning system and their key concerns for the future, will provide a key insight into not only what the community considers to be important about Braidwood and its Setting, but also what aspects of the planning controls need to be strengthened, explained more clearly, or amended.

The most appropriate format and style for a consultation program is yet to be agreed and may be a combination of drop-in sessions, one-on-one interviews, and workshops. The stakeholders are also still to be determined and further consultation with the Heritage Council and QPRC will be required.

A consultation program that welcomes a broad range of community inputs will help ensure a robust future-orientated planning system for Braidwood. Heritage NSW could run a program similar to that delivered for residents in the state listed Sydney suburbs of Millers Point and Dawes Point. The focus could be directed towards Heritage NSW preparing more detailed heritage guidelines to support ongoing conservation and protection of state listed values for Braidwood and its Setting. Alternatively, a consultation program could be co-designed with QPRC to inform the DCP for Braidwood.

7.7 Endnotes

¹ Heritage NSW, 'Community Consultation, Millers Point and Dawes Point Precinct', accessed on 28 September 2021 <<https://www.heritage.nsw.gov.au/what-we-do/heritage-council-of-nsw/community-consultation/>>.

Key Issues



8 Conclusions and Key Issues

8.1 Introduction

In the 15 years since the historic township of 'Braidwood and its Setting' was listed on the State Heritage Register much has changed regarding state and local government planning, administration and management. Both state and local government has been subject to reform and change. The membership of the Heritage Council of NSW has changed several times. Heritage NSW has been through successive restructures, and the amalgamated Queanbeyan-Palerang Regional Council is in the process of updating the local planning instruments to reflect the merger between the former Queanbeyan and Palerang LGAs. Resourcing for strategic planning, particularly where heritage is concerned, has declined at the same time as local and state governments are dealing with population growth and increasing development pressure.

The SHR listing of Braidwood and its Setting broke new ground. The SHR listing was ambitious and reflected a bold agenda for the identification, management, conservation and promotion of heritage in NSW. At the time it was the single largest and most complex listing ever attempted by the Heritage Council of NSW. It required considerable commitment and effort, along with close collaboration with the local council, and an extensive program of local community and stakeholder engagement. While many organisations and individuals supported the listing, many were opposed.

The planning framework that was developed for Braidwood and its Setting is a product of its time. Among other things, the 2006 site-specific exemptions provided a mechanism for several DAs to proceed, including subdivision developments on the fringe of the historic township. Further, in the passage of more than 15 years the statutory planning context and the system of exemptions and development approvals have been subject to incremental change. The system has been 'tested' by various DAs at state and local levels that reflect both demographic change, shifting attitudes to heritage and economic opportunities.

Having considered the heritage significance of the listed item, the statutory planning context and some comparative examples, we have identified several issues and risks to the continuing conservation and management of Braidwood and its Setting. Any future management and regulation of Braidwood as a state heritage listed township, within its changing rural landscape setting, will need to have regard for critical strategic planning matters, including pending legislative reforms, regional and local population increases and demographic changes, in an operating environment characterised by declining resources.

This section of the report summarises the key issues that have been identified as part of this stage of the project.

8.2 Summary of Key Issues

8.2.1 Community Understandings of Heritage

- Business performance reporting for Braidwood has shown that some people consider the SHR listing to be detrimental to the future of Braidwood. Key factors contributing to the negative perception included that land and property development was being stifled, and that costs were

rising. In addition, there was a view that the heritage listing was not being fully capitalised. Overall, the results suggest that while commercial operators do not necessarily consider that the listing is directly impacting their business, they do perceive that to a degree the listing is impacting the town's growth and development.¹ However, these perspectives reflect a survey conducted between 2006 and 2010. Community consultation will provide a better understanding of the current view's businesses have in regard to the listing.

- Braidwood's heritage is considered important. Certainly online, Braidwood's heritage 'brand' is strong, and is leveraged by local suppliers and businesses. Yet the recognition, promotion and celebration of the SHR listing is not prominent in the online promotion of Braidwood's businesses or tourism products or experiences. That is, generally the SHR listing is not presented as a unique selling point that differentiates the experience of Braidwood from that of other historic regional towns in NSW.

8.2.2 Heritage Listing

- Some technical imprecision is evident in the assessment criteria. For example, under 'criterion (b) historical association' much of the citation relates to views and aesthetic values. This error was amended on 23 November 2021.
- Aboriginal values that may be attributed to Braidwood and the surrounding landscape are not considered. This is not consistent with Heritage Council's SHR policy. One of the key objectives for the future of the SHR is to ensure that at the very least the register represents First Nations' cultural heritage as intrinsic to the story of NSW.²
- Some heritage values described in the SHR listing are overly broad. Greater specificity and locational clarity are required to better define the heritage significance of Braidwood and its Setting at state level. This would potentially address the uncertainty wherein some heritage values require subjective judgement and interpretation on the part of both applicants and planners 'downstream' at development assessment stage.

8.2.3 Archaeological Management

- The Stage 1 AMP does not currently fulfil the purpose of an archaeological management tool to guide decision making.
- The Stage 2 AMP will first need to address errors and omissions present in the Stage 1 AMP to enable accurate analysis and management recommendations for identified sites in the study area based on detailed significance assessment that reflect Heritage NSW guidelines and policy.
- QPRC needs a greater level of support to understand the decision-making process around historical archaeological heritage to provide clear and accurate advice to its Braidwood constituents.
- Prioritised funding to fast-track a revised Braidwood AMP, its outcomes reflected in the QPRC LEP and forthcoming DCP are needed to address ongoing management and regulation of the archaeological resource in Braidwood. The Stage 2 AMP would need to be progressed to at least draft stage to enable its outcomes and recommendations to inform revised DCP controls

currently under review (Stage 3 AMP). This requires that funding be actively sought as a priority action to enable Stage 2 AMP preparation.

- Ideally, completion of the AMP's archaeological management outcomes, particularly within the SHR area, should be programmed to coincide with the planned community consultation process being developed in this management review, so that these findings may be presented and explained to the local community and affected property owners during that program.
- The data in the final GIS project should be correlated so that relevant output can be shared with Council's GIS.
- Timely development of AMP Stage 3 would allow for management policies and procedure recommendations to be clearly translated into QPRC development controls to assist Council's development of specific development controls to mitigate impacts relating to archaeological heritage. This advice would extend to include application of non-notifiable standard exemptions and s60s introduced after the 2012 version of the AMP was completed.

8.2.4 Statutory Planning Context

- The inconsistency between the LEP, DCP and site-specific exemptions creates confusion about what types of development are appropriate for Braidwood. The lack of clarity, cohesion and consistency between the planning controls allows for further developments that will potentially negatively impact the significant heritage values of Braidwood.
- There are several approved developments, including Braidwood Ridge, that are not consistent with the heritage significance of the town. The lack of clarity, cohesion and consistency between the planning controls risks allowing for further developments that will potentially negatively impact the significant heritage values of Braidwood.
- QPRC requires a consolidated and robust DCP for the township of Braidwood. The inconsistencies between the PLEP 2014 and Braidwood DCP 2006 allow for new development in Braidwood that may impact the heritage values of the place.
- The PLEP 2014 should be reviewed and amended to restrict inappropriate development in land zonings within and surrounding the state listed area. To manage projected future growth, suitable areas and opportunity sites within and outside of the listed area should be identified to proactively and suitably manage future development.
- The Braidwood DCP requires specific guidelines for conservation and development. A comparative analysis of development guidelines prepared for similar towns could be undertaken to formulate these controls.
- For the updated DCP process, input from the community, specialists and, in particular, heritage professionals and archaeologists should be sought. The update of the DCP should also address the gaps that have been identified in the previous DCP 2006. In addition, the updated DCP should include guidelines for the management of Braidwood's archaeological resource. A completed Stage 2 AMP would ideally inform the development controls and planning processes. To that end, sourcing of funding to undertake the final stages of the AMP should be a priority.

Exemptions

- It is not clear what is required in terms of the process when a site-specific exemption applies. While the Heritage NSW website now provides up-to-date and detailed guidance regarding standard exemptions, there is no guidance available regarding the application process, or what is required in the event that a site-specific exemption applies to the proposed works. The Heritage NSW approvals pathway decision tree (Figure 4.0) and process omits site-specific exemptions. The notification form for seeking use of exemptions is no longer on the Heritage NSW website due to the introduction of the new standard exemptions that do not require notification.
- Where appropriate, and subject to further discussion with Council, the site-specific exemptions should be reviewed. Ideally there would be one set of site-specific exemptions that covered a range of minor works as agreed between Heritage NSW and QPRC.
- Overall, the issue with the site-specific and standard exemptions is that the process is convoluted and complex. It effectively requires three steps be undertaken in order to determine which planning assessment and approval pathway the works fit into—that is whether the works are exempt under the site-specific or standard exemptions or whether a Section 60 works application under the Heritage Act is necessary. Although the new standard exemptions streamline certain works, they also potentially create new risks.

Minimum Standards of Maintenance and Repair

- Within the SHR listed area of Braidwood and its Setting the properties evidence varying standards of maintenance and repair. Some properties are maintained to a high standard, whereas other properties and features require significant essential maintenance and repair. Essentially this poses a potential risk to the integrity of the SHR listed item and does not reflect well on the state's heritage management system.

Development Application Exemption for Minor Heritage Works

- Under Clause 5.10 (3) of the LEP applicants may apply for DA Exemption for Minor Heritage Works. It is not clear how QPRC applies the minor heritage works application. Nor is it clear how it applies to the SHR listed Braidwood and its Setting area and listed heritage items within it. Many of the matters covered under this LEP clause and the application are potentially, to some degree, duplicated by the site-specific and standard exemptions for the SHR listed area and the controls in the DCP. If QPRC wants the Minor Heritage Works under the LEP to be exempt for the SHR listing a new site-specific exemption would need to be drafted.

Development Control Plan Precincts

- The DCP precincts contain objectives and controls to manage various types of development. Generally, the objectives are considered to be overly broad, and the controls lack the specificity and clarity required to effectively manage development.
- The special character and importance of each of the precincts, and their various distinguishing elements, are not clearly identified and defined. Elements including historic streetscapes and built form (including various building typologies, materials and so on) are fundamental to significance and character of the place. The character elements represent the distinguishing

features of the area that are to be retained. If clearly identified, applications to change the character elements can then be assessed against the desired future character controls.

- Contributions maps for each precinct that classify existing buildings as contributory, neutral or detracting would be beneficial. The contribution of any building or feature to the character and heritage significance of the area is then guided by and based on the contribution. Further consideration could be given to identifying heritage streetscapes. Braidwood is a living place and will be subject to change over time; Council should seek to encourage new development of a high design standard which respects the significance of the area.
- Careful consideration needs to be given to the pastoral landscape surrounding Braidwood, including the approach roads, which in part constitutes the SHR 'setting'. Notwithstanding the site-specific exemptions that have enabled uncharacteristic subdivision within the SHR area, the DCP controls only countenanced certain forms of development. Some types of change permissible under the DCP have given rise to outcomes that are not entirely sensitive to the item's significance. This presents a risk to the heritage values and specifically the contrast between the Georgian townscape and its increasingly 'designed' rural land setting.

Vicinity Controls

When drafting controls for individual heritage items within the HCA, the following matters should be taken into consideration:

- There are no vicinity controls in the DCP. Although reference is made in some sections of the DCP to development in the vicinity, making such controls explicit is important. Development in the vicinity of a heritage item may impact on the heritage significance of the item, generally through an impact on the item's setting.
- The setting of a heritage item needs to consider the historical property boundaries, significant vegetation and landscaping, archaeological features, and significant views to and from the property. As such, vicinity controls should ensure that development is designed and sited to protect the heritage significance of the item. These controls would ideally include alterations and additions to buildings and structures. Also, new development in the vicinity of a heritage item would be designed respectfully with regard to: the building envelope; proportions; materials, colours and finishes; and building and street alignment.
- Development in the vicinity of a heritage item should minimise the impact on the item's setting through the provision of an adequate area around the building to allow interpretation of the heritage item. It should also retain original or significant landscaping, protect and support the interpretation of archaeological features as much as possible, and retain and respect significant views to and from the heritage item.

Public Domain

- More specific information should be provided to help proponents understand which features are deemed significant at state or local level and where they are located within the listed area. Certain public domain features are not identified, such as statuary, fountains, signposts, boundary markers, and steps.

- The objectives should ensure that new development, street furniture and other public domain items are not intrusive in the heritage conservation area or heritage streetscape.
- Significant public domain features and spaces should be retained and development should not give rise to a detrimental impact on the heritage significance of public domain features.
- New controls should allow for the retention and preservation of original, or significant steps, signposts, milestones, boundary markers and the like are to be retained. The controls could also suggest a range of appropriate materials that could be used.
- Evidence of significant early road surfaces and features should be retained where possible. Significant kerbing should be maintained and, where necessary, replaced with matching materials. The reinstatement of cantilevered balconies, street verandahs and awnings are encouraged where documentary or physical evidence of the original is available.

Land Subdivision

- Braidwood's subdivision pattern reflects the history of the area's development and is a key characteristic exemplifying its heritage significance. The subdivision pattern has given rise to a distinctive arrangement and pattern of built form.
- Given the significance of the 1839 town plan, no lot boundary changes should occur in areas where that original subdivision pattern is significant and remains intact. In other locations, lot boundary changes within the heritage listed item or heritage conservation area should be required to demonstrate that there will no impact on the heritage streetscapes or heritage items. This should include ensuring that the setting of an existing significant building on the subject site, or that the setting of development on adjoining sites, is not compromised. Furthermore, significant features associated with the lot or adjoining lots, including streetscape and landscape features, trees, fences, outbuildings and gardens should not be adversely impacted.
- Lot boundary changes to larger sites should demonstrate consistency with the original, significant lot configuration; the resultant allotment size should be similar to the existing subdivision pattern in the vicinity of the site and satisfactorily provide for the continuation of the dominant pattern.

Other Development Control Plan Matters

- Definitions should be provided to ensure there is a common understanding of key terms such as conservation, character, curtilage, building envelope, facade, fabric, form, integrity, intactness etc.
- The DCP contains no controls or guidelines for proponents with regard to the management and conservation of Aboriginal cultural heritage.
- The listed buildings section has a focus on exteriors; a future review should consider incorporation of significant interior features (joinery, finishes) and movable heritage.
- Additional controls relating to building types could be developed, including weatherboard buildings, commercial buildings, retail shopfronts, pubs and hotels, community and public buildings etc. The objectives and provisions could be applied together with the other objectives and provisions of the DCP.

- The range of different controls applying to LEP listed and unlisted properties under the Braidwood DCP creates a range of problems. Where an item is contributory to the SHR listing, it should be listed on the LEP.
- It would be helpful to explain the DA requirements and to provide guidelines for preparing heritage assessments, conservation management plans, heritage impact statements and demolition reports.

8.2.5 Heritage Advisor Services

- The heritage advisory service is of value to QPRC and property owners in Braidwood. Given the size of the SHR listed area and the number of listed items within it, combined with population growth and demographic change, the QPRC should consider whether the capacity and frequency of the heritage advisory service is sufficient to meet demand.
- The QPRC Heritage Advisor brochure describing the role of the heritage advisor, available via the QPRC website, should be updated to reflect government administrative changes including the establishment of Heritage NSW.

8.2.6 Consultation and Community Engagement

- A consultation program that welcomes a broad range of community inputs will help ensure a robust future-orientated planning system for Braidwood.
- Community engagement, including understanding their experience of the planning system and key concerns for the future, will provide insight into not only what the community considers to be important about Braidwood and its Setting, but also into what aspects of the planning controls needs to be strengthened, explained more clearly, or amended.
- The most appropriate format and style for a consultation program, is yet to be agreed and may be a combination of drop-in sessions, one-on-one interviews, and workshops. The stakeholders are also still to be determined and further consultation with the Heritage Council, Heritage NSW and QPRC will be required.
- Heritage NSW could run a program like that delivered for residents in the state listed Sydney suburbs of Millers Point and Dawes Point. The focus could be directed towards Heritage NSW preparing more detailed heritage guidelines to support ongoing conservation and protection of state listed values for Braidwood and its Setting. Alternatively, a consultation program could be co-designed with QPRC to inform the updated heritage DCP for Braidwood.

8.2.7 Comparative Analysis

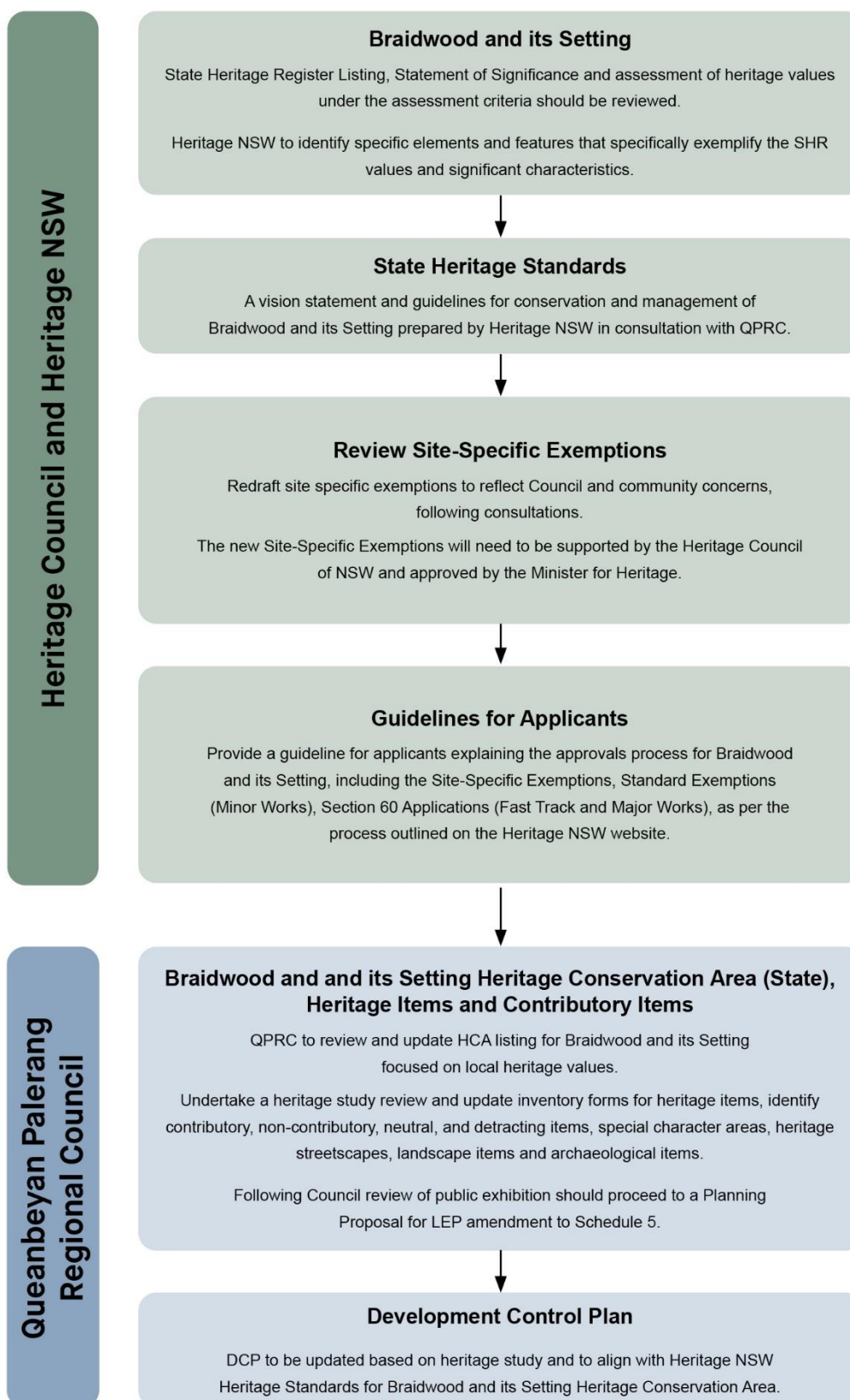
- The comparative analysis demonstrates that strong clear controls are required. The controls need to be tethered to a robust and comprehensive statement of significance, or at the very least a heritage values assessment and statement that specifies the characteristic and distinctive elements and features of the listed area.
- A tiered planning system where each level of government takes responsibility, collaborates effectively and works toward a shared goal of conserving and managing state and local heritage is the bedrock of a clear and cogent system of heritage planning. Where places are listed at

state and local levels the respective roles and responsibilities of each authority need to be clearly understood and adequately resourced.

- Planning pathways and supporting information must be communicated plainly and comprehensively so that the community can clearly understand what actions would or would not be acceptable in a heritage listed town/conservation area.
- A detailed process of identifying the significance, characteristic and uncharacteristic attributes of Braidwood, at state and local levels, is required to better manage and control development.
- The model adopted in South Australia for the state listed Garden Suburb of Colonel Light Gardens, in particular the Heritage Standards, provides a recommended way forward for the Heritage Council of NSW that would help QPRC and the community to understand the expectations and requirements for the future conservation and management of Braidwood and its Setting.

8.3 Strategic Planning Framework for Braidwood and its Setting

Based on this management review, we consider that the approach set out below may provide a practical planning framework for the best practice management and conservation of state and locally listed heritage within Braidwood and its Setting.



Endnote

- ¹ *Braidwood Business Performance Survey*, Western Research Institute, 2010.
- ² *The Future of the State Heritage Register*, Policy, 18 February 2020, Heritage Council of NSW.