

11.1

**CR B FRY - PRESERVING BATHURST'S
AGRICULTURAL HERITAGE - EXTENDING THE
HERITAGE ZONE BEYOND THE CBD**

FILE NO: 11.00004

RECOMMENDATION:

That Council:

- a) Receives and notes the attached Green Paper, "Preserving Bathurst's Agricultural Heritage: Extending the Heritage Zone Beyond the CBD", as a discussion document.
- b) Requests a report from Council staff on the feasibility of amending the Bathurst Regional Local Environmental Plan (LEP) to establish a Rural Heritage Conservation Area (RHCA), considering the mechanisms outlined in the Green Paper and other potential implementation opportunities.

REPORT:

Bathurst's rural and agricultural landscapes are central to its identity, economic stability, and historical significance. Current heritage protections are primarily focused on the CBD, leaving significant rural areas vulnerable to large-scale infrastructure projects that may compromise the region's character, scenic value, and agritourism potential.

The **attached** Green Paper provides a detailed potential framework for expanding heritage protections while balancing growth, sustainability, and development needs.

This motion seeks to initiate a structured investigation into the feasibility of implementing these protections through amendments to the Bathurst Regional LEP and associated planning instruments.

This initiative is not intended to restrict urban expansion or necessary development, but rather to ensure that heritage-sensitive planning measures guide Bathurst's future growth. By proactively assessing the value of its rural landscapes, Bathurst Regional Council can position itself as a leader in regional heritage conservation, ensuring that development enhances rather than diminishes the city's agricultural and cultural legacy.

ATTACHMENTS:

1. Green Paper - HCA - Ben Fry [11.1.1 - 9 pages]



Green Paper

Preserving Bathurst's Agricultural Heritage: *Extending the Heritage Zone Beyond the CBD*

Date:

3 March 2025

Author:

Cr Ben Fry

Preamble

This Green Paper is a discussion document that represents my views as the Deputy Mayor of Bathurst, informed by my experience with local and state government. It is not an official policy document of Bathurst Regional Council, nor does it reflect a formal position of the Council as a whole. Instead, it is intended to stimulate debate, invite community input, and explore options for strengthening heritage protections for Bathurst's rural and agricultural landscapes.

The inclusion of the Bathurst Regional Council logo at the top of this document is not intended to confer any official status on the paper. Rather, it is used to underscore Bathurst's demonstrable link to agriculture as a defining part of its heritage; a connection that is enshrined in the city's official crest, which prominently features agricultural symbols. This paper aims to explore how that heritage can be better recognised and protected as part of future planning decisions.

Executive Summary

This green paper proposes the extension of Bathurst's existing heritage protections; traditionally focused on its central business district (CBD), into the surrounding rural and agricultural landscapes. By drawing on established NSW planning instruments, Bathurst Regional Council can reinforce its authority to review, modify, or refuse large-scale infrastructure proposals (projects like energy infrastructure, heavy industry, waste management centres, extractive industries, transport hubs, defence facilities and large scale telecommunications structures) in areas of high historical, cultural or environmental value.

The paper examines:

Key LEP Provisions and potential amendments (particularly to Clause 5.10 of the Standard Instrument LEP regarding Heritage Conservation).

Examples from Other Regions, such as the Blue Mountains, Orange, and other NSW councils that have expanded heritage listings or established Heritage Conservation Areas (HCAs).

Implementation Pathways and best practices for rural heritage overlays, referencing cultural landscapes as recognised by state and international heritage bodies.

Through this proposal, Bathurst Regional Council can position itself as the “last sanctuary of rurality,” celebrating and protecting the region’s deep agricultural roots.

Introduction & Rationale

Beyond Built Heritage: Recognising Rural & Agricultural Landscapes

Bathurst is often celebrated for its historic CBD streetscapes. Yet the pastoral lands beyond the town are equally significant, reflecting early European settlement, Indigenous heritage sites, pastoral traditions, and generational stewardship. Expanding heritage protection to these landscapes ensures that Bathurst’s identity remains authentically rural and historically grounded.

Leveraging NSW LEP Mechanisms

In NSW, local councils use the Local Environmental Plan (LEP)—guided by the Standard Instrument Order and the Environmental Planning and Assessment Act 1979 (EP&A Act)—to regulate land use. Clause 5.10 (Heritage Conservation) of the Standard Instrument LEP provides a legislative basis for identifying heritage items, places, and conservation areas. By amending Bathurst’s LEP to include broader rural areas within heritage protections, Council can:

1. Require Heritage Impact Statements for large-scale infrastructure proposals in culturally significant rural zones.
2. Establish site-specific controls or guidelines to manage development in designated Heritage Conservation Areas (HCAs).
3. Invoke additional public consultation periods and expert reviews for developments that may affect rural heritage values.

Drawing from Precedent

Councils in Orange, the Blue Mountains, and other regional areas have expanded heritage listings or established new HCAs beyond their urban cores. Their experiences show how local planning instruments can successfully protect significant landscapes, drive heritage tourism, and guide development in a manner that respects local character.

Legal & Regulatory Context

Environmental Planning and Assessment Act 1979 (EP&A Act)

The EP&A Act establishes the framework within which councils operate. Key elements include:

Part 3 – Plan Making: Governs how LEPs are created or amended. This is where Council can propose expansions to heritage protections in rural areas.

Public Consultation Requirements: Any amendment to the LEP typically involves a period of public exhibition, allowing for community and stakeholder input.

Standard Instrument (Local Environmental Plans) Order 2006

The Standard Instrument dictates the mandatory clauses and structure for LEPs across NSW, including Clause 5.10 – Heritage Conservation. Relevant subclauses:

5.10(1) Objectives: Acknowledge the importance of conserving heritage significance of items, places, and areas, including the associated fabric, settings, and views.

5.10(2) Requirement for Consent: Generally, development consent is required for altering, demolishing, or changing the use of heritage items or places.

5.10(3) Heritage Conservation Areas: Empowers councils to declare one or more HCAs through their LEP, ensuring a place-based approach to preservation.

5.10(5) Heritage Impact Assessment: Requires a Heritage Impact Statement (HIS) for development in or adjacent to a heritage item or area, typically addressing the scale of the proposal, design compatibility, and potential mitigations.

NSW Heritage Act 1977

While primarily dealing with the listing and management of state-significant heritage, the Heritage Act intersects with local heritage protection when:

A proposed rural site or landscape meets state significance thresholds;
Councils seek interim heritage orders (IHOs) to protect places under immediate threat of insensitive development.

Proposed Heritage Overlay Expansion

Core Principles

Cultural Rural Landscape Recognition: Treat farmland, historical homesteads, and pastoral landscapes as “living heritage”—not just built structures.

Preventing Unconstrained Large-Scale Infrastructure: Require robust heritage assessment for major developments, shifting the onus onto proponents to demonstrate minimal impact on Bathurst’s agricultural character.

Balancing Growth & Preservation: Encourage sustainable development that enhances local economies without eroding the cultural and scenic values intrinsic to Bathurst.

Mapping & Criteria for Inclusion

To identify rural areas suitable for this expanded protection:

Historical Significance: Document properties or precincts with a strong connection to Bathurst's pioneering agriculture or notable community events.

Landscape & Aesthetic Value: Consider scenic vistas, topographical features, and traditional farmland patterns (e.g., hedgerows, irrigation channels) that define Bathurst's character.

Indigenous Heritage Sites: Collaborate with Indigenous communities to protect culturally significant lands beyond the urban footprint.

Agricultural Continuity: Recognise farmland managed by multi-generation families, highlighting intangible cultural heritage (traditional farming knowledge, techniques, or historical ownership records).

Examples of Successful Heritage Area Expansions

Blue Mountains & The City of Blue Mountains LEP

Heritage Focus: National parklands, dramatic escarpments, and village precincts.

Outcome: Established wide-ranging Heritage Conservation Areas that control large-scale developments and protect scenic corridors.

Relevance to Bathurst: Showcases how councils can use LEPs to protect landscapes on a broad scale, ensuring an extra layer of scrutiny for infrastructure that might affect scenic or cultural values.

Orange LEP 2011 – Rural Heritage Extensions

Key Provisions: Inclusion of various homesteads and farmland in Schedule 5 (Environmental Heritage), coupled with Heritage Conservation Areas that stretch beyond the immediate township.

Outcome: Empowered Orange City Council to request heritage impact assessments for developments on rural properties, influencing everything from wind farm proposals to cellular towers.

Relevance to Bathurst: Demonstrates how a neighbouring regional centre integrated farmland into local heritage schedules, balancing economic growth with rural preservation.

Hawkesbury Council – Agrarian Heritage

Focus: Recognised the Hawkesbury's role as a colonial "food bowl" for early Sydney.

Outcome: Designated "rural character precincts," which limit large-scale industrial uses and preserve farmland as part of the council's local identity.

Relevance to Bathurst: Underscores the intangible value of historically farmed landscapes, even in peri-urban areas.

Implementation Strategies

LEP Amendments & Heritage Overlays

Define a New Rural Heritage Conservation Area (HCA)

Add a “Rural Heritage Conservation Area” (or “Cultural Rural Landscape Zone”) within the Bathurst Regional LEP.

Update Schedule 5 (Environmental Heritage) with specific listings—farms, historic barns, distinctive waterways, etc.

Introduce Area-Wide Development Controls in a Revised DCP

Develop guidelines in a Bathurst Regional Council Development Control Plan (DCP), detailing design standards and permissible development.

For major infrastructure (e.g., transmission lines, wind turbines), require applicants to provide a thorough Heritage Impact Statement and a visual impact analysis that considers topography, existing land use, and the broader cultural landscape.
Alignment with the NSW Heritage Act

Consult with Heritage NSW to assess whether any farmland or rural clusters rise to state-level significance, thus warranting additional listing or interim heritage orders.

6.2 Planning Pathways for Large-Scale Infrastructure

Gateway Process for LEP Amendments: Ensure expansions to Bathurst’s heritage zone follow due process, including a “Gateway Determination” from the Department of Planning and Environment.

Council-Driven Local Provisions: Insert local provisions (akin to Clause 5.8 for rural workers’ dwellings, etc.) that address large-scale infrastructure specifically.

Negotiated Outcomes: Where absolute refusal is not practical or possible, impose strict conditions that minimise visual, environmental, and cultural disruption.

Exemptions

To ensure balanced development and accommodate Bathurst’s future growth, the proposed Rural Heritage Conservation Area (RHCA) would not apply to areas designated for urban expansion or new residential, commercial, or industrial developments identified in Council’s strategic land-use plans.

This exemption acknowledges the necessity of planned city growth while maintaining the integrity of historically significant agricultural landscapes. The RHCA is intended to safeguard rural and cultural heritage from large-scale infrastructure projects that fundamentally alter the visual and functional character of the countryside, rather than restrict planned urban development that aligns with Bathurst Regional Council’s long-term strategic planning frameworks. This ensures that housing supply, employment opportunities, and essential services can continue to expand in appropriate locations,

while still preserving Bathurst's unique rural identity beyond designated growth corridors.

Incentives & Community Engagement

Heritage Grants & Rate Rebates: Explore local heritage grant schemes or partial rate rebates for landowners who voluntarily conserve historically significant features.

Educational Programs: Partner with local historical societies, Landcare groups, and agricultural colleges to develop heritage tours or open-farm weekends.

Early & Transparent Consultation: Engage landowners and developers before an application to discuss feasible design modifications (e.g., undergrounding transmission lines in sensitive vistas, strategic placement of solar arrays).

Economic & Community Benefits

Enhanced Tourism & Identity

Agritourism Appeal: Heritage overlays highlight Bathurst's living farmland, offering experiences in historical homesteads, farm stays, and local produce—attractive to visitors seeking authenticity.

Brand Differentiation: As the “last sanctuary of rurality,” Bathurst gains a competitive edge in the tourism market, distinguishing itself from other regional cities.

Protection of Agricultural Viability

Long-Term Land Use Preservation: Reduces the likelihood of prime agricultural land being compromised by incompatible developments.

Investment Confidence: Clear, predictable planning rules foster confidence among existing landowners and prospective eco/agricultural investors.

Cultural Continuity & Community Cohesion

Historical Stewardship: Rural communities with longstanding family farms feel supported and recognised, reinforcing social bonds.

Civic Pride: The broadened heritage scope underscores Bathurst's commitment to preserving what makes it unique, boosting residents' sense of place and local pride.

Challenges & Mitigations

Balancing Landholder Rights & Public Good

Mitigation: Engage directly with landowners to tailor overlay boundaries and rules, and highlight potential financial incentives or marketing benefits (e.g., heritage tourism).

Managing Developer Resistance

Mitigation: Provide clear guidelines upfront; emphasise that this framework is about ‘appropriate development’ rather than a total ban on projects.

Ongoing Administrative & Financial Resources

Mitigation: Seek funding or advisory assistance from state heritage agencies. Phase the rollout to manage costs and administrative load.

State or Federal Oversight

Mitigation: Maintain collaborative relationships with state/federal authorities, ensuring Bathurst's local overlays complement broader policy goals (e.g., renewable energy zones).

Path Forward & Recommendations

Initiate a Heritage Study Update

Commission an updated heritage study focusing on rural Bathurst to identify culturally significant sites, scenic corridors, farmland, and intangible assets (e.g., farm practices, local traditions).

Amend the Bathurst Regional LEP

Develop a Planning Proposal to expand heritage protections, referencing Clause 5.10 expansions and new Heritage Conservation Areas.

Proceed through the Gateway process, ensuring compliance with EP&A Act requirements and robust community consultation.

Introduce Comprehensive DCP Controls

Establish design guidelines for large-scale infrastructure within designated rural heritage zones.

Mandate Heritage Impact Statements and visual analysis for developments above specified thresholds (e.g., over 10m in height, spanning over X hectares, or crossing historically significant farmland).

Promote Local Engagement & Incentives

Provide a framework for landowners to pursue heritage grants, undertake conservation works, and participate in tourism initiatives.

Deliver public workshops explaining the new protections, clarifying potential benefits, and addressing any misconceptions.

Monitor & Review

Conduct yearly reviews of how effectively the expanded heritage zone mitigates adverse development impacts.

Adjust boundaries, criteria, or processes as needed, maintaining flexibility while upholding core objectives.

Conclusion

Extending Bathurst's heritage zone beyond its traditional urban confines is not simply about preserving a nostalgic vision of the past. Rather, it is an active strategy to safeguard Bathurst's agricultural identity, strengthen local control over major developments, and foster sustainable growth that resonates with the region's long-standing rural character.

By amending the Local Environmental Plan, establishing rural Heritage Conservation Areas, and adopting detailed Development Control Plan provisions, Bathurst Regional Council can create a robust planning framework. One that acknowledges the generational value of the land, ensures local voices guide major infrastructure proposals, and promotes the area as a beacon of "last sanctuary of rurality" within regional NSW.

References

NSW Environmental Planning and Assessment Act 1979 (EP&A Act):

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203>

Standard Instrument (Local Environmental Plans) Order 2006 – Particularly Clause 5.10 (Heritage Conservation):

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2006-155>

NSW Heritage Act 1977:

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1977-136>

Bathurst Regional Local Environmental Plan (LEP) 2014 (most recent consolidated version):

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2014-0758>

Orange Local Environmental Plan 2011 – Schedule 5 (Environmental Heritage) and relevant Heritage Conservation Areas:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0265#sch.5>

Blue Mountains Local Environmental Plan 2015 – Heritage Conservation Area case studies:

<https://www.bmcc.nsw.gov.au/documents/local-environmental-plan-2015>

Hawkesbury City Council – Rural Lands Planning Provisions (including "Rural Character" studies):

https://www.hawkesbury.nsw.gov.au/__data/assets/pdf_file/0017/5869/Part-C-Rural-Lands.pdf

Destination NSW – Regional Tourism Statistics (for potential agritourism expansions):

<https://www.destinationnsw.com.au/tourism/facts-and-figures/regional-tourism-statistics>

Additional Resources:

NSW Planning Portal – Local Environmental Plans:

<https://www.planningportal.nsw.gov.au/local-environmental-plans>

NSW Legislation – Browse In Force Legislation:

<https://legislation.nsw.gov.au/browse/inforce>