

**Submission
No 112**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Bermagui Community Forum Management Committee

Date Received: 2 July 2021

Review of NSW Heritage Act 1977

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Bermagui Community Forum Management Committee: Cuttagee Bridge Case Study

This submission in respect of the review of the Heritage Act 1977 is heavily based on my personal experience and that of other members of Bermagui Community Forum management committee over the previous four months (March to June 2021) in dealing with heritage issues, the Bega Valley Shire Council (BVSC), the NSW State Government and Heritage NSW in respect of our attempted preservation of the single lane wooden Cuttagee Bridge (photo attached). Bermagui is a town of about 2,500 residents on the far south coast of NSW.

The Bermagui Community Forum (BCF) is an information channel for the Bermagui community and a representative voice for majority views on relevant issues. The BCF has an email list of about 250 residents.

1 Background

The Cuttagee Bridge is 9km south of Bermagui, was built in 1935 and is approximately 100 metres in length. It was registered with Heritage NSW under a Local Environment Plan (LEP) in August 2013, at which time it was assessed to be of "very high" significance and be in "generally good" physical condition. The LEP analysis states: "The Bridge is close to the sea and has a highly evocative nature. It therefore has a high aesthetic and social value." The Bridge is in daily use linking the towns of Bermagui and Tathra.

On 10 March 2021 BVSC meeting noted that they had submitted 14 successful applications for funding under the Fixing Country Bridges program, totalling \$16.5 million, including \$7.5 million to replace Cuttagee Bridge (estimated total cost \$11.5 million). Council resolved to accept this funding offered by NSW State Govt and endorse replacing the current single lane wooden Cuttagee Bridge with a two-lane concrete bridge.

Council at this stage had not completed community consultation, heritage and environmental requirements. In fact, bridges that are heritage listed were not eligible for the State Govt funding under the Fixing Country Bridges program. The Council funding application noted the Bridge as not heritage listed.

On 31 March 2021 BVSC reconsidered the issue and decided on some alternative ways forward, but did not rescind their decision to replace the Bridge:

- Try to handover responsibility for Tathra-Bermagui Road, including 4 single lane wooden bridges, to NSW State Govt (not successful to date)
- Request term of State Govt funding for Bridge replacement be extended from 2 years to at least 4 years (not accepted and funding now withdrawn from Round 1 of program).

Community support for maintaining the wooden bridge has included: speakers at Council meetings, letters to Council, community newsletters, media, postcard campaign, rally of over 200 supporters at Bridge 8 April 2021, petition with over 12,000 signatures, and a community meeting with Council representatives on 2 June 2021 with 96 registered attendees (COVID restricted). A timber restoration engineering specialist spoke at the meeting, and his advice and experience was that a timber restoration approach is far cheaper than a concrete alternative. The cost of rejuvenating a timber Cuttagee Bridge is estimated at a third of the cost of a concrete bridge over the next 50 years.

The community meeting passed 3 motions unanimously:

- That Council commit to supporting the restoration and rejuvenation of the timber Cuttagee Bridge – including rescinding the demolition order
- That State Government expand the materials criteria for public works/bridges to include timber and other materials – especially for heritage timber structures
- That Council seek financial options to fund the restoration of the timber Cuttagee Bridge

This whole process to date has consumed hundreds of hours of community time and energy, to try to achieve an outcome that has the overwhelming support of the community. There is the opportunity for State legislation and policies, including the Heritage Act, to effectively address these issues.

2 State Heritage Significance Criteria: Economic and Tourist Value

The Heritage Act identifies 8 criteria to determine items of State Heritage Significance, see definition in Act, section 4 A. These criteria focus on historical, architectural and cultural aspects. These criteria don't go to the more positive supporting criteria to preserve heritage items, ie it's economic and tourist value to the community. Heritage tourism is very much a growth area, and should be valued as an asset by the community and the Council. The four single lane timber bridges along the coastal Tathra-Bermagui Road (Cuttagee, Murrah, Wapengo and Sandy Creek) are a unique heritage tourist opportunity for our local community. This stretch of road is off the main Princes Highway, and these bridges provide for welcome slow movement of traffic along this pristine and relatively isolated piece of coastline.

The State Government grants program for Fixing Country Bridges is actually incentivising local councils to destroy our heritage timber bridges by handing out large sums of funding (\$500m) to replace functional timber bridges with concrete bridges. This grants program needs to allow the use of materials other than concrete. As already noted, the cost of rejuvenating a timber Cuttagee Bridge is estimated at a third of the cost of a concrete bridge over the next 50 years.

Heritage NSW needs to work with other State Government agencies to ensure their programs do not incentivise destruction of heritage items by restricting the use of materials that can be used in infrastructure and public works projects.

Other close by examples of the economic and tourist value of built heritage are the village of Central Tilba which would not exist without the protection of the 1977 Heritage Act and strong community commitment to its preservation, and the town of Cobargo which lost half its historic main street in the fires of 18 months ago and is now suffering significantly from the loss of associated tourism income and employment.

It is pleasing to note that the Discussion Paper on this Heritage Act review raises the issue of economic benefits resulting from heritage tourism, page 20. The Heritage Act currently provides no recognition of the value of heritage tourism.

Recommendations:

- a. The criteria to determine items of State Heritage Significance be expanded to include heritage items with economic and tourist value.
- b. Heritage NSW develop a strategy plan to promote growth in the heritage tourism economy, including consideration of related incentives, concessions and grants.

- c. Heritage NSW identify and remedy programs in other State Government agencies that incentivise counter-productive policies that may result in destruction of heritage items, including expanding the range of prescribed materials that can be used in infrastructure and public works, including timber.

3 Enforcement and Independent Review: Local Heritage (category 4)

The Discussion Paper on this Heritage Act review, page 16, proposes a Local Heritage category 4 for items of local significance that are identified by local governments. This is noted as no change from current practice.

At a regional level most of the heritage preservation issues involve Local Heritage which is administered by the local council. Government agencies, including local councils, should be model owners and managers of heritage assets, and have sufficient resources to fulfil their respective heritage maintenance and management roles. As noted with Cuttagee Bridge, unfortunately many of the decisions taken by Council around local heritage items are primarily driven by short term financial considerations – what State Govt grants are available this month? The Council is then tempted to adjust a local heritage listing to suit their purposes. The local community is left to try to convince the Council to look at alternatives.

It would seem there is some need for an independent review of decisions taken by local councils to remove items from their local heritage listing, otherwise there is little value in a local heritage designation. For example, if there is sufficient community objection to such removal, there should be the opportunity for the Heritage Council to review the decision. If they find sufficient reason not to remove the item from the local heritage listing, then certain enforcement powers should exist.

Recommendations:

- d. Where there is reasonable evidence to suggest that a local community does not support the removal of a heritage item from a local heritage list (category 4) by a local council, that council decision should be referable to the Heritage Council for independent review and possible subsequent enforcement.

4 Interim Heritage Orders

An Interim Heritage Order (IHO) can be sought from Heritage NSW to forestall the destruction of a heritage item. However, it would appear that you have to prove the heritage item under question is under “imminent threat” eg, Council has issued a development application (DA) to demolish the heritage item, before the IHO may be granted. This was our experience in recently applying for an IHO for Cuttagee Bridge. It was considered not under imminent threat despite the clear current intention of BVSC to demolish it (as minuted by Council on 10 March 2021). In practice the time gap between the DA being issued and the demolition occurring may be less than 24 hours.

This appears to be a very “last minute” and poor operational process, where there may often be insufficient time for Heritage NSW to properly consider the IHO.

Recommendations:

- e. Where the intention is clear that a heritage item is to be significantly altered or demolished, without sufficient community consultation, an application for an Interim Heritage Order can be made to and considered by Heritage NSW. No action can be taken in respect of the heritage item for at least 28 business days from the date of application.

5 Community Driven Heritage Nomination Process

The Discussion Paper (page 17) notes that the current heritage listing procedure has been described as lengthy and complex, with some items taking more than a year to be listed on the State Heritage Register (SHR). There is no current process to engage the broader community in identifying items of value for potential listing, or for ensuring that future listings reflect the broad and diverse interests of the NSW community. We would support an easier, more efficient listing system.

Recommendations:

- f. Support for the reform proposal to introduce a community driven nomination process. Community based “early round nominations” would be submitted for Heritage Council consideration. The Heritage Council could then invite more detailed nominations from the more promising applications. Heritage NSW could provide assistance in preparing nominations.

6 Funding of Heritage NSW and Heritage Council

It is evident that neither Heritage NSW nor the Heritage Council is adequately funded. The adequate funding of these Heritage overseers should be considered an economic opportunity and not viewed as an administrative burden.

Recommendations:

- g. Heritage NSW requires proper funding so it can provide effective leadership and strategies for all levels of government, owners, corporations and community groups in identifying and protecting the state’s heritage items. The NSW Heritage Council should also be strengthened as an independent public champion of heritage. The Heritage Council should be comprised largely of recognised heritage experts and relevant organisation representatives.

Regards,

Geoff Steel

Bermagui Community Forum Management Committee

Cuttagee Bridge by David Rogers April 2021

