

# Statement of Recommendation from the Executive Director, Heritage Victoria

Kings Bridge, Bendigo Creek, H1935

Weeroona Avenue, Bendigo and North Bendigo, Greater Bendigo City

Dja Dja Wurrung Country



## Executive Director recommendation:

I recommend to the Heritage Council of Victoria (Heritage Council) that Kings Bridge, Bendigo Creek, located at Weeroonda Avenue, Bendigo and North Bendigo, Greater Bendigo City in the Victorian Heritage Register (VHR) be amended.

In accordance with section 62 and Part 3, Division 3 of the *Heritage Act 2017* (the Act), I suggest that the Heritage Council:

- determine to include additional land in the VHR being all of the place shown hatched on Diagram 1935 in accordance with section 49(1)(d) (ii) of the Act; and
- determine that the categories of works or activities which may be carried out in relation to the place for which a permit is not required (specific permit exemptions) would not harm the cultural heritage significance of the place, in accordance section 49(3)(a) of the Act.



**STEVEN AVERY**

**Executive Director, Heritage Victoria**

**Date of recommendation: 9 January 2025**

## The process from here

### 1. The Heritage Council publishes the Executive Director's recommendation (section 41)

The Heritage Council will publish the Executive Director's recommendation on its website for a period of 60 days.

### 2. Making a submission to the Heritage Council (sections 44 and 45)

Within the 60-day publication period, any person or body may make a written submission to the Heritage Council. This submission can support the recommendation, or object to the recommendation and a hearing can be requested in relation to the submission. Information about making a submission and submission forms are available on the Heritage Council's website.

### 3. Heritage Council determination (sections 46, 46A and 49)

The Heritage Council is an independent statutory body. It is responsible for making the final determination to include or not include the place, object or land in the VHR or amend a place, object or land already in the VHR.

If no submissions are received the Heritage Council must make a determination within 40 days of the publication closing date.

If submissions are received, the Heritage Council may decide to hold a hearing in relation to the submission. The Heritage Council must conduct a hearing if the submission is made by a person or body with a real or substantial interest in the place, object or land. If a hearing does take place, the Heritage Council must make a determination within 90 days after the completion of the hearing.

### 4. Obligations of owners of places, objects and land (sections 42, 42A, 42B, 42C, 42D and 43)

The owner of a place, object or land which is the subject of a recommendation to the Heritage Council has certain obligations under the Act. These relate to advising the Executive Director in writing of any works or activities that are being carried out, proposed or planned for the place, object or land.

The owner also has an obligation to provide a copy of this statement of recommendation to any potential purchasers of the place, object or land before entering into a contract.

### 5. Further information

The relevant sections of the Act are provided at Appendix 1.

## Description

The following is a description of the Kings Bridge, Bendigo Creek at the time of the site inspection by Heritage Victoria in September 2024

The Kings Bridge is located on the traditional land of the Dja Dja Wurrung People.

Kings Bridge is a road bridge over the Bendigo Creek that links the eastern and western sides of Weeroona Avenue. The bridge has four-lanes and a pedestrian footpath on its northern side. The northern side has the original lattice balustrade to this footpath, between two square masonry end posts. The bridge has an unusually high skew, meaning that it crosses the Bendigo Creek at an acute angle rather than perpendicular to the banks of the creek.

The bridge is a two-span concrete arch bridge, measuring 13.2 metres along the skew. Each of the arches has a 2.6 metre rise and the width of the roadway between parapets is 7.3 metres. The spandrels are of rendered brickwork. To the south, the bridge was extended by two lanes in 2004, when a new bridge was constructed next to the original bridge. The 2004 extension to the bridge is virtually indistinguishable when standing on the bridge. Beneath the bridge, there is a channel between the old structure and the new structure. During the construction of the 2004 extension to the bridge, the original wrought iron balustrade was relocated to the north edge of the bridge, and modern guardrails (2004) introduced on the southern edge.

Underneath the bridge is the Bendigo Creek and a bike trail. The setting of Bendigo Creek is residential in character. To the south of the bridge is Lake Weeroona.

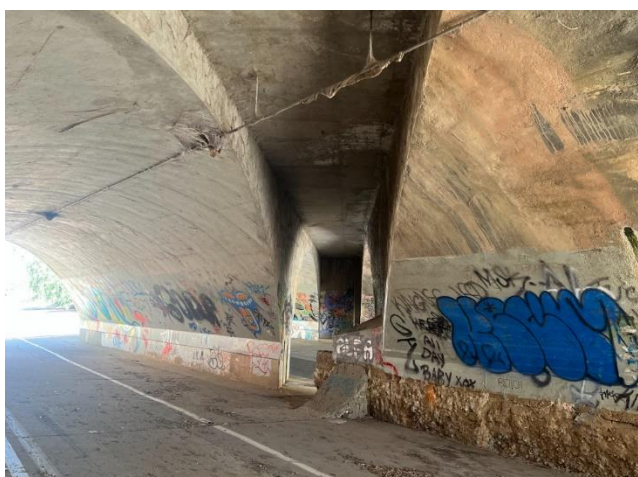
## Description images



2024. 1902 section of the bridge, viewed from the north (upstream).



2024. 2004 section of the bridge viewed from the south.



2024. Seam between the 2004 bridge (left) and 1902 bridge (right) viewed from underneath.



2024. Lattice balustrade, which was relocated to the northern (upstream) edge of the bridge during the bridge extension in 2004.

## History

### John Monash and Monier Arch Bridges

John Monash gained his early engineering experience in the 1880s and 1890s working on a range of engineering projects throughout Australia. He completed his Bachelor of Civil Engineering at the end of 1890 and achieved a Master of Civil Engineering in 1893. In 1921 he obtained a Doctorate of Engineering. Following his significant career in the Australian Imperial Force during World War I, Monash went on to become General Manager of the newly formed 'State Electricity Commission' in 1924 organising the development of the Latrobe Valley Brown Coal power generation system.

His early employment in the engineering field included supervising construction works on the Outer Circle Railway for the contractors Graham and Wadick and working as Assistant Engineer and Chief Draftsman for the Melbourne Harbour Trust. Both jobs involved some bridge construction, including a wrought iron bridge over the Yarra River as part of railway works, and the Footscray Swing Bridge over the Maribyrnong River, constructed for the Harbour Trust.

In 1894, Monash went into partnership with J.T. Noble Anderson, an Irish born engineer who had tutored Monash at the University of Melbourne. The firm found some success in 1897 when Anderson met Sydney engineer Frank Gummow, of the firm Carter Gummow and Co. This firm had already acquired the New South Wales and Victorian patents for the Monier system of reinforced concrete construction.

### First failed attempt at Kings Bridge construction (1901)

The first Kings Bridge was built in 1901 to the Monier arch patent design. The bridge was of reinforced concrete construction with a single span across Bendigo Creek.

In May 1901, during testing of Kings Bridge with a steam roller and steam traction engine, spalling of concrete was noted prior to the bridge failing. A third of the width of the arch and spandrel wall fell into the creek, taking the steam traction engine with it and killing a business associate of the traction engine's owner. William Charles Kernot, Professor of Engineering at the University of Melbourne, was retained to investigate the causes of collapse on behalf of Monash and Anderson. He identified the reason for failure as the inability of the abutment concrete to resist the magnified stresses imposed by the highly skewed arch.

### Second and successful attempt Kings Bridge construction (1901-02)

For the second attempt to construct Kings Bridge, Monash and Anderson retained the surviving abutments and built a new pier midstream. This meant that the bridge had two arches, each of a 13.2 metre span rather than 28.5 metre single span. They proposed this to reduce the calculated thrust on the abutments to little more than a quarter of the value for the single arch. This design had the added benefit of reducing the skew-span to width ratio by more than half and situated the abutments of each arch more directly opposite each other.

When the second Kings Bridge survived load testing, Monash and Anderson were free to continue with the remaining Bendigo contracts. They constructed eight arch bridges in total for the Bendigo Council, of which, six survive. Later Monash would go on to realise that in most situations it was more economic and practicable to build a girder bridge than an arched bridge.

## Historical images



1901. Kings Bridge collapse. Source University of Melbourne Archives [1964.0012] Records and photographs of the Reinforced Concrete and Monier Pipe Construction Co. Pty Ltd.



1901. First Kings Bridge collapse. Source: University of Melbourne Archives [1964.0012] Records and photographs of the Reinforced Concrete and Monier Pipe Construction Co. Pty Ltd



1901. First failed Kings Bridge (single, long span bridge) Test Source: University of Melbourne Archives [1964.0012] Records and photographs of the Reinforced Concrete and Monier Pipe Construction Co. Pty Ltd.



1902. Second successful Kings Bridge, Bendigo. Source: University of Melbourne Archives [1964.0012] Records and photographs of the Reinforced Concrete and Monier Pipe Construction Co. Pty Ltd.

## Selected bibliography

Engineering Heritage Victoria. *Nomination for Monier Bridges in Bendigo*. For Engineering Heritage Australia, Heritage Recognition Program. 2014.

Gary Vines. *National Trust Study of Victoria's Concrete Road Bridges*. Funded by VicRoads and Heritage Victoria. 2008 (revised 2010).

Geoffrey Serle. 'Monash, Sir John (1865-1931)'. Australian Dictionary of Biography, National Centre of Biography, Australian National University. <https://adb.anu.edu.au/biography/monash-sir-john7618/text13331>. Published first in hardcopy in 1986, accessed online 13 November 2024.



## Further information

### Traditional Owner Information

The place is located on the traditional land of the Dja Dja Wurrung People. Under the *Aboriginal Heritage Act 2006*, the Registered Aboriginal Party for this land is the Dja Dja Wurrung Clans Aboriginal Corporation.

### Native Title

Native title is the recognition in Australian law that some Aboriginal and Torres Strait Islander people continue to hold rights and interests in land and water. Native title is not granted by governments. It is recognised through a determination made by the Federal Court of Australia under the *Native Title Act 1993* (Cth).

In 2010, acknowledging the difficult nature of having native title determined under the Native Title Act, the Victorian Government developed an alternate system for recognising the rights of Victorian traditional owners. The *Traditional Owner Settlement Act 2010* (Vic) allows the government and traditional owner groups to make agreements that recognise traditional owners' relationship to land and provide them with certain rights on Crown land.

There is a Recognition and Settlement Agreement under the *Traditional Owner Settlement Act 2010* between the Victorian Government and the Dja Dja Wurrung Clans Aboriginal Corporation which recognises the Dja Dja Wurrung as the Traditional Owner group of public land within the boundaries of the agreement area. The place is not within one of the jointly managed parks and reserves under the agreement.

### Victorian Aboriginal Heritage Register

The place is in an area of Aboriginal cultural heritage sensitivity associated with the Bendigo Creek.

(October 2024)

### Integrity

The integrity of the place is very good. The cultural heritage values of the Kings Bridge, Bendigo Creek can be easily read in the extant fabric.

(September 2024)

### Intactness

The intactness of the place is good.

The place is relatively intact. The 2004 extension of the bridge has been sensitively done and is visible as an addition when viewed from below.

(September 2024)

### Condition

The condition the place is good.

There is graffiti to the concrete arch above the channel. There is also evidence of concrete cracking and spalling to the underside of the arch.

(September 2024)

Note: The condition of a place or object does not influence the assessment of its cultural heritage significance. A place or object may be in very poor condition and still be of very high cultural heritage significance. Alternatively, a place or object may be in excellent condition but be of low cultural heritage significance.

## Amendment recommendation

### State-level cultural heritage significance of the place

The State-level cultural heritage significance of the Kings Bridge, Bendigo Creek was recognised in 2001 by its inclusion in the Victorian Heritage Register.

### Amendment application

On 26 November 2024 the Executive Director made and accepted an application to amend the registration of the place to ensure it is consistent with current practices under the Act.

### Additional land

The Executive Director recommends that the Heritage Council amend this registration because in accordance with section 40(4)(c) (ii):

- (ii) the additional land surrounds the place and is important to the protection or conservation of the place; or contributes to the understanding of the place.

### Assessment and summary under section 40(4)(c)(ii)

- The current extent is limited to the bridge fabric itself, and associated walls and abutments. Therefore, it is insufficient to protect, conserve and allow for a proper understanding of the place.
- The land proposed for inclusion is and has been used in conjunction with the place. The land proposed for inclusion allows for an understanding of the relationship between the bridge and Bendigo Creek.
- The proposed extent includes an area around the bridge, and the land beneath including the Bendigo Creek and the bike trail. This provides an appropriate setting for the bridge which allows for an understanding of the place.
- Including an area of land around the bridge will enable works immediately adjacent to and underneath the bridge (for example, further revitalisation of the bike trail that runs underneath the bridge or works to manage erosion around the northern abutments) to be managed under an approval process.

## Statutory requirements under section 40

### Terms of the recommendation (section 40(3)(a))

The Executive Director recommends that the registration of Kings Bridge, Bendigo Creek in the VHR is amended.

### Information to identify the place or object or land (section 40(3)(b))

**Number:** H1935

**Category:** Registered Place.

**Name:** Kings Bridge, Bendigo Creek

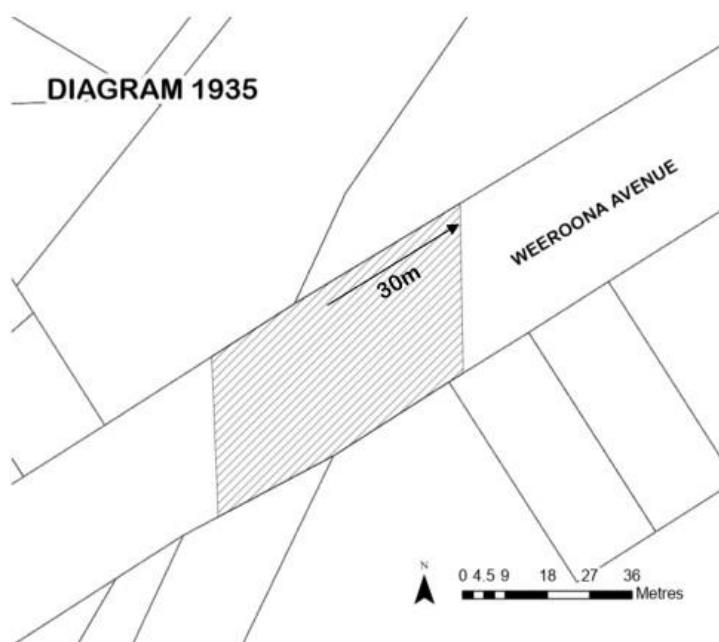
**Location:** Weeroona Avenue Bendigo and North Bendigo

**Municipality:** Greater Bendigo City

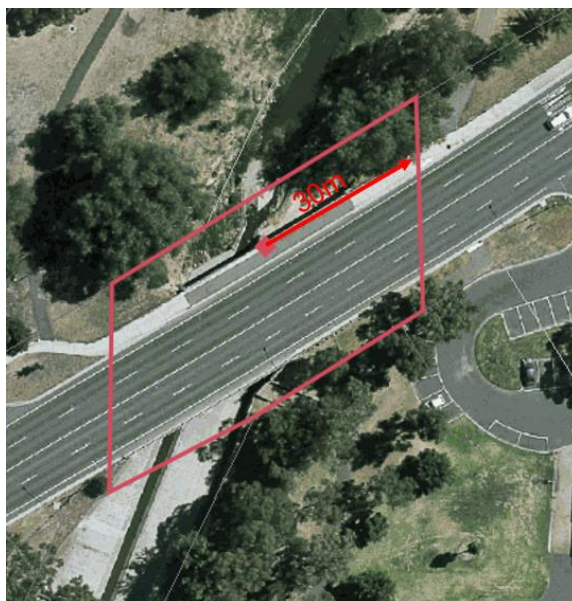
### Proposed extent of registration

The Executive Director recommends that the extent of registration for Kings Bridge, Bendigo Creek be gazetted as:

All of the place shown hatched on Diagram 1935 encompassing part of the road reserve for Weeroona Avenue to the extent of 30m from the midpoint of Kings Bridge outwards and the width of the road reserve.



## Aerial Photo of the Place Showing Proposed extent of registration



Note: This aerial view provides a visual representation of the place. It is not a precise representation of the recommended extent of registration. Due to distortions associated with aerial photography some elements of the place may appear as though they are outside the extent of registration.

### Rationale for the extent of registration

The recommended extent of registration comprises the bridge over Bendigo Creek, including the 2004 new bridge to the immediate south. As there were no allotments for this road casement, the extent was drafted using the bridge structure itself. Using the distance between the two masonry end posts, the midpoint of the bridge could be found. Measuring 30 metres from the midpoint in the eastern and western directions along the roadway captures the entirety of the bridge structure.

The recommended extent of the registration is the same as the nominated extent of registration.

It should be noted that everything included in the proposed extent of registration including all of the bridge, the land, the section of the creek underneath the bridge, the creek beds, and the abutments is proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

## Summary of cultural heritage significance (section 40(4))

### Statement of significance

#### What is significant?

The Kings Bridge over Bendigo Creek, a two-span Monier concrete arch bridge constructed by Monash & Anderson for the City of Bendigo and built between 1901-02. The original 1902 bridge comprises the two lanes and pedestrian walkway to the north. The bridge was extended by two lanes to the south in 2004. The northern side retains the original balustrade being a lattice of wrought iron flats between masonry end posts.

#### How is it significant?

The Kings Bridge, Bendigo Creek is of historical and technological significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

##### Criterion A

Importance to the course, or pattern, of Victoria's cultural history.

##### Criterion F

Importance in demonstrating a high degree of creative or technical achievement at a particular period.

##### Criterion H

Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

#### Why is it significant?

The Kings Bridge, Bendigo Creek is historically significant for its ability to demonstrate the development of reinforced concrete bridges in Victoria. The Kings Bridge is one of eight Monier arch bridges built in Bendigo between 1900 and 1902 as part of the city's urban improvement strategy to manage flooding at the Bendigo Creek. The Monier Arch bridges reflect the change from predominantly masonry or timber bridges to reinforced concrete road bridges in Victoria. The failure of the first King's Bridge was an early lesson in the application of Monier arch bridges which demonstrated the limitations of the original bridge design. [Criterion A]

The Kings Bridge, Bendigo Creek is technically significant as an example of the Monier concrete arch bridges constructed by Monash & Anderson. The failure of the first bridge under load testing enabled engineers to better understand the structural problems of extremely skewed bridges. The construction of the midstream pier represents a resourceful response to the problems of the site following the failure of the firm's attempted single span bridge across Bendigo Creek in 1901, which had pushed the boundaries of new approaches to the design and construction of reinforced concrete bridges. [Criterion F]

The Kings Bridge, Bendigo Creek is significant for the active involvement of Sir John Monash in its design and construction, and the important role that it, and the first failed attempt at this bridge, played in the development of his career and engineering technology. [Criterion H]

## Recommended permit exemptions under section 38

### Introduction

A [heritage permit](#) is required for all works and activities undertaken in relation to VHR places and objects. Certain works and activities are [exempt from a heritage permit](#), if the proposed works will not harm the cultural heritage significance of the heritage place or object.

### Permit Policy

It is recommended that a Conservation Management Plan is utilised to manage the place in a manner which respects its cultural heritage significance.

### Permit Exemptions

#### General Exemptions

General exemptions apply to all places and objects included in the VHR. General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which don't harm its cultural heritage significance, to proceed without the need to obtain approvals under the Act.

**Places of worship:** In some circumstances, you can alter a place of worship to accommodate religious practices without a permit, but you must notify the Executive Director before you start the works or activities at least 20 business days before the works or activities are to commence.

**Subdivision/consolidation:** Permit exemptions exist for some subdivisions and consolidations. If the subdivision or consolidation is in accordance with a planning permit granted under Part 4 of the *Planning and Environment Act 1987* and the application for the planning permit was referred to the Executive Director as a determining referral authority, a permit is not required.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions [here](#).

#### Specific Exemptions

The works and activities below are not considered to cause harm to the cultural heritage significance of the Kings Bridge, Bendigo Creek subject to the following guidelines and conditions:

##### Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the Act and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.

5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.
6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works or activities in accordance with this category. Approvals under Part 5 of the Act must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.
8. All works should be informed by a Conservation Management Plan prepared for the place or object. The Executive Director is not bound by any Conservation Management Plan and permits still must be obtained for works suggested in any Conservation Management Plan.

### **Conditions**

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.
2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006*.
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Aboriginal Heritage Council (as defined in the *Aboriginal Heritage Act 2006*).

### **Exempt works and activities**

1. Repair and maintenance to the road surface and footpath.
2. Repair, maintenance, upgrade, and replacement to the modern balustrade (introduced 2004) on the south side of the bridge.
3. Repair, maintenance and resurfacing of the bike trail.
4. Pruning, lopping or removal of trees and vegetation.
5. Repair, maintenance and renewal of existing infrastructure underneath the bridge.

## Existing registration details

### Existing extent of registration

1. All of the structure known as the Weeroona Avenue (King's) Bridge, over Bendigo Creek, including the abutments marked B1 on Diagram HER/2000/000240 held by the Executive Director

### Existing statement of significance

#### What is significant?

The Weeroona Avenue Bridge was one of eight Monier concrete arch bridges constructed by Monash & Anderson for the City of Bendigo during 1900-02. Designed by Sydney engineers Gummow Forrest & Co, in conjunction with Monash & Anderson, this two span bridge replaced an earlier single span Monier arch bridge built at this site by Monash & Anderson which failed during load testing. The abutments of the original bridge were re-used in the second bridge. The bridge has an unusually high skew of 50 degrees, and the span of the arches measured along the skew is 13.2 metres. The rise of each arch is 2.6 metres, and the width of the roadway between parapets is 7.3 metres. The spandrels are of rendered brickwork, and the southern (upstream) side of the bridge retains the original balustrade, a lattice of wrought iron flats with brick newel posts.

#### How is it significant?

The Weeroona Avenue Bridge is of scientific and historical significance to the State of Victoria.

#### Why is it significant?

The Weeroona Avenue Bridge is of scientific importance as an extraordinary example of the Monier concrete arch bridges designed and constructed by Monash & Anderson, and demonstrates an important stage in the development of reinforced concrete technology and early twentieth century engineering. It represents a resourceful response to the problems of the site following the failure of the firm's single span bridge, which had pushed the boundaries of the new reinforced concrete design and construction. The unusually high skew of the bridge is rare, and the use of wrought iron lattice balustrades is demonstrable evidence of Monash's attempt to lighten the load on the edges of the arch following the collapse of the first bridge which had heavy brick balustrades.

The Weeroona Avenue bridge has historical significance for the active involvement of (Sir) John Monash in its design and construction, and of the important role that it, and its failed predecessor, played in the development of his career. It also has historical importance in demonstrating the Bendigo Council's enterprise and confidence in adopting new technology for its early twentieth century drainage system and urban improvements.

### Existing permit policy and permit exemptions

#### PERMIT EXEMPTIONS POLICY:

The following permit exemptions are based on the fact that the primary significance of the place lies in its intact original masonry and concrete structure and one remaining lattice balustrade.

#### EXEMPTIONS FROM PERMITS:

(Classes of works or activities which may be undertaken without a permit under Part 4 of the Heritage Act 1995)

DRAFT - NOT YET APPROVED BY THE HERITAGE COUNCIL

#### General Conditions:

1. All exempted alterations are to be planned and carried out in a manner which prevents damage to the fabric of the registered place or object.
2. Should it become apparent during further inspection or the carrying out of alterations that original or previously hidden or inaccessible details of the place or object are revealed which relate to the significance of the place or object, then the exemption covering such alteration shall cease and the Executive Director shall be notified as soon as possible.
3. If there is a conservation policy and plan approved by the Executive Director, all works shall be in accordance with it.
4. Nothing in this declaration prevents the Executive Director from amending or rescinding all or any of the permit exemptions.
5. Nothing in this declaration exempts owners or their agents from the responsibility to seek relevant planning or building permits from the responsible authority where applicable.



**Specific Conditions:**

1. Repair, maintenance and resurfacing of the road pavement, gutters and footpath with like materials.
2. Installation, alteration and maintenance of line marking and road surface signage.
3. Repair and maintenance painting of balustrading.

**New Supplementary Structure:**

No permit is required for construction of an additional bridge beside the existing bridge (Vicroads Project No.11808) provided that:

1. The new road alignment is parallel to the existing bridge.
2. The existing lattice balustrade is transferred to the downstream side.
3. The new upstream balustrade is modern and not a replica of the original lattice balustrade
4. The footpath is swapped to the downstream side and made of such width that the line marking between the two north bound lanes coincides with the construction joint between the old and new structures.
5. The guard fence on the downstream (footpath) side is deleted.
6. The new structure (other than the additional arch over the existing arch) is to be independent of the existing structure, so the original upstream abutments and prow shaped central pier remain visible.

## Appendix 1

### Heritage Council determination (section 49)

The Heritage Council is an independent statutory body that will make a determination on this recommendation under section 49 of the Act. It will consider the recommendation after a period of 60 days from the date the notice of recommendation is published on its website under section 41.

### Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website. The owner can also make a submission about proposed permit exemptions (Section 40(4)(d)).

### Consideration of submissions to the Heritage Council (section 46)

(1) The Heritage Council must consider—

- (a) any written submission made to it under section 44; and
- (b) any further information provided to the Heritage Council in response to a request under section 45.

### Conduct of hearings by Heritage Council in relation to a recommendation (section 46A)

(1) The Heritage Council may conduct a hearing in relation to a recommendation under section 37, 38 or 39 in any circumstances that the Heritage Council considers appropriate.

(2) The Heritage Council must conduct a hearing if—

- (a) a submission made to it under section 44 includes a request for a hearing before the Heritage Council; and
- (b) the submission is made by a person or body with a real or substantial interest in the place, object or land that is the subject of the submission.

### Determinations of the Heritage Council (section 49)

(1) After considering a recommendation that a place, object or land should or should not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing, the Heritage Council may—

- (a) determine that the place or object is of State-level cultural heritage significance and is to be included in the Heritage Register; or

(ab) in the case of a place, determine that—

- (i) part of the place is of State-level cultural heritage significance and is to be included in the Heritage Register; and
- (ii) part of the place is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

(ac) in the case of an object, determine that—

- (i) part of the object is of State-level cultural heritage significance and is to be included in the Heritage Register; and
- (ii) part of the object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (b) determine that the place or object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (c) in the case of a recommendation in respect of a place, determine that the place or part of the place is not to be included in the Heritage Register but—
    - (i) refer the recommendation and any submissions to the relevant planning authority or the Minister administering the Planning and Environment Act 1987 to consider the inclusion of the place or part of the place in a planning scheme in accordance with the objectives set out in section 4(1)(d) of that Act; or
    - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place or part of the place; or
  - (ca) in the case of a recommendation in respect of an object nominated under section 27A, determine that the object, or part of the object, is to be included in the Heritage Register if it is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register; or
  - (d) in the case of a recommendation in respect of additional land nominated under section 27B, determine that the additional land, or any part of the additional land, is to be included in the Heritage Register if—
    - (i) the State-level cultural heritage significance of the place, or part of the place, would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
    - (ii) the additional land or any part of the additional land surrounding the place, or part of the place, is important to the protection or conservation of the place or contributes to the understanding of the place.
- (2) The Heritage Council must make a determination under subsection (1)—
- (a) within 40 days after the date on which written submissions may be made under section 44; or
  - (b) if any hearing is conducted, within 90 days after the completion of the hearing.
- (3) A determination made under subsection (1)(a), (ab), (ac), (ca) or (d)—
- (a) may include categories of works or activities which may be carried out in relation to a place, object or land, or part of a place, object or land, for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place, object or land; and
  - (b) must include a statement of the reasons for the making of the determination.
- (4) If the Heritage Council determines to include a place, or part of a place, in the Heritage Register, the Heritage Council may also determine to include land that is not the subject of a nomination under section 27B in the Heritage Register as part of the place if—
- (a) the land is ancillary to the place; and
  - (b) the person who owns the place, or part of the place—
    - (i) is the owner of the land; and
    - (ii) consents to its inclusion.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

## **Obligations of owners (section 42, 42A, 42B, 42C, 42D)**

### **42 Obligations of owners—to advise of works, permits etc. on foot when statement of recommendation given**

- (1) The owner of a place, object or land to whom a statement of recommendation has been given must advise the Executive Director in writing of—
- (a) any works or activities that are being carried out in relation to the place, object or land at the time the statement is given; and

- (b) if the place, object or land is a place or additional land, any application for a planning permit or a building permit, or any application for an amendment to a planning permit or a building permit, that has been made in relation to the place or additional land but not determined at the time the statement is given; and
- (c) any works or activities that are proposed to be carried out in relation to the place, object or land at the time the statement is given.

(2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.

#### **42A Obligations of owners before determination or inclusion in the Heritage Register—to advise of permits**

(1) This section applies if—

- (a) an owner of any of the following is given a statement of recommendation—
  - (i) a place or object nominated under section 27;
  - (ii) an object nominated under section 27A;
  - (iii) land nominated under section 27B; and
- (b) any of the following occurs within the statement of recommendation period in relation to the place, object or land—
  - (i) the making of an application for a planning permit or a building permit;
  - (ii) the making of an application for an amendment to a planning permit or a building permit;
  - (iii) the grant of a planning permit or building permit;
  - (iv) the grant of an amendment to a planning permit or building permit.

(2) The owner must advise the Executive Director in writing of—

- (a) the making of an application referred to in subsection (1)(b)(i) or (ii), within 10 days of the making of the application; or
- (b) a grant referred to in subsection (1)(b)(iii) or (iv), within 10 days of the owner becoming aware of the grant.

#### **42B Obligations of owners before determination or inclusion in the Heritage Register—to advise of activities**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period it is proposed that activities that could harm the place, object or land be carried out.

(2) The owner, not less than 10 days before carrying out the activities, must advise the Executive Director in writing of the proposal to do so.

#### **42C Obligations of owners before determination or inclusion in the Heritage Register—to advise of proposal to dispose**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period a proposal is made to dispose of the whole or any part of the place, object or land.

(2) The owner, within 10 days after entering into an agreement, arrangement or understanding for the disposal of the whole or any part of the place, object or land, must advise the Executive Director in writing of the proposal to do so.

#### **42D Obligations of owners before determination or inclusion in the Heritage Register—requirement to give statement to purchaser**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and

(b) the owner proposes to dispose of the whole or any part of the place, object or land within the statement of recommendation period.

(2) Before entering into an agreement, arrangement or understanding to dispose of the whole or any part of the place, object or land during the statement of recommendation period, the owner must give a copy of the statement of recommendation to the person who, under the proposed agreement, arrangement or understanding, is to acquire the place, object or land or part of the place, object or land.

### **Owners of places and objects must comply with obligations (section 43)**

An owner of a place, object or land who is subject to an obligation under section 42, 42A, 42B, 42C or 42D must comply with that obligation.

Penalty:            In the case of a natural person, 120 penalty units;  
                          In the case of a body corporate, 240 penalty units.