



New South Wales

# **Kyogle Local Environmental Plan No 18**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Planning and Infrastructure, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.  
(09/03328)

**TOM GELLIBRAND**

As delegate for the Minister for Planning and Infrastructure

## **2011 No 389**

Clause 1            Kyogle Local Environmental Plan No 18

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## **Kyogle Local Environmental Plan No 18**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Plan**

This Plan is *Kyogle Local Environmental Plan No 18*.

### **2 Commencement**

This Plan commences on the day on which it is published on the NSW legislation website.

### **3 Land to which Plan applies**

This Plan applies to certain land to which *Interim Development Order No 1—Shire of Kyogle* and *Interim Development Order No 1—Shire of Terania* apply.

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## Schedule 1      Amendment of Interim Development Order No 1—Shire of Kyogle

### [1]    Clause 2

Insert in alphabetical order in clause 2 (1):

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**Aboriginal place of heritage significance** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**Note.** The term may include (but is not limited to) places that are declared under section 84 of the *National Parks and Wildlife Act 1974* to be Aboriginal places for the purposes of that Act.

**Archaeological site** means a place that contains one or more relics.

**Demolish**, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

**Excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

***Heritage conservation area*** means an area of land of heritage significance:

- (a) shown on the Heritage Map as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 2,

and includes any heritage items situated on or within that area.

***Heritage conservation management plan*** means a document prepared in accordance with guidelines prepared by the Department of Planning and Infrastructure that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

***Heritage impact statement*** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

***Heritage item*** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 2.

**Note.** Heritage items may be shown on the Heritage Map. An inventory of heritage items is also available at the office of the Council.

***Heritage management document*** means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

***Heritage Map*** means the map marked “Kyogle Heritage Map” deposited in the office of the Council, as amended by the maps (or the specified sheets of maps) marked as follows:

***Heritage significance*** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

***Maintenance***, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the

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removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

***Nominated State heritage item*** means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

***Relic*** has the same meaning as in the *Heritage Act 1977*.

**Note.** The term is defined as follows:

***relic*** means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

***Toooloom Goldfields Map*** means the map marked “Toooloom Goldfields Map” deposited in the office of the Council, as amended by the maps (or the specified sheets of maps) marked as follows:

**[2] Clauses 2AA and 2AB**

Insert before clause 2A:

**2AA Notes**

Notes in this Order are provided for guidance and do not form part of this Order.

**2AB Consent authority**

The consent authority for the purposes of this Order is (subject to the *Environmental Planning and Assessment Act 1979*) the Council.

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### [3] Clause 33

Insert after clause 32:

#### 33 Heritage conservation

**Note.** Heritage items (if any) are listed and described in Schedule 2. The location and nature of Aboriginal objects and Aboriginal places of heritage significance may be described in Schedule 2.

##### (1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Kyogle,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

##### (2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
  - (i) a heritage item,
  - (ii) an Aboriginal object,
  - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 2 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
  - (i) on which a heritage item is located or that is within a heritage conservation area, or

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- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
  - (f) subdividing land:
    - (i) on which a heritage item is located or that is within a heritage conservation area, or
    - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

**(3) When consent not required**

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

**(4) Effect of proposed development on heritage significance**

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area,

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consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

**(5) Heritage assessment**

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

**(6) Heritage conservation management plans**

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

**(7) Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

**(8) Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment



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(which may involve consideration of a heritage impact statement), and

- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of nominated State heritage items**

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Order, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

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### [4] Schedule 2

Insert after Schedule 1:

## Schedule 2 Environmental heritage

(Clauses 2 and 33)

### Part 1 Heritage items

Locality	Item name	Address	Property description	Significance	Item no
Bonalbo	St Andrew's Presbyterian Church	10 Bonalbo Street	Lot 2, Section 6, DP 6063	Local	I368
Bonalbo	St Patrick's Catholic Church	23–25 Capen Street	Lot 1, DP 327600	Local	I004
Bonalbo	Bonalbo Cemetery	Clarence Way	Lot 7015, DP 1000923	Local	I371
Bonalbo	Bonalbo Showground	Clarence Way	Lots 47, 129, 130 and 158, DP 751077	Local	I202
Bonalbo	Pine trees	Clarence Way	Road reserve	Local	I369
Bonalbo	Bonalbo and District Community Hall	4 Koreelah Street	Lot 2, DP 835779	Local	I171
Bonalbo	Butter factory (former)	1 Sandilands Street	Lots 220 and 221, DP 855348	Local	I002
Bonalbo	CBC Bank (former)	11–15 Sandilands Street	Lot 1, Section 8, DP 6063	Local	I009
Bonalbo	Hardware store	25 Sandilands Street	Lot 13, DP 319387	Local	I011
Bonalbo	Bank of NSW (former)	26–30 Sandilands Street	Lot 1, DP 17478	Local	I010
Bonalbo	Foodworks store	27 Sandilands Street	Lot 12, DP 319387	Local	I008

Locality	Item name	Address	Property description	Significance	Item no
Bonalbo	Blacksmith's shop (former)	39 Sandilands Street	Lot 1, DP 590423	Local	I012
Bonalbo	Patrick McNamee Anzac Memorial Park	Woodenbong Road	Lot 1, DP 835779	Local	I203
Bonalbo	Masonic Lodge (former)	73 Woodenbong Road	Lot 5, Section A, DP 10036	Local	I001
Cougal	Gradys Creek Railway Bridge No 5	Gradys Creek (near the railway loop)		Local	I160
Cougal	Settlement (former)	Gradys Creek Road	Lot 16, DP 264312; Lot A, DP 388477; Lot 51, DP 620068	Local	I165
Cougal	Lions Road	Lions Road		Local	I162
Cougal	The Border railway loop	Lions Road, Richmond Gap		State	I163
Doubtful Creek	Dyraaba Hall	1856 Sextonville Road	Lot 357, DP 755732	Local	I372
Doubtful Creek	St Faith's Anglican Church	1876 Sextonville Road	Lot 4, Section 1, DP 13825	Local	I153
Dyraaba	Dyraaba Station homestead complex	755 Dyraaba Road	Lot 9, DP 1152135	Local	I156
Ettrick	Residence	39 Pines Road	Lot 1, DP 610679	Local	I157
Green Pigeon	Community centre	705 Green Pigeon Road	Lot 185, DP 755707	Local	I365
Kilgra	Wyangerie homestead	124 Homestead Road	Lot 2, DP 701764	Local	I188

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kilgra	Bundock plaque	Summerland Way and Homestead Road	Road reserve	Local	I169
Kyogle	Kyogle Homestead remains	31 Bundock Lane	Lot 64, DP 12117	Local	I044
Kyogle	Norco factory group of buildings	1–3 Chauvel Street	Lots 1 and 2, DP 1027750; Lot 2, DP 1067947	Local	I061
Kyogle	Railway Station group of buildings	Ettrick Street	Lot 12, DP 1095432; Lot 1, DP 181905	Local	I159
Kyogle	Roxy Theatre (former)	7 Geneva Street	Lot 255, DP 4517	Local	I035
Kyogle	Ambulance station (former)	8 Geneva Street	Lot 248, DP 4517	Local	I401
Kyogle	Court house	Groom and Geneva Streets	Lot 1, DP 812650	Local	I033
Kyogle	Kyogle Primary School, and listed plantings	Groom Street and Rous Road	Lot 129, DP 755734	Local	I034
Kyogle	St Andrew's Presbyterian Church	54–56 Groom Street	Lot 1, DP 328356	Local	I041
Kyogle	Presbyterian Church Hall	58 Groom Street	Lot 13, DP 9839	Local	I051
Kyogle	Police station	64–66 Groom Street	Lot 2, DP 812650	Local	I374
Kyogle	Water filtration plant	1 Plant Street	Lot 1, DP 1067865	Local	I027
Kyogle	Residence	19 Rous Street	Lot 157, DP 755734	Local	I040
Kyogle	Kyogle Cemetery	Runnymede Road	Lot 7001, DP 96777	Local	I053

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kyogle	Kyogle Council Chambers	1 Stratheden Street	Lots 282 and 283, DP 4517	Local	I050
Kyogle	Masonic Lodge	12 Stratheden Street	Lot 101, DP 781824	Local	I052
Kyogle	Clock tower	Summerland Way	Road reserve	Local	I403
Kyogle	Kyogle Croquet Club	Summerland Way	Lot 753, DP 1104367	Local	I174
Kyogle	Shops	37–39 Summerland Way	Lots 4 and 5, DP 260777	Local	I065
Kyogle	Shops	41–47 Summerland Way	Lots 6–9, DP 260777	Local	I066
Kyogle	Samios Building	55–57 Summerland Way	Lot B, DP 332801	Local	I067
Kyogle	McManus Building (former)	56–60 Summerland Way	Lot B, DP 373042	Local	I393
Kyogle	Shops	59–61 Summerland Way	Lot 2, DP 721805	Local	I068
Kyogle	Bank of Australasia (former)	62–66 Summerland Way	Lot 11, DP 1064731	Local	I084
Kyogle	Exchange Hotel	63–65 Summerland Way	Lot 2, DP 327761	Local	I069
Kyogle	CBA Bank (former)	68 Summerland Way	Lot 10, DP 871210	Local	I085
Kyogle	Shirley's Store (former)	69–71 Summerland Way	Lot 1, DP 783834	Local	I070
Kyogle	Shops	72–76 Summerland Way	Lot B, DP 180227	Local	I086

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kyogle	Shops	79 Summerland Way	Lot 22, DP 805397	Local	I071
Kyogle	Fairymount Cafe (former)	81–85 Summerland Way	Lot 12, DP 783829	Local	I072
Kyogle	Campbell's Building	82–88 Summerland Way	Lot 1, DP 301322; Lot 3, DP 783902	Local	I391
Kyogle	Birkbeck's Menswear store	87 Summerland Way	Lot 12, DP 783829	Local	I073
Kyogle	Shops	89–91 Summerland Way	Lots A and B, DP 389317	Local	I074
Kyogle	Shops	93–95 Summerland Way	Lot 1, DP 108238	Local	I075
Kyogle	Rural Bank (former)	94–100 Summerland Way	Lot 61, DP 783909	Local	I087
Kyogle	Commercial Hotel	97–101 Summerland Way	Lot 1, DP 108238	Local	I076
Kyogle	National Bank	102 Summerland Way	Lot 1, DP 191996	Local	I088
Kyogle	Shops	103–105 Summerland Way	Lot 1, DP 108444	Local	I398
Kyogle	Boden's building (former)	107 Summerland Way	Lot B, DP 303016	Local	I077
Kyogle	Chemist shop	109 Summerland Way	Lot A, DP 302393	Local	I078
Kyogle	Commonwealth Bank	114–116 Summerland Way	Lot B, DP 303638	Local	I089

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kyogle	Junor's Store (former)	115 Summerland Way	Lot 1, DP 347576	Local	I079
Kyogle	Shops	118–120 Summerland Way	Lot 1, DP 657255	Local	I090
Kyogle	Shops	121–125 Summerland Way	Lot 1, DP 393777; Lots A and B, DP 394481	Local	I080
Kyogle	Kyogle Memorial Institute building and carbon-arc movie projectors within the building	133 Summerland Way	Lot 19, DP 783828	Local	I081
Kyogle	Bank of NSW (former)	136 Summerland Way	Lot 2, DP 508115	Local	I092
Kyogle	Queensland National Bank (former)	138–140 Summerland Way	Lot A, DP 403007	Local	I093
Kyogle	Offices	143–147 Summerland Way	Lot 21, DP 783901	Local	I397
Kyogle	Doctor's surgery (former)	144 Summerland Way	Lot 2, DP 735743	Local	I095
Kyogle	Post office	149 Summerland Way	Lot 1, DP 776479	Local	I082
Kyogle	Kyogle Citizens Band Hall	176 Summerland Way	Lot 1, DP 532420	Local	I054
Kyogle	Kyogle Private Hospital (former)	181 Summerland Way	Lot 33, DP 781774	Local	I056

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Kyogle	Greenwood building and landscape	433 Summerland Way	Lot 11, DP 1035629	Local	I190
Kyogle	Trees (Derridale)	13171 Summerland Way	Lot 6, DP 623399	Local	I176
Kyogle	Kyogle Historical Museum	10 Wiangarie Street	Lot 1, DP 781677	Local	I062
Mallanganee	Trees (Carey Johnson Memorial Avenue)	Bonalbo Street	Road reserve	Local	I178
Mallanganee	Memorial Hall	5–7 Bonalbo Street	Lot 52, DP 752395	Local	I101
Mallanganee	Pie shop	4 Pine Street	Lot A, DP 399099	Local	I102
Mallanganee	Service station complex	18–22 Sandilands Street	Lot 1, DP 204959; Lot 21, DP 711890; Lot 4, Section 1, DP 758639	Local	I106
Mallanganee	Cafe (former)	44 Sandilands Street	Lot A, DP 392198	Local	I107
Mallanganee	Memorial Park gateway	53 Sandilands Street	Lot A, DP 367971	Local	I105
Mallanganee	General store and post office	60–62 Sandilands Street	Lot 1, Section 4, DP 123614; Lot 111, DP 47440	Local	I109
Mallanganee	Butcher's shop (former)	63 Sandilands Street	Lot 3, DP 6547	Local	I381
Mallanganee	Bank (former)	64 Sandilands Street	Lot 10, DP 304994	Local	I108
Mallanganee	Barber shop (former)	72 Sandilands Street	Lot 12, DP 312249	Local	I104



<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Mallanganee	School	38–52 Tooloom Street	Lot 70, DP 752395	Local	I111
Mallanganee	Our Lady of Perpetual Succour Catholic Church	57 Tooloom Street	Lot 2, Section 3, DP 758639	Local	I114
Mallanganee	Convent (former)	59 Tooloom Street	Lot 3, Section 3, DP 758639	Local	I113
Mallanganee	Catholic school (former)	62 Tooloom Street	Lot 100, DP 752395	Local	I112
Mallanganee South	Finger Board building	Old Lawrence Road		Local	I378
Mallanganee South	Survey tree	969 Old Lawrence Road		Local	I380
Mummulgum	Catholic church (former)	8 Bingebeebebra Road	Lot 97, DP 755723	Local	I117
Mummulgum	St Mary's Anglican Church	5825 Bruxner Highway	Lot 101, DP 755723	Local	I116
New Park	Alcorn Park	Summerland Way	Lot 756, DP 1104367	Local	I173
New Park	Alcorn Park band rotunda	Summerland Way	Lot 756, DP 1104367	Local	I023
New Park	Showground and grandstand	43 Summerland Way	Lot 118, DP 44795	Local	I057
Old Bonalbo	Pioneer Park	Clarence Way	Road reserve	Local	I405
Old Bonalbo	Store (former)	15242 Clarence Way	Lot A, DP 365820	Local	I015
Old Bonalbo	Post office and general store	Duck Creek Road	Lot 2, DP 167973	Local	I019
Old Bonalbo	Old Bonalbo Community Hall	8 Duck Creek Road	Lot 3, DP 166762	Local	I014

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Old Bonalbo	Bean Creek Falls	Falls Road	Lot 7012, DP 1108188; Lots 2 and 3, DP 543736	Local	I399
Old Bonalbo	MJI Motor Cycle Garage	2 Prince Street	Lot 1, DP 613972	Local	I017
Old Bonalbo	Old Bonalbo Cemetery	Remembrance Drive	Lot 7014, DP 96676	Local	I375
Old Grevillia	Moore Park nature reserve	Findon Creek Road	Lot 1, DP 180655	Local	I193
Paddys Flat	Bridge (over Tooloom Creek)	Paddys Flat Road	Road reserve	Local	I395
Pagans Flat	Minneys Creek bridge	Clarence Way	Road reserve	Local	I394
Richmond Gap	Border tick gate	Lions Road	Road reserve	Local	I166
Sandilands	Mallanganee Rodeo Ground	Bruxner Highway	Lot 7002, DP 96390	Local	I182
Sandilands	Sculpture garden	Bruxner Highway	Reserve No 21418	Local	I184
Sandilands	Sandilands Station complex	7689 Bruxner Highway	Lot 1, DP 123612	Local	I183
Tabulam	Bridge (over Clarence River)	Bruxner Highway	Road reserve	State	I154
Tabulam	Chauvel Park (former Tabulam Station)	Clarence Street	Lot 5, DP 833655	Local	I186
Tabulam	St John's Church	26 Clarence Street	Lot 5, Section 1, DP 11813	Local	I382
Tabulam	Hotel	34–42 Clarence Street	Lot 1, Section 1, DP 11813	Local	I383
Tabulam	Post office	12–14 Court Street	Lot 214, DP 39896	Local	I118

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Tabulam	Police station	17–19 Court Street	Lot 1, Section 2, DP 11813	Local	I373
Tabulam	Tabulam Racecourse	Racecourse Road	Lot 34, DP 752397	Local	I187
Tabulam	Tabulam Cemetery	219 Racecourse Road	Lot 7017, DP 1066120	Local	I376
The Risk	Trees (Bottle Brush Avenue)	Gradys Creek Road	Road reserve	Local	I192
The Risk	The Risk Hall	75 Gradys Creek Road	Lot 1, DP 322341	Local	I362
The Risk	Water facilities	Risk Road	Lot 2, DP 859278	Local	I409
Unumgar	Dairy flat landscape	Summerland Way	Lot 7013, DP 105600; Lot 7004, DP 1057677; Lot 7300, DP 1129206; Lot 46, DP 755750	Local	I196
Unumgar	Unumgar Homestead landscape	4135 Summerland Way	Part Lot 1, DP 531985	Local	I194
Urbenville	Showground and memorial gates	Clarence Way	Lot 24, DP 751069	Local	I200
Wiangaree	Wiangaree Community Hall	1393 Summerland Way	Lot 8, Section 7, DP 759088	Local	I150
Wiangaree	St John's Anglican Church	Worendo Street	Lot 1, Section 10, DP 759088	Local	I151
Wiangaree	General store	60 Worendo Street	Lot 9, Section 8, DP 759088	Local	I149
Woodenbong	Post office (former)	14 Dalmorton Street	Lot 2, DP 629397	Local	I121

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Woodenbong	Hardware and electrical store	17 Dalmorton Street	Lot 11, DP 748304	Local	I134
Woodenbong	Woodenbong Cemetery	95 Hill View Street	Lot 7004, DP 1055062	Local	I199
Woodenbong	Showground	1 Lindsay Creek Road	Lot 7005, DP 1055056	Local	I197
Woodenbong	St Margaret's Anglican Church	20 Lindsay Street	Lot 91, DP 733874	Local	I119
Woodenbong	Masonic Lodge (former)	41 Lindsay Street	Lot 4, Section 5, DP 759111	Local	I384
Woodenbong	Woodenbong School memorial gates and classroom	42 Lindsay Street	Lots 1 and 2, Section 2, DP 759111	Local	I146
Woodenbong	War Memorial Hall	49 Lindsay Street	Lot 15, Section 5, DP 759111	Local	I120
Woodenbong	Sacred Heart Catholic Church	11–13 MacPherson Street	Lot 9, Section 9, DP 759111	Local	I135
Woodenbong	Sketchley's store	21 MacPherson Street	Lot 5, Section 9, DP 759111	Local	I137
Woodenbong	Store (former)	24 MacPherson Street	Lot 9, Section 4, DP 759111	Local	I129
Woodenbong	Bakery (former)	25 MacPherson Street	Lot 3, Section 9, DP 759111	Local	I122
Woodenbong	BJs grocery store	27 MacPherson Street	Lot 10, DP 748304	Local	I123
Woodenbong	National Australia Bank building	34 MacPherson Street	Lot 14, Section 4, DP 759111	Local	I131
Woodenbong	CWA Rooms	36 MacPherson Street	Lot 15, DP 662572	Local	I125

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Locality	Item name	Address	Property description	Significance	Item no
Woodenbong	M & L Quality Meats store	37 MacPherson Street	Lot 4, Section 8, DP 759111	Local	I124
Woodenbong	Chemist shop	39 MacPherson Street	Lot 3, Section 8, DP 759111	Local	I128
Woodenbong	Offices (former)	42 MacPherson Street	Lot 7, Section 5, DP 759111	Local	I126
Woodenbong	Woodenbong Hotel	43 MacPherson Street	Lot 1, Section 8, DP 759111	Local	I145
Woodenbong	Recreation ground	Unumgar Street	Lot 7008, DP 1075469	Local	I198
Woodenbong	Police station	1–5 Unumgar Street	Lot 7001, DP 92987	Local	I147
Woodenbong	Woodenbong Public Hall	21–23 Unumgar Street	Lot 14, Section 5, DP 759111	Local	I148
Woodenbong	Carole's Arts and Craft shop	30 Unumgar Street	Lot 3, Section 6, DP 759111	Local	I144
Woodenbong	Service station (former)	34 Unumgar Street	Lot 51, DP 819346	Local	I143

## Part 2 Heritage conservation areas

Locality	Item name	Identification on heritage map	Significance
Kyogle	Kyogle Town Heritage Conservation Area	Shown by a red outline with red hatching and labelled "C396"	Local

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**Part 3 Archaeological sites**

<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Dyraaba	Dyraaba Station Cemetery	755 Dyraaba Road	Lot 2, DP 755704	Local	A392
Green Pigeon	Sawmilling complex (former)	1047–1055 Green Pigeon Road (and adjoining reserves)	Lots 141, 143 and 144, DP 257506; Lot 5, DP 625056	Local	A155
Kilgra	Wiangaree Bundock Family Cemetery	Apple Tree Stud, Summerland Way	Lot 2, DP 943796	Local	A189
Old Bonalbo	Jane Robertson's grave	15249–15297 Clarence Way	Lot 7, DP 751077	Local	A201
Paddys Flat and Tooloom	Goldfields		As shown edged heavy black, coloured green and labelled "A164" on the map marked "Tooloom Goldfields Map"	Local	A164
Sandilands	Sandilands Cemeteries	7689 Bruxner Highway	Lot 1, DP 123612	Local	A367
Tabulam	Tabulam Old Cemetery	Charles Street	Lot 7003, DP 1068672	Local	A377
Tooloom	Tooloom Cemetery	Paddys Flat Road	Lot 7001, DP 1068822	Local	A360
Tooloom	Queen's Arms Hotel site	Paddys Flat Road	Lot 2, DP 751080	Local	A361

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<b>Locality</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item no</b>
Tooloom	Tooloom village site	Paddys Flat Road	Lots 1, 2, 25 and 26, DP 751080; Lots 7002–7004, DP 1068822; Lot 2, DP 859360	Local	A185
Unumgar	Unumgar Hill Family Cemetery	4135 Summerland Way	Part Lot 1, DP 531985	Local	A195

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**[1] Clauses 2AA and 2AB**

Insert before clause 2A:

**2AA Notes**

Notes in this Order are provided for guidance and do not form part of this Order.

**2AB Consent authority**

The consent authority for the purposes of this Order is (subject to the *Environmental Planning and Assessment Act 1979*) the Council.

**[2] Clause 3**

Insert in alphabetical order in clause 3 (1):

***Aboriginal object*** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

***Aboriginal place of heritage significance*** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**Note.** The term may include (but is not limited to) places that are declared under section 84 of the *National Parks and Wildlife Act 1974* to be Aboriginal places for the purposes of that Act.



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**Archaeological site** means a place that contains one or more relics.

**Demolish**, in relation to a heritage item or an Aboriginal object, means wholly or partly destroy, dismantle or deface the heritage item or Aboriginal object.

**Excavation** means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

**Heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Department of Planning and Infrastructure that documents the heritage significance of an item and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**Heritage impact statement** means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**Heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 2.

**Note.** An inventory of heritage items is also available at the office of the Council.

**Heritage management document** means:

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object or Aboriginal place of heritage significance.

**Heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**Maintenance**, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

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***Nominated State heritage item*** means a heritage item that:

- (a) has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and
- (b) the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.

***Relic*** has the same meaning as in the *Heritage Act 1977*.

**Note.** The term is defined as follows:

***relic*** means any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance.

### [3] Clause 26

Insert after clause 25:

#### 26 Heritage conservation

**Note.** Heritage items (if any) are listed and described in Schedule 2.

The location and nature of Aboriginal objects and Aboriginal places of heritage significance may be described in Schedule 2.

##### (1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of so much of the land that was within the former Shire of Terania that is within the local government area of Kyogle,
- (b) to conserve the heritage significance of heritage items, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

##### (2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
  - (i) a heritage item,
  - (ii) an Aboriginal object,

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- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 2 in relation to the item,
  - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (d) disturbing or excavating an Aboriginal place of heritage significance,
  - (e) erecting a building on land:
    - (i) on which a heritage item is located, or
    - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
  - (f) subdividing land:
    - (i) on which a heritage item is located, or
    - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.
- (3) **When consent not required**

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site, and
  - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place or archaeological site, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave

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goods, or to an Aboriginal place of heritage significance, or

- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) **Effect of proposed development on heritage significance**

The consent authority must, before granting consent under this clause in respect of a heritage item, consider the effect of the proposed development on the heritage significance of the item concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment**

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within the vicinity of land on which a heritage item is located,

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

(6) **Heritage conservation management plans**

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) **Aboriginal places of heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) **Demolition of nominated State heritage items**

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Order, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its

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setting, or the heritage significance of the Aboriginal place of heritage significance, and

- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### [4] Schedule 2

Insert after Schedule 1:

## Schedule 2 Environmental heritage

(Clauses 3 and 26)

Locality	Item name	Address	Property description	Significance	Item no
Cawongla	Homestead	1933 Cawongla Road	Lot E, DP 412306	Local	I022
Cawongla	Bunya pines	Kyogle Road	Opposite store at 5329 Kyogle Road	Local	I205
Cawongla	Store	5329 Kyogle Road	Lot 101, DP 875472	Local	I021
Lillian Rock	Memorial gate	Caldera Lane	Road reserve	Local	I161
Wadeville	Barkers Vale School (former Daystar Steiner School)	4501–4504 Kyogle Road	Lot 23, DP 792111	Local	I152
Wadeville	Hanging Rock Hall	77 Williams Road	Lot 188, DP 728691	Local	I404