

PLANNING PROPOSAL

Amendment to the Upper Hunter Local Environmental Plan 2013



Planning Proposal – Amendment to Upper Hunter Local Environmental Plan 2013.

Merriwa Conservation Area – Heritage Map

Version 01
30 June 2021

PART 1: OBJECTIVES AND BACKGROUND

The objective of this planning proposal is to amend the boundaries of the Merriwa Conservation Area shown on Heritage Map – Sheet HER_005A of the Upper Hunter Local Environmental Plan 2013 in order to remove discrepancies between the map and the areas of actual heritage significance within Merriwa.

According to a Heritage Inventory Study of Merriwa, prepared by Arnold Wolthers Architects and dated February 1996, the town of Merriwa and the village of Cassilis were gazetted as Urban Conservation Areas in 1991 by Merriwa Shire Council.

The National Trust of Australia (NSW) recognised the heritage value of the town in 1981, listing the Urban Conservation Area and 20 individual urban buildings and 10 rural buildings.

Merriwa Heritage Conservation Area was listed in the Hunter Regional Environmental Plan 1989 (Heritage) until the regional plan was repealed on 4 August 2016.

At present, the Merriwa Heritage Conservation Area is listed in Part 2 of Schedule 5 of the Upper Hunter Local Environmental Plan 2013.

The existing Merriwa Conservation Area covers the entire urban area of Merriwa and is bounded by Macartney Street/ Scone Road to the north, an unnamed Crown Road to the east, Hall Road to the south and the Merriwa River to the west (refer to Figure 1.1).

Land within the conservation area is predominantly zoned R1 General Residential with parts of the conservation area zoned B2 Local Centre (commercial centre), RE1 Public Recreation (showground, sporting and recreation facilities), R5 Large Lot Residential (to the north) and RU1 Primary Production (railway infrastructure).

Merriwa's commercial centre, located on Bettington Street, is characterised by a mix of single and two storey commercial buildings and shops, some of which hold local heritage significance. The residential areas are predominantly characterised by single storey dwellings on large allotments and based on a traditional grid pattern with wide streets. There are a number of local heritage items located within the residential areas of town.

The conservation area encompasses a wide range of buildings and architectural forms representing different periods of Merriwa's development from the late 1820's to the present day. Unfortunately, some parts of the conservation area contain contemporary buildings only and other buildings that detract or make no contribution to the significance of the conservation area. These anomalies could be seen to undermine the integrity and importance of the conservation area, making enforcement of the heritage conservation provisions of the Upper Hunter LEP 2013 difficult for Council.



Figure 1.1 – Merriwa Conservation Area

PART 2: EXPLANATION OF PROVISIONS

In order to achieve the objective of this planning proposal the Upper Hunter Local Environmental Plan 2013 will be amended by replacing Heritage Map – Sheet HER_005A (Annexure 1) with a new map sheet showing the amended conservation area boundaries (refer to Annexure 2).

Council's Heritage Advisor has undertaken a detailed review of the Merriwa Conservation Area using the State Heritage Inventory (SHI) report template.

The report makes the following recommendations:

- Remove the Merriwa south-eastern precinct from the LEP map.
- List those potential items (identified in images) in the LEP.
- Retain the recreation area, railway precinct and silos and a section of King George V Avenue as a conservation area in the LEP. (Refer to image 3).
- Remove some areas to the west of Merriwa identified as including non-contributory buildings.

These recommendations have been used to define the proposed new boundaries of the conservation area.

Clause 5.10 of the Upper Hunter LEP 2013 contains provisions relating to development within heritage conservation areas across the Upper Hunter Shire Local Government Area.

Under Clause 5.10(2), development consent is required for new buildings, alterations and/or demolition of a building, work, relic or tree within a heritage conservation area. However, consent is not required under Clause 5.10(3) if the applicant has notified the consent authority and the consent authority is satisfied that the proposed development is of a minor nature or is for the maintenance of the building, work, relic or tree.

As a result of the planning proposal, Clause 5.10 would no longer apply to areas taken out of the conservation area.

PART 3: JUSTIFICATION

In accordance with the Department of Planning and Environment's Guide to Preparing Planning Proposals, this section provides a response to the following issues:

- Section A: Need for proposal
- Section B: Policy Context
- Section C: Potential Environmental, Social and Economic Impact; and
- Section D: Other Government Interests

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal the result of any strategic study?

The planning proposal is the result of a review of the Merriwa Conservation Area by Council's Heritage Advisor.

The review is identified as a strategic action under Direction 5.4 of the Upper Hunter Land Use Strategy 2017.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is considered to be the most appropriate means of achieving the intended outcome. There is no alternative way to remove discrepancies between the current heritage map and the areas of actual heritage significance within Merriwa.

3. Is there a community benefit?

There is a community benefit in ensuring the maps in the Upper Hunter LEP 2013 reflect accurate information and uphold the credibility and importance of heritage conservation areas. Removing discrepancies will eliminate unnecessary considerations in the development assessment process, reduce uncertainty and misunderstanding in the community and will assist in Council's enforcement of building and planning controls within the conservation area.

SECTION B –RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

It is considered that the proposal is consistent with Direction 19: 'Identify and protect the region's heritage' of the Hunter Regional Plan.

Amending the boundaries of the Merriwa Conservation Area to better reflect the areas of actual heritage significance will improve the integrity and importance of the heritage conservation area and will remove a perceived constraint to development for those properties that have little to no heritage significance as heritage development controls and standards will no longer apply.

Buildings and streetscapes of heritage significance in Merriwa will continue to be protected.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the following Community Strategies of Goal 4 – Plan for a sustainable future and Goal 5 – A sustainable and prosperous economy:

CS13 “Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Control Plans, which reflect the needs and expectations of the broad community”

CS15 “Plan, facilitate and provide for a changing population for current and future generations”

CS22 “Provide attractive and functional town centres and support revitalisation of the towns and villages including investment in built heritage and improvement of existing buildings”

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

No specific State Environmental Planning Policies (SEPPs) have been identified as being relevant to this planning proposal.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

Each s9.1 Ministerial Direction is listed below with an annotation stating whether it is relevant to the Planning Proposal and confirming consistency.

s.9.1 Direction Title	Applies	Consistency of Planning Proposal
<i>1.1 Business and Industrial Zones</i>	NA	
<i>1.2 Rural Zones</i>	NA	
<i>1.3 Mining, Petroleum Production and Extractive Industries</i>	NA	
<i>1.4 Oyster Aquaculture</i>	NA	
<i>1.5 Rural Lands</i>	NA	
<i>2.1 Environment Protection Zones</i>	NA	
<i>2.2 Coastal Protection</i>	NA	
<i>2.3 Heritage Conservation</i>	Yes	<p><i>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i></p> <p>This Direction requires Council to:</p> <p><i>A planning proposal must contain provisions that facilitate the conservation of:</i> <i>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</i></p> <p>The planning proposal is consistent with this direction in that it will continue to facilitate the conservation of a precinct of environmental heritage significance which has been identified in a heritage study. The planning proposal simply involves changes to the boundaries of an existing conservation area by removing areas that do not hold any heritage significance.</p>
<i>2.4 Recreation Vehicle Areas</i>	NA	
<i>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs</i>	NA	
<i>2.6 Remediation of Contaminated Land</i>	NA	
<i>3.1 Residential Zones</i>	NA	
<i>3.2 Caravan Parks and Manufactured Home Estates</i>	NA	
<i>3.3 Home Occupations</i>	NA	
<i>3.4 Integrating Land Use and transport</i>	NA	
<i>3.5 Development Near Regulated Airports and Defence Airfields</i>	NA	
<i>3.6 Shooting Ranges</i>	NA	

s.9.1 Direction Title	Applies	Consistency of Planning Proposal
<i>3.7 Reduction in non-hosted short term rental accommodation period</i>	NA	
<i>4.1 Acid Sulfate Soils</i>	NA	
<i>4.2 Mine Subsidence and Unstable Land</i>	NA	
<i>4.3 Flood Prone Land</i>	NA	
<i>4.4 Planning for Bushfire Protection</i>	NA	
<i>5.1 Implementation of Regional Strategies</i>	NA	
<i>5.2 Sydney Drinking Water Catchments</i>	NA	
<i>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</i>	NA	
<i>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</i>	NA	
<i>5.5 Development in the vicinity of Ellalong, Paxton and Millfield</i>	NA	
<i>5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)</i>	NA	
<i>5.7 Central Coast (Revoked 10 July 2008)</i>	NA	
<i>5.8 Second Sydney Airport: Badgerys Creek (Revoked 20 August 2018)</i>	NA	
<i>5.9 North West Rail Link Corridor Strategy</i>	NA	
<i>5.10 Implementation of Regional Plans</i>	Yes	<p>This Direction requires Council to:</p> <p><i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</i></p> <p>It is considered that the proposal is consistent with Direction 19 of the Hunter Regional Plan: 'Identify and protect the region's heritage' as buildings and streetscapes of heritage significance in Merriwa will continue to be protected. Accordingly, the planning proposal is consistent with the terms of this direction.</p>
<i>5.11 Development of Aboriginal Land Council Land</i>	NA	
<i>6.1 Approval and Referral Requirements</i>	NA	
<i>6.2 Reserving Land for Public Purposes</i>	NA	
<i>6.3 Site Specific Provisions</i>	NA	
<i>7. Metropolitan Planning (Directions 7.1 – 7.13)</i>	NA	

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

- 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The planning proposal will not have any impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

- 9. Are there any other environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The planning proposal will not have any adverse environmental effects.

- 10. How has the planning proposal adequately addressed any social and economic effects?**

The planning proposal is unlikely to have any adverse social or economic effects.

SECTION D – COMMONWEALTH AND STATE INTERESTS

- 11. Is there adequate public infrastructure for the planning proposal?**

Not considered applicable.

- 12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Relevant State and Commonwealth public authorities will be consulted in accordance with any Gateway determination should the proposal be supported.

PART 5: COMMUNITY CONSULTATION

Council, at its meeting held on 28 January 2020, resolved to endorse proposed changes to the boundaries of the Merriwa Heritage Conservation Area and to place the draft heritage map on public exhibition.

The draft map was subsequently placed on public exhibition from 23 July 2020 to 20 August 2020. One submission was received acknowledging the significant reduction in the size of the conservation area and recommending a further reduction to remove areas that do not hold any heritage value.

As a result of the submission, Council's Heritage Advisor extended the scope of the heritage study and has recommended additional changes to the draft heritage map endorsed by Council. The amended map is included in the current planning proposal (Annexure 2).

PART 6: PROJECT TIMELINE

The project timeline in respect of the planning proposal is provided in the following diagram.

The anticipated timeframe for the proposed amendment to the Upper Hunter Local Environmental Plan 2013 from submission of the proposal to DPIE to publication of the LEP amendment is six (6) months.

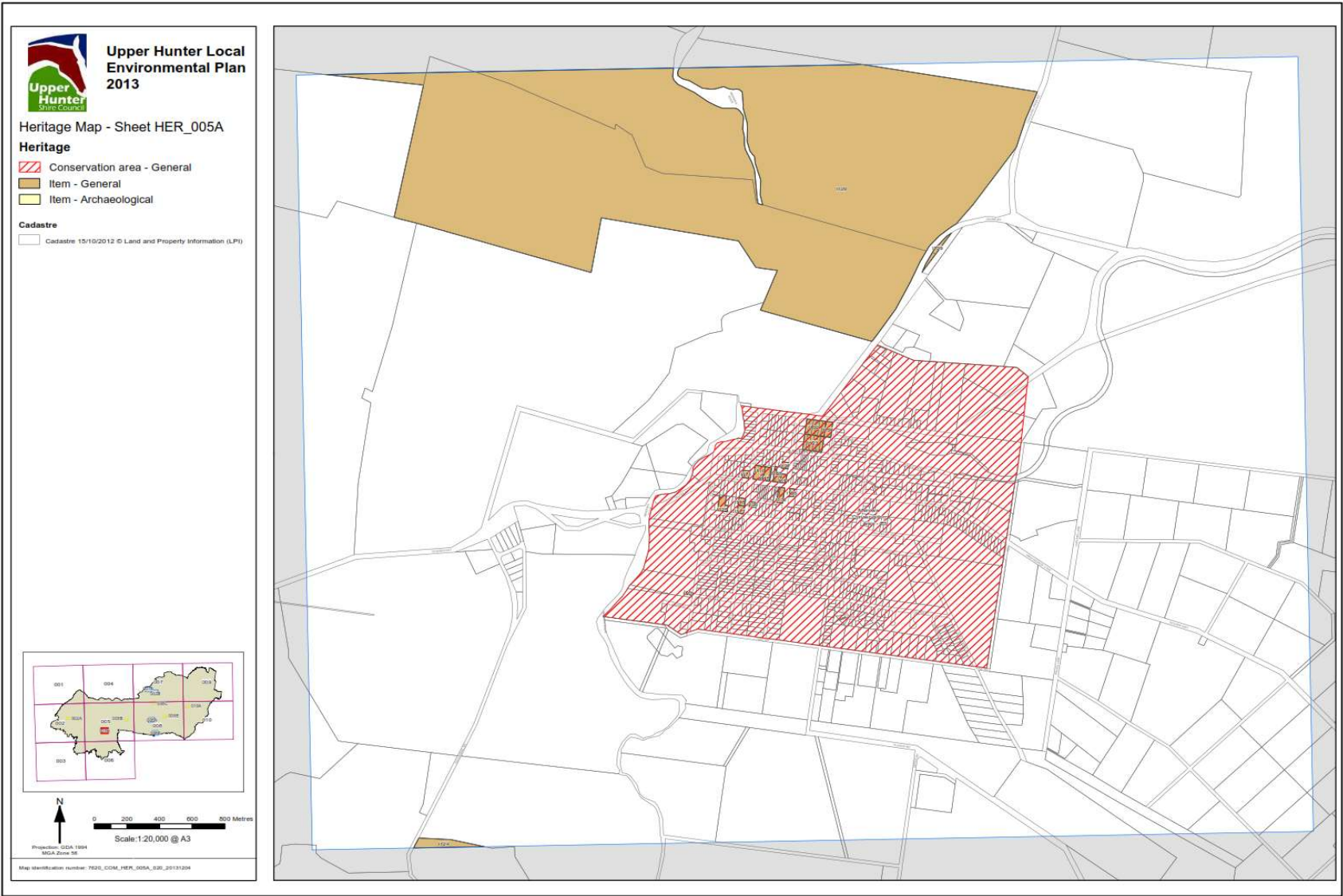
PROJECT TIMELINE

		July 2021	August 2021	September 2021	October 2021	November 2021	December 2021	January 2022
STAGE 1	Report to Council							
STAGE 2	Submit Planning Proposal to NSW Planning & Environment							
STAGE 3	Anticipated commencement date (Gateway Determination)							
STAGE 4	Consultation – Community/ Public Authorities							
STAGE 5	Review / consideration of submissions to public exhibition							
STAGE 6	Report to Council							
STAGE 7	Finalise the Local Environmental Plan using Minister's plan making delegations.							

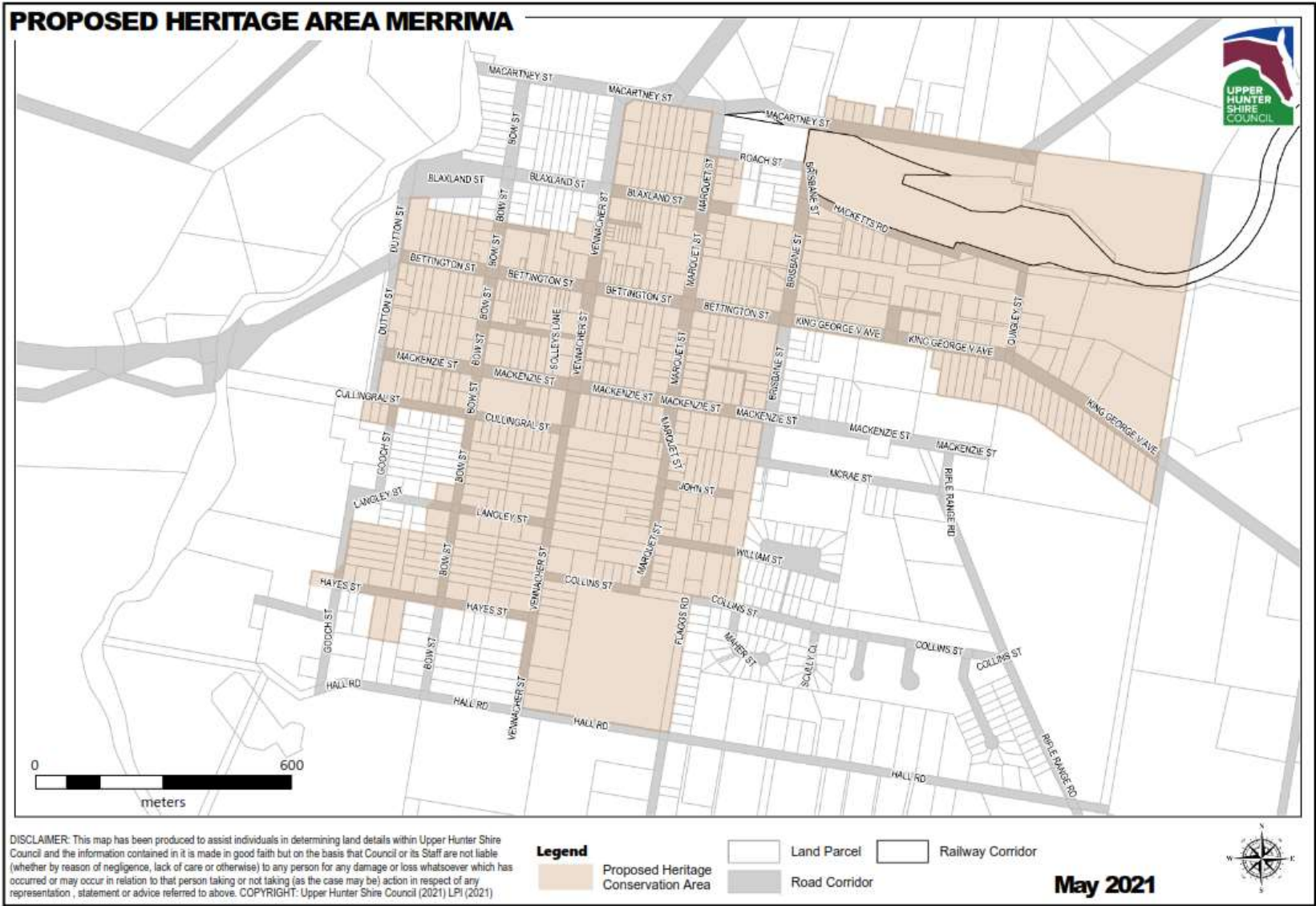
PART 7: PLAN MAKING DELEGATION

Council is seeking to use its plan making delegations to finalise the plan.

Annexure 1: Upper Hunter LEP 2013 Heritage Map – Sheet HER_005A



Annexure 2: Proposed Heritage Map



Annexure 3: Existing & Proposed Conservation Areas

