

Planning and Assessment

Gateway determination report

Kyogle Gateway determination: PP-2020-3971

Purpose: To recommend the Director, as delegate of the Minister, determine that planning proposal PP-2020-3971 should proceed.

Analysis: The planning proposal seeks to remove six items (bridges) from Schedule 5 Environmental Heritage of the Kyogle LEP 2012. The planning proposal is considered to have merit and should proceed subject to conditions.

Approval required: 3 February 2021

Reason for deadline: The Gateway determination is to be issued by the above date, being 20 days since receiving the planning proposal.

1. INTRODUCTION




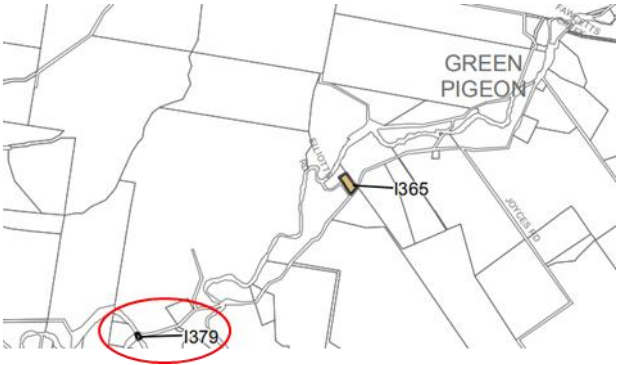
LGA	Kyogle
PPA	Kyogle Shire Council
NAME	Removal of six items (bridges) from Schedule 5 Environmental Heritage of the Kyogle LEP 2012 (0 homes, 0 jobs)
NUMBER	PP-2020-3971
LEP TO BE AMENDED	Kyogle Local Environmental Plan 2012 (LEP)
ADDRESS	Various
DESCRIPTION	All bridges are in road reserves
RECEIVED	14 December 2020
FILE NO.	IRF21/39
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.


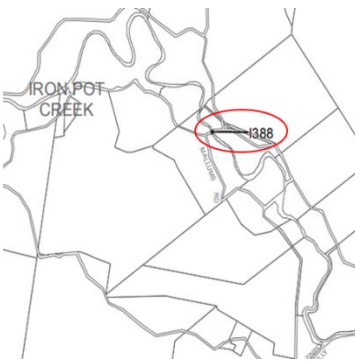


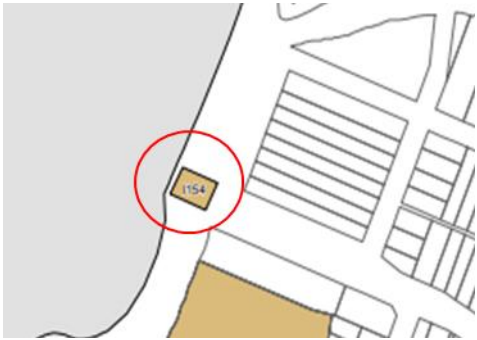
1.1 Description of planning proposal


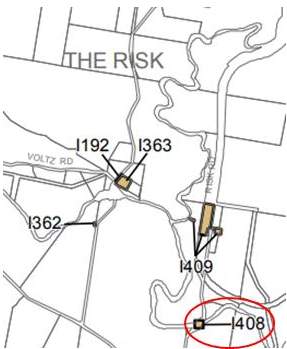

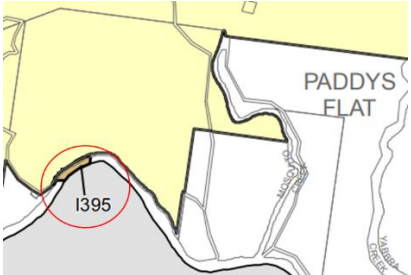
The proposal is seeking to remove six items (bridges) from the Schedule 5 Environmental Heritage of the Kyogle Local Environmental Plan (LEP) 2012. Council has identified the bridges are all in varying states of disrepair, closed to traffic, or have failed and been demolished.

1.2 Site description

The six bridges are listed below:

Bridge	Heritage Value or Significance and Current condition of bridge	Heritage Item No.	Location
Minney's Creek Bridge	<p>a. Significant as the last timber truss bridge to be built in NSW.</p> <p>b. Whilst timber truss bridges are not rare, the incorporation of concrete piers in this bridge is unusual.</p> <p>Council advises that the bridge failed and has now been replaced.</p>	<p>I394 – road reserve</p> <p>Map sheet HER_005</p>	<p>Clarence Way, Pagans Flat</p> <p>Tooloonki Creek</p>  
Matthew's Bridge	<p>a. Significant in showing the importance of timber beam bridges in the development of the LGA.</p> <p>b. Was considered a good, representative example of timber beam bridge construction.</p> <p>Currently load limited due to structural deficiencies.</p>	<p>I379 – road reserve</p> <p>Map sheet HER_003D</p>	<p>Bridge over Fawcetts Creek, Green Pigeon Road, Green Pigeon</p>  

Bridge	Heritage Value or Significance and Current condition of bridge	Heritage Item No.	Location
Montgomery's Bridge	<p>a. Significant for showing the need for high-level bridges over creeks in the LGA.</p> <p>b. Steel truss road bridges are uncommon in the LGA.</p> <p>c. Associated with the Montgomery family who owned significant land holdings in the area.</p> <p>Load limited due to structural deficiencies at the time of consideration by Council (October 2020). Subsequently, this bridge has been permanently closed to all vehicular traffic following a safety inspection in November 2020.</p>	<p>I388 – road reserve</p> <p>Map Sheet HER_004A</p>	<p>Bridge over Iron Pot Creek, Iron Pot Creek Road, Ettrick</p>   
Tabulam Bridge	<p>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.</p> <p>b. Significant as it was designed by one of the leading NSW bridge engineers E W de Burgh and utilised his truss design.</p> <p>c. Significant as the longest existing de Burgh truss bridge in NSW.</p> <p>d. Timber bridges of this length and design are rare in NSW.</p> <p>Council advises that the bridge is due for imminent demolition by the State Government as part of its Tabulam (Bruxner Highway) bridge replacement project.</p> <p>NB – Council notes that this bridge was also on the State Heritage list but has been de-listed recently by the State Government to allow its demolition.</p>	<p>Item I154 – road reserve</p> <p>Map Sheet HER_002CA</p>	<p>Bridge over the Clarence River, Bruxner Highway, Tabulam</p>  

Bridge	Heritage Value or Significance and Current condition of bridge	Heritage Item No.	Location
Risk Station Bridge	<p>a. Significant as it shows the importance of timber bridges in the early development of the LGA.</p> <p>b. May have been associated with the development of the Kyogle- Brisbane railway.</p> <p>Council advises the bridge is currently in poor condition.</p>	<p>Item 408 – road reserve</p> <p>Map Sheet HER_003B</p>	<p>Risk Road, The Risk</p>  
Paddy's Flat Bridge	<p>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.</p> <p>b. Was considered a good example of a low-level timber bridge.</p> <p>Council advises the bridge is in a deteriorating condition.</p>	<p>Item I395 – road reserve</p> <p>Map Sheet HER_002A</p>	 

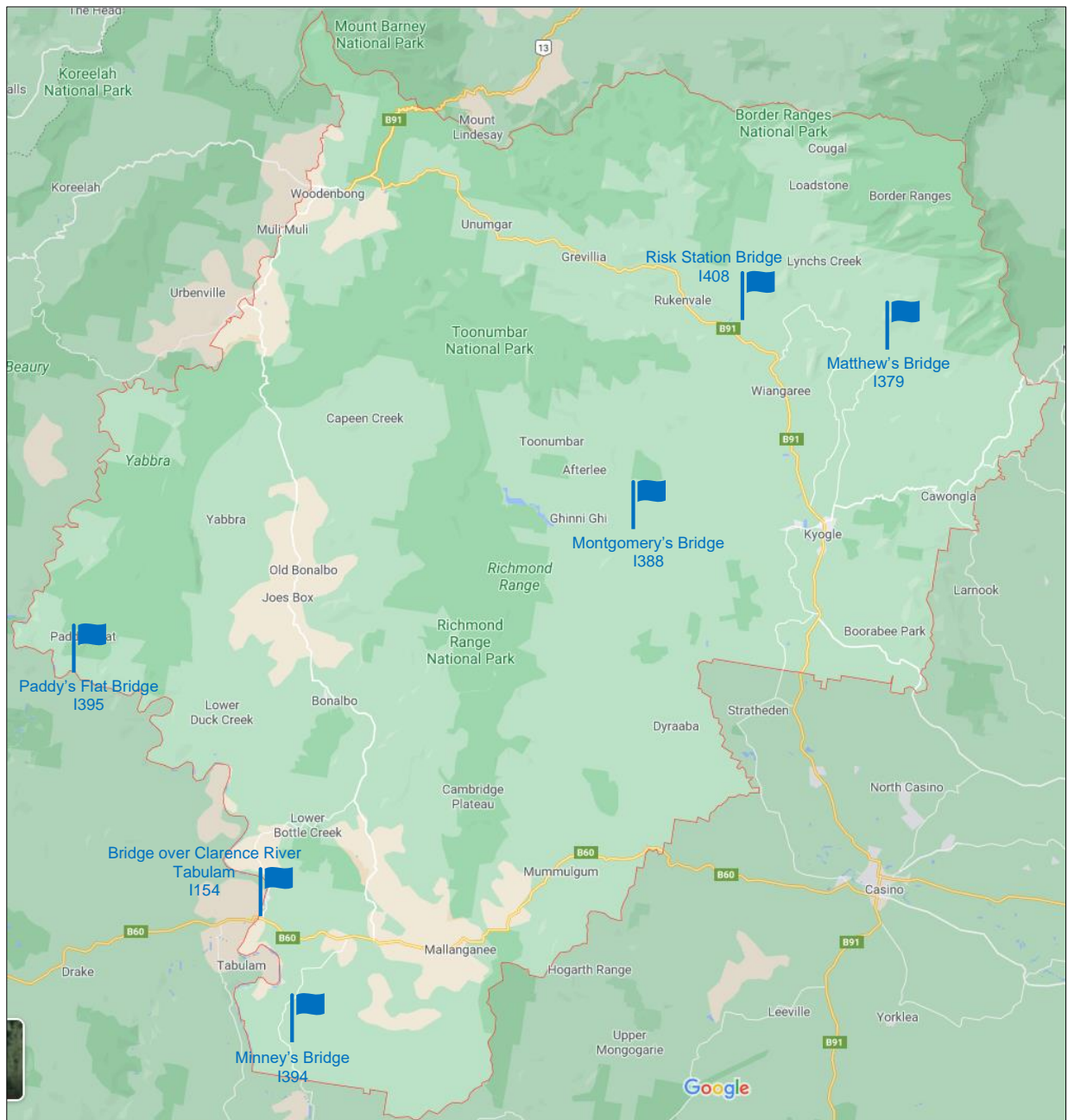


Figure 1 – Location of bridges within Kyogle LGA

1.3 Existing planning controls

No zoning or development standards are proposed to be amended in this planning proposal.

1.4 Surrounding area

Five of the six bridges are under Council's management and are in rural areas within the Kyogle LGA on minor classified roads. The bridge over the Clarence River at Tabulam is State Government managed. A new bridge is currently being constructed and is located on the Bruxner Highway. The location of the bridges is shown in Figure 1 above.

1.5 Summary of recommendation

It is recommended that this proposal be conditionally supported to allow Kyogle Shire Council to amend and maintain the currency of its local heritage listings in the Kyogle LEP 2012 as the bridges have or will soon be demolished.

2. PROPOSAL

2.1 Objectives or intended outcomes

The proposal clearly outlines its objectives and intended outcomes to remove the six bridges from Schedule 5 Environmental Heritage of the Kyogle LEP 2012 to reflect that the bridges have been demolished or are planned for demolition and/or replacement.

2.2 Explanation of provisions

The proposal clearly outlines the proposed amendments to the Kyogle LEP 2012 in Table 1 of the report as follows:

Table 1 Description of proposed amendment to the Kyogle Local Environmental Plan 2012

Section of KLEP	Proposed Amendment
Schedule 5 Environmental Heritage	<p>Remove the following items from Part 1 Heritage items:</p> <ul style="list-style-type: none">• Item I394- Minney's Creek Bridge, Clarence Way, Pagan's Flat.• Item I379- Bridge (over Fawcetts Creek), Green Pigeon Road, Green Pigeon.• Item I388- Montgomery's Bridge, Iron Pot Creek Road, Ettrick.• Item I154- Bridge (over Clarence River), Bruxner Highway, Tabulam.• Item I408- Risk Station Bridge, Risk Road, The Risk.• Item I395- Bridge (over Tooloom Creek), Paddy's Flat Road, Paddy's Flat.
Maps	<p>Amend the Heritage Map to remove the items identified above from the following map sheets:</p> <ul style="list-style-type: none">• Sheet HER_002A (Item I395)• Sheet HER_002CA (Item I154)• Sheet HER_003B (Item I408)• Sheet HER_003D (Item I379)• Sheet HER_004A (Item I388)• Sheet HER_005 (Item I394)

2.3 Mapping

The proposal seeks to make amendments to the existing heritage maps of the Kyogle LEP 2012 to remove the six items. No maps have been included with the proposal. For community consultation purposes the current HER maps showing the items for deletion should be included with the proposal.

Maps consistent with the 'Standard Technical Requirements for Spatial Datasets and Maps' will also need to be prepared before the making of the LEP amendment.

3. NEED FOR THE PLANNING PROPOSAL

The bridges in the proposal have all been identified via heritage studies conducted in either 1997 or 2009.

The proposal is needed to maintain the currency of the heritage listings of the LEP due to the deterioration, demolition of and/or replacement of the identified bridges. Council also advises they have been prevented from seeking grant funding for replacement of the bridges due to their heritage listing.

Aerial imagery (Figure 2) shows that the Bruxner Highway bridge over the Clarence River at Tabulam is currently being duplicated, with new road approaches being constructed.



Figure 2 – Bridge over the Clarence River at Tabulam
(Source – Google Earth)

Council has also advised that Minney's Creek Bridge, Clarence Way, Pagans Flat, has already been demolished and replaced.

The proposal is needed to remove the local heritage listing of the bridges under the Kyogle LEP 2012.

4. STRATEGIC ASSESSMENT

4.1 State

The proposal does not contain any matters of state or regional significance and is not inconsistent with the Premier's Priorities.

4.2 Regional / District

The proposal is considered to be inconsistent with the North Coast Regional Plan 2036 having particular reference to Direction 19 – Protect historic heritage. The bridges identified in the proposal for removal from Schedule 5 of the LEP have previously been identified in heritage studies for their individual historical significance.

The proposal is however consistent with Direction 21 – Coordinate Local Infrastructure Delivery by ensuring that bridges are maintained in safe working order.

It is recommended that the inconsistency of the proposal with the Regional Plan remain unresolved until after consultation has been undertaken with Heritage NSW to confirm the suitability of removing the items from Council's local heritage listing.

4.3 Local

The proposal is considered to be inconsistent with the Kyogle Council Local Strategic Planning Statement 2020 (LSPS), in particular Priority C4 – Value, protect and celebrate our unique cultural heritage where opportunities to further protect heritage has been identified.

The proposal is however consistent with Priority B4 – ensure that infrastructure is delivered to meet the needs of the community.

The inconsistency with the LSPS will remain unresolved until consultation has been undertaken with Heritage NSW.

The proposal is considered to be consistent with the Kyogle Community Strategic Plan 2016-2026.

4.4 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all relevant s9.1 Directions except:

2.3 Heritage Conservation

The proposal is inconsistent with this Direction as it reduces the heritage protections applicable to heritage items, being the six identified bridges, by removing the items from Schedule 5

Environmental Heritage of the Kyogle LEP 2012. It is recommended that until consultation has occurred with Heritage NSW that the consistency of the proposal with this Direction remain unresolved.

4.4 Planning for Bushfire Protection

This Direction applies as the planning proposal affects land that is identified as being bushfire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

5.10 Implementation of Regional Plans

The proposal is inconsistent with the NCRP 2036, and therefore this Direction, for the reasons outlined above. It is recommended that until consultation has occurred with Heritage NSW that the consistency of the proposal with this Direction remain unresolved.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable state environmental planning policies.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

While the loss of any heritage item is not considered to be a socially desirable outcome, it is considered that the safety and vital infrastructure aspect that new bridges will deliver is considered essential for the connection of rural areas and road users and will have an overall positive social impact.

5.2 Environmental

No adverse environmental impact has been identified from the removal of the identified items from Council's local heritage listings.

5.3 Economic

The replacement of the bridges will minimise the current maintenance costs and help communities and businesses stay connected and will assist Council in seeking future financial grants to replace the bridges.

6. CONSULTATION

6.1 Community

The proposal recommends a community consultation period of 28 days for community consultation. The proposal also states that notification and relevant documents will be placed on Council's website as well as publishing in Council's community newsletter. This timeframe is considered appropriate.

6.2 Agencies

It is considered that Council should consult with:

- Heritage NSW
- NSW Rural Fire Service.

7. TIME FRAME

The proposal includes a project timeline which estimates completion of the LEP amendment in June 2021. Six months is considered an appropriate timeframe for this proposal.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested it be issued with an authorisation to exercise plan making functions, however, has noted in their timeline the anticipated date for Council to make the LEP. As the proposal deals only with matters of local significance it is considered appropriate that Council be provided authorisation to act as the local plan making authority.

9. CONCLUSION

It is recommended that this proposal be conditionally supported to allow Kyogle Shire Council to amend and maintain the currency of its local heritage listings in the Kyogle LEP 2012.

10. RECOMMENDATION

It is recommended that the Director, as delegate of the Secretary:

1. **note** that the inconsistency with section 9.1 Directions 2.3 Heritage Conservation, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans remains unresolved until further justification has been provided.

It is recommended that the Director, as delegate of the Minister:

1. **note** the planning proposal (**Attachment A**);
2. **determine** that the planning proposal should proceed subject to the following conditions:
 1. The planning proposal should be made available for community consultation for a minimum of 28 days.
 2. Consultation is required with the following public authorities:
 - Heritage NSW
 - NSW Rural Fire Service.
 3. The time frame for completing the LEP is to be six months from the date of the Gateway determination.
 4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.
 5. Prior to agency or community consultation, the proposal is to be amended to:
 - (a) include the current LEP heritage maps identifying the nominated bridges to be removed; and
 - (b) a general location map showing where the bridges are located within the LGA.
3. **sign** the Gateway determination (**Attachment B**) noting that Kyogle Shire Council is the local plan-making authority and the letter to Council (**Attachment C**).

Approval



Craig Diss
Acting Director, Northern Region
Local and Regional Planning

Date: 15/1/21

Assessment officer: Helen Willis
Admin Para Planner, Northern
Phone: 5778 1489

Attachments

Attachment	Title
A	Planning proposal
B	Gateway determination
C	Letter to Council