

Proposed amendment to the Kyogle Local Environmental Plan- removal of heritage listed bridges

SUMMARY / PURPOSE

The purpose of this report is to provide information on a proposed amendment to the Kyogle Local Environmental Plan 2012 (LEP) to remove heritage listed bridges from the LEP. The report also seeks a resolution to prepare a planning proposal to amend the LEP as described, to submit the planning proposal to the Department of Planning, Industry and Environment for Gateway Determination, and provided an affirmative Gateway Determination is received, carry out public exhibition of the proposed amendment.

RECOMMENDATION

That:

1. Council receive and note the report 'Amendment to the Kyogle Local Environmental Plan-removal of heritage listed bridges'.
2. Council authorise the General Manager to prepare a planning proposal to amend the Kyogle Local Environmental Plan 2012 to remove the following items from Schedule 5 and the associated Heritage Map:
 - Minney's Bridge on the Clarence Way at Pagan's Flat.
 - Matthew's Bridge on Green Pigeon Road at Green Pigeon.
 - Montgomery's Bridge on Iron Pot Creek Road at Ettrick.
 - Tabulam Bridge on the Bruxner Highway at Tabulam.
 - The Risk Station Bridge on The Risk Road at The Risk.
 - Paddy's Flat Bridge on Paddy's Flat Road at Paddy's Flat.
3. Council authorise the General Manager to submit the planning proposal to the Department of Planning, Industry and Environment for Gateway Determination and, subject to affirmative Gateway Determination, authorise the General Manager to make any changes to the planning proposal required by the Department and carry out public exhibition and agency consultation as required.
4. A further report be presented to Council following the conclusion of public exhibition and agency consultation outlining the outcomes of exhibition including submissions received.

BACKGROUND INFORMATION

Schedule 5 of the Kyogle Local Environmental Plan 2012 (the LEP) contains numerous items that have been determined to be of heritage significance to the community. Some of these items are structures or facilities that are owned by Council and serve as public assets and infrastructure, including a number of bridges.

Since being listed in the LEP these bridges have suffered damage or deterioration to the point that they no longer provide a satisfactory level of service and their replacement is required, or in two cases, has actually been carried out. As part of its ongoing bridge replacement program Council has recently sought external funding for the replacement of a number of these bridges but have been informed that they are ineligible for funding due to them being heritage listed.

Given some of the bridges have been replaced and for the others their replacement is imminent, it is considered that they no longer require to be listed in Schedule 5 of the LEP. Removal of their heritage listing will also mean they will not be excluded from external funding on the basis of their heritage listing.

PREVIOUS COUNCIL CONSIDERATION

Council has previously considered the heritage listing of bridges at its meeting of 27 September 2010 when it resolved to adopt Kyogle Local Environmental Plan No.18 (LEP No. 18), which was the first heritage list for the Kyogle Council local government area (LGA). Five bridges that are the subject of this report (all but Paddy's Flat Bridge) were included in the draft of LEP No.18, however Council resolved to exclude Tabulam Bridge, Montgomery's Bridge, The Risk Station Bridge and Green Pigeon Bridge from the adopted LEP. The Delegate of the Minister for Planning in making the Plan included Tabulam Bridge on the basis of its State Heritage listing. The Delegate also directed that the excluded bridges be included in the draft comprehensive LEP being developed at the time, on the basis that Council had not provided sufficient justification for their exclusion.

Council further considered the matter in 2012 as part of the consideration of the draft comprehensive LEP 2012. The draft LEP maintained the heritage list first adopted in LEP No.18 but also included a number of new entries, including The Risk Station Bridge, Montgomery's Bridge and Green Pigeon Bridge (at the direction of the Minister for Planning, as noted above) as well as Paddy's Flat Bridge. Council resolved to adopt the LEP 2012 at its extraordinary meeting of 30 July 2012.

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The bridges and their heritage significance

Schedule 5 Environmental heritage of the LEP identifies items and places in the LGA that have been determined to be of heritage significance to the local community. Schedule 5 includes a number of bridges that are Council owned and controlled assets as well as a bridge on the Bruxner Highway that is owned and controlled by the State Government. The bridges included in Schedule 5 of the LEP are:

- Minney's Bridge on the Clarence Way at Pagan's Flat.
- Matthew's Bridge on Green Pigeon Road at Green Pigeon.
- Montgomery's Bridge on Iron Pot Creek Road at Ettrick.
- Tabulam Bridge on the Bruxner Highway at Tabulam (State owned and controlled).
- The Risk Station Bridge on The Risk Road at The Risk.

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- Paddy's Flat Bridge on Paddy's Flat Road at Paddy's Flat.

The bridges were identified as part of two separate heritage studies in the LGA carried out in 1997 and 2009. The bridges have been determined to be of heritage significance for various reasons which are outlined in the table below:

BRIDGE	HERITAGE VALUE OR SIGNIFICANCE
Minney's Bridge	<ul style="list-style-type: none">a. Significant as the last timber truss bridge to be built in NSW.b. Whilst timber truss bridges are not rare, the incorporation of concrete piers in this bridge is unusual.
Matthew's Bridge	<ul style="list-style-type: none">a. Significant in showing the importance of timber beam bridges in the development of the LGA.b. Was considered a good, representative example of timber beam bridge construction.
Montgomery's Bridge	<ul style="list-style-type: none">a. Significant for showing the need for high-level bridges over creeks in the LGA.b. Steel truss road bridges are uncommon in the LGA.c. Associated with the Montgomery family who owned significant land holdings in the area.
Tabulam Bridge (Bruxner Highway crossing of the Clarence River)	<ul style="list-style-type: none">a. Constructed in 1902, it replaced the previous punt crossing of the Clarence River and provided a significant improvement to the road connection between the North Coast and New England regions.b. Significant as it was designed by one of the leading NSW bridge engineers E W de Burgh, and utilised his truss design.c. Significant as the longest existing de Burgh truss bridge in NSW.d. Timber bridges of this length and design are rare in NSW. <p>This bridge was also on the State Heritage list but has been de-listed recently by the State Government to allow its demolition.</p>
The Risk Station Bridge	<ul style="list-style-type: none">a. Significant as it shows the importance of timber bridges in the early development of the LGA.b. May have been associated with the development of the Kyogle-Brisbane railway.
Paddy's Flat Bridge	<ul style="list-style-type: none">a. Paddy's Flat Road and the bridge crossing of Tooloom Creek are significant as they represent an important early transport route in the LGA which gave access to the Tooloom goldfields.

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	b. Was considered a good example of a low-level timber bridge.
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As noted above, two of the bridges were first listed in LEP No.18 which was gazetted in 2011. Subsequently, heritage items listed in LEP No.18 were transferred to the comprehensive Kyogle LEP when it was adopted in 2012, and a number of additional items were also included in the comprehensive LEP.

Having items listed as items of heritage significance in the LEP is intended to protect their heritage values and significance. If an item, building or structure is listed in Schedule 5 of the LEP, any proposal to demolish or alter the structure, building or item requires development consent from Council unless the works are minor or for repairs or maintenance. This is intended to allow Council (and the community) to assess the impacts of proposed demolition or development on the heritage values of the particular item and avoid demolition or inappropriate modifications or alterations that would adversely affect the heritage significance of the item.

Status or condition of the bridges

One of the Council owned bridges listed in the LEP (Minney's Bridge) has failed and been replaced. The Tabulam Bridge over the Clarence River is due for imminent demolition by the State Government as part of its Tabulam (Bruxner Highway) bridge replacement project. Council has identified that the remaining four Council owned bridges listed in the LEP require replacement for the reasons outlined in the table below:

BRIDGE	STATUS OR ISSUE
Matthew's Bridge	Currently load limited due to structural deficiencies.
Montgomery's Bridge	Currently load limited due to structural deficiencies.
The Risk Station Bridge	Currently in very poor condition.
Paddy's Flat Bridge	Deteriorating.

Rationale for removal from the LEP

Whilst Council has powers under various legislative instruments to undertake works on its assets without the need for development consent (including roads and bridges), heritage listing has recently prevented Council seeking external grant funding for replacement of bridges because the grant funding excluded items that are heritage listed. To overcome this barrier the bridges need to be removed from Schedule 5 of the LEP. Given all are close to being demolished and replaced, there is no reason to maintain their listing in the LEP.

Process for amending the LEP

Removing the bridges from the LEP will require an amendment to the LEP to remove the bridges from Schedule 5 and the Heritage Map. To amend the LEP Council must prepare a planning proposal which details the proposed amendment and provides justification for the change. This must be submitted to the NSW Department of Planning, Industry and Environment for Gateway Determination. Provided DPIE issues an affirmative Gateway Determination, Council will carry out public exhibition of the proposal to allow the community

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to consider and have their say on the proposed amendment. Following the conclusion of public exhibition, a further report will be presented to Council which outlines the outcomes of exhibition, including submissions received.

BUDGET AND FINANCIAL IMPLICATIONS

The recommendations in this report do not require expenditure that cannot be met by the current allocated Planning Services budget.