KYOGLE COUNCIL

EXTRAORDINARY COUNCIL MEETING

TO BE HELD AT KYOGLE COUNCIL CHAMBERS, STRATHEDEN STREET, KYOGLE

ON MONDAY 18 JANUARY 2010

Commencing at 3.30 p.m.

ACTING GENERAL MANAGER: FRANK WINTER

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Extraordinary Meeting to be held at the Kyogle Council Chambers, on Monday 18 January 2010, at 3.30 p.m.

DECLARATION OF PECUNIARY INTEREST

Councillors and Senior Staff are reminded to consider whether a Pecuniary Interest exists in any matter on the Agenda for this Meeting or raised during the course of the Meeting. The term "Pecuniary Interest' should be extended to include possible "conflicts of interest" and immediately declared prior to discussion of the Agenda item. Where a direct or indirect pecuniary interest exists, the member must refrain from commenting on or voting on the subject matter and must leave the Chamber.

BUSINESS

Item 1	Apologies
Item 2	Opening Prayer
Item 3	Traditional Lands Acknowledgement
Item 4	Declaration of Interests
Item 5	Reports from General Manager

FRANK WINTER
ACTING GENERAL MANAGER

COUNCIL PRAYER

"Almighty God, Ruler of all the Nations, we ask for your blessing upon this Meeting of Council.

Give us your wisdom to work in harmony and direct and prosper all that we do to the advancement of your glory and the true welfare of the People of the Council Area.

AMEN

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Adopted by Council on October 21, 1991.
Resolution 91 /G 1159

Note: Council Policy is for the Mayor or Chairperson to lead the Council Meeting in the Prayer at the start of the first Meeting of the day.

Council acknowledges that this meeting is being held on the Traditional Lands of the Bundjalung people.

Adopted by Council on 11 December 2006.
Resolution 111206/21

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DISCLAIMER
The advice or information contained within the Minutes enclosed with this Business Paper is given by the Council without liability or responsibility for its accuracy. Reliance cannot be placed on this advice or information until the Minutes have been duly accepted as an accurate record and confirmed by Resolution of Council.

(FRANK WINTER),
ACTING GENERAL MANAGER.

EXTRAORDINARY COUNCIL MEETING

Monday 18 January 2010

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ITEM 1 APOLOGIES

ITEM 2 OPENING PRAYER

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

ITEM 4 DECLARATION OF INTERESTS

Nil.

ITEM 5 GENERAL MANAGER 'S REPORT

5.1 REGIONAL LOCAL COMMUNITY INFRASTRUCTURE PROGRAM

Summary/Purpose

This report is to provide Council with information relating to the Australian Governments Regional Local Community Infrastructure Program (RLCIP).

Background Information

The RLCIP is delivered in two separate streams, a non-competitive fixed allocation and a competitive Strategic Projects component. Council has completed its projects under Round 1 of the RLCIP, and is now seeking approval for projects under Round 2.

Previous Council Consideration

At its Ordinary Meeting of November 16, 2009 Council resolved;

1. *That the Regional Local Community Infrastructure Program report was received and noted.*
2. *That Council applies for the following projects under the non-competitive component of the Regional Local Community Infrastructure Program;*
    a. *Upgrade of the sewerage system at the Kyogle Showground - $55,000*
    b. *Kyogle Seniors Centre - $40,000*
    c. *Various PAMP projects in villages other than Kyogle - $60,000*
3. *That Council applies for funding under the competitive Strategic Projects component of the Regional Local Community Infrastructure Program for the completion of Stages 1 and 2 of the Kyogle Main Street Redevelopment project.*

Report

Following the resolutions of Council shown above, Council staff have submitted details of the proposed projects for approval. The following information provides an update on each component.

1. Non-Competitive Component

Council staff submitted the following projects for approval via the e-grants web site on November 18, 2009;

a. Upgrade of the sewerage system at the Kyogle Showground - $55,000 (priority 1)
b. Kyogle Seniors Centre - $40,000 (priority 1)
c. Various PAMP projects in villages other than Kyogle - $60,000 (Priority 1)
d. Stage 2 Piping of open drain Summerland Way, Kyogle - $40,000 (Priority 2)

The additional project (d) was submitted based on point 4 of the guidelines which states;

"Councils are encouraged to submit a number of prioritised projects, the aggregate value of which may exceed their allocation. Should the Department find that a higher priority project is ineligible, a lower priority yet eligible project may then be substituted in its place."

Council has since been advised that footpath projects are no longer eligible under the RLCIP. This was communicated by the Australian Government in the revised Frequently Asked Questions document on November 18, 2009, after the matter was initially considered by Council.

Some additional information has been requested in relation to the Kyogle Seniors Centre project, but eligibility has been confirmed in relation to the remaining projects. As piping of the open drain in Summerland Way, Kyogle forms part of a larger project, Council can revise this project with a higher contribution of $60,000 from the RLCIP funds, and this would make up for the amount proposed for the now ineligible footpaths projects.

Alternatively, Council could propose a new project or projects that meet the RLCIP guidelines to the value of $60,000. From the previous report to Council the most likely project to be successful would be the provision of a lift at the Grove House site. At this stage no details of costings have been provided other than those originally reported in November, ie estimated cost of $60,000, and that Council has $30,000 in the current budget for mobility access which could be put towards this project. The project is not ready for construction at this stage, but it is likely that it could be completed before the RLCIP deadline of December 2010.

2. Competitive Strategic Projects Component

An application was completed and submitted on December 23, 2009 for the Kyogle Main Street Redevelopment project. The application sought a total of $1,200,000 funding under the RLCIP Strategic Projects to match Councils expenditure to date, representing a total project cost of $2,400,000. A copy of the application was also forwarded to the office of Janelle Saffin for information.

Budget & Financial Aspects

The projects identified are in addition to existing budget amounts and do not require any additional contributions from Council.

Recommendation

1. That the Regional Local Community Infrastructure Program report be received and noted.
2. That Council withdraws its application for the following project under the non-competitive component of the Regional Local Community Infrastructure Program;
    a. Various PAMP projects in villages other than Kyogle - $60,000
3. That Council applies for the following projects under the non-competitive component of the Regional Local Community Infrastructure Program;
    a. Stage 2 Piping of open drain Summerland Way, Kyogle - $60,000 (Priority 1)
    b. Provision of a disabled lift at Grove House, Geneva St Kyogle - $60,000 (Priority 2)

Attachments

1. Guidelines Regional and Local Community Infrastructure Program Round 2 – 2009/10 - $100 Million
2. Regional and Local Community Infrastructure Program - $100 Million component Round 2, 2009/10 Frequently Asked Questions Version 1.4 November 18, 2009

5.2 DEVELOPMENT APPLICATION 2010/66 - DEMOLITION AND ERECTION OF COMMERCIAL PREMISES (OFFICES), 1 WYANGARIE STREET, KYOGLE

Summary/Purpose

This report aims to present to Council for determination a development application for the demolition of the building known as "Kyogle Leveretts Cordials former" in the State Heritage Inventory including its outbuildings, and the subsequent redevelopment of the site as commercial premises to be used for the purposes of offices.

Background Information

Council received Development Application 2010/66 on 13 November 2009 for a "professional office" on Lot 4 in DP 730840, 1 Wyangarie Street, Kyogle.

Further information was requested from the Applicant on 18 November 2009. The information sought by Council included a Statement of Environmental Effects that addressed the relevant Development Control Plans and State Environmental Planning Policies pertaining to the proposed development, and requested the submission of a Statement of Heritage Impact describing the significance and consideration of the Kyogle Leverett's Cordials former building.

Issues within that correspondence were also raised regarding connectivity between the proposed car park to be developed on the subject land and the primary entrance to the building, as well as design considerations for crime prevention.

Additional information addressing these matters was received by Council on 15 December 2009. The matter is now submitted to Council for consideration and determination due to the recognition of the development site within the Godden Mackay *Kyogle Shire Heritage Study 1996* and its 2009 review by Jane Gardiner.

Previous Council Consideration

Council has not previously considered the Development Application 2010/66.

Report

The particulars of Development Application 2010/66, received by Council on 13 November 2009, are as follows:

Applicant:	F.E. Marsh & Co. Pty. Ltd.
Owner:	Lake Noorinbee Pty. Ltd.
Property:	Lot 4 in DP 730840
Property Address:	1 Wyangarie Street, Kyogle
Zone:	2 Village or Township
Locality:	Kyogle

Proposal:	Demolition and erection of commercial premises (offices)
Zoning Requirements:	Permissible with Council consent

This development assessment report has been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Overview of the Subject Site

The subject site is bound by Wyangarie Street to the north, Ettrick Street to the west and private land developed for residential purposes to the south and east. The land is zoned 2 Village or Township under *Interim Development Order No 1 - Shire of Kyogle* and has an area of 942 square metres.

The subject land comprises the building known as Kyogle Leverett's Cordials former, which is a single storey timber-framed building predominantly clad in horizontal timber weatherboards and roofed with unpainted, short sheet, corrugated iron. The building was once a cordial factory and is currently vacant. Outbuildings have been developed on the south east corner of the subject land.

Council's Sewerage reticulation traverses generally east-west across the undeveloped portion of the property between the factory building and the sheds occupying the rear of the site.

Overview of the Proposed Development

The proposed development seeks to demolish the existing building and other structures on the subject land and to develop an office building comprising five (5) offices, a board room, an interview room and associated amenities and utility room. A total of seven (7) car parking spaces are to be provided on the subject land and one (1) freestanding sign is proposed to be erected between the office building and road reservation fronting Wyangarie Street.

Legislative Requirements:

Council is required, when assessing and determining any development application, to have full regard to the provisions of the *Environmental Planning and Assessment Act 1979* including the objects contained in Section 5 and the heads of consideration contained in Section 79C.

Agency Referral:

Nil.

Public Notification

In accordance with Council's *Development Control Plan No. 9 – Public Notification of Development Applications*, no notification was undertaken.

Environmental Planning and Assessment Act 1979 - Section 79C – Matters for Consideration:

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:
  (i) any environmental planning instrument, and
  (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and
  (iii) any development control plan, and
  (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
(c) the suitability of the site for the development,
(d) any submissions made in accordance with this Act or the regulations,
(e) the public interest.

Section 79C(1)(a)(i) the provisions of any environmental planning instrument

Interim Development Order No. 1-Shire of Kyogle (IDO)
The site is currently zoned 2 Village or Township under the IDO. The proposed development is permissible subject to development consent from Council pursuant to Clause 3(b) of the IDO.

Clause 7(a) of the IDO requires Council to take into consideration the probable aesthetic appearance of the proposed development when viewed from the rail corridor and road reservations. The proposed development is sympathetic in its scale and design to the existing residential development adjoining the subject land and is considered to not have any adverse visual impacts.

Clause 22 of the IDO specifically directs Council to take into consideration the supply of water and adequate facilities for sewerage and drainage when determining a development application.

North Coast Regional Environmental Plan 1988
The *North Coast Regional Environmental Plan 1988* ("REP") contains a number of aims and objectives that Council must take into consideration when preparing a local environmental plan or when making a determination on a development application.

There are considered to be no relevant provisions of the REP pertaining to Development Application 2010/66.

State Environmental Planning Policies (SEPPs)
SEPP 55 - Remediation of Land requires that "A consent authority must not consent to the carrying out of any development on land unless … it has considered whether the land is contaminated." Further, the SEPP requires that "Before determining an application for consent to carry out development that would involve a change of use … the consent authority must consider a report specifying the findings of a preliminary investigation of

the land concerned carried out in accordance with the contaminated land planning guidelines."

The Contaminated Land Planning Guidelines referred to are published by the Department of Planning and came into force in 1998.

Records of a preliminary investigation conducted in accordance with the Guidelines were submitted to Council by the Applicant on 15 December 2009. This report indicates that there is "no potential contamination" of the subject land and that "the planning process should proceed in the normal way."

SEPP 64 - Advertising and Signage applies to all signage within the local government area of Kyogle that is visible from any public place or public reserve. The Policy aims, amongst other things, to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area; provides effective communication in suitable locations; and, is of high quality design and finish.

The development of the land for the purposes of offices includes application for the erection of signage identifying the business conducted on the premises. One (1) 2m2 sign is proposed to address Wyangarie Street for this purpose. This sign is compatible with the scale, proportion and form of the single storey development on, and in the immediate vicinity of, the development site, and if appropriately constructed will not raise any safety issues.

Section 79C(1)(a)(ii) draft environmental planning instruments

There are currently no draft environmental planning instruments that directly affect this development as LEP 18 has not been placed on public exhibition.

Section 79C(1)(a)(iii) development control plans (DCP)

Two (2) development control plans are considered relevant to the assessment of the Development Application, namely *Development Control Plan No. 5 - Off-Street Car Parking Requirements* ("DCP 5") and *Kyogle Council Development Control Plan No. 6 - Outdoor Advertising* ("DCP 6").

DCP 5 aims to ensure that adequate provision is made for off-street car parking. For the subject development of offices, this equates to one (1) car parking space per 40m2 of gross floor area in accordance with Appendix 1 of the Plan. As the gross floor area of the office development is 277m2, this amounts to the requirement for seven (7) car parking spaces to be provided on the subject land.

Plans accompanying the development application indicate the provision of seven (7) car parking spaces located to the south of the proposed office building and within the subject land. These parking spaces are proposed to be accessed off Ettrick Street and are designed in accordance with the provisions of DCP 5 and Australian Standard 2890.1. Four (4) of the car spaces are to be covered.

DCP 6 provides guidelines for the provision of advertising throughout the Local Government Area. These guidelines aim to ensure that development for the purposes of signage protects public amenity, safety and the visual qualities of an area.

The proposed sign is to be situated between the north-western façade of the proposed office building and the property boundary fronting Wyangarie Street. It is proposed to measure two (2) metres in width by one (1) metre in height and is to be mounted on two (2) poles 800mm above ground level. The field is to be white and text black.

The scale and location of the sign is considered to be in keeping with the proposed development and the use of the subject land. It is considered that it will provide reasonable identification of the business without adversely impacting on the amenity of the locality.

Section 79C(1)(a)(iiia) planning agreements

No planning agreements have been entered into or offered under Section 93F of the *Environmental Planning and Assessment Act 1979*. Generally, a planning agreement is a voluntary understanding between a planning authority and a developer under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit.

Section 79C(1)(a)(iv) the regulations (prescribed matters)

There are no prescribed matters which affect the proposal.

Section 79C(b) the likely impacts of the development

The development proposes the demolition of a site listed in the *Kyogle Shire Heritage Study 1996* under Reference Number 063 and as Item ID 1890063 in the 2009 review of that study. The statement of significance is described as follows:

> "This former 1912 cordial factory is a rare manufacturing enterprise in Kyogle. The cordial factory and local product are well known cordial having been produced at the same site for over 70 years. The building demonstrates the vernacular response to the early twentieth century cordial factory requirements. It is a rare surviving early timber building and retains the ability to demonstrate the simple nature of early manufacturing in the area."

These qualities need to be considered in the assessment of this development application as the endorsement of the DA will include the demolition of a building considered in the State Heritage Inventory as being "historically significant" to the Local Government Area.

The development application comprises two (2) professional reports regarding the impact of the proposed development on the heritage values documented to exist on the subject land. These are a structural report prepared by Spinaze Consulting and a Heritage Report compiled by Lyon Architects.

The structural report undertaken by Spinaze Consulting on 4 December 2009 indicated the following:

1. Structurally the building displays evidence of termite damage in the south-eastern corner of the original building. It is surmised from this that further evidence of infestation will be revealed in the wall and roof framing granted the removal of the internal linings.

2. There is evidence that the concrete floor of the building is not level, includes various steps, facilitates the flow of stormwater into the building, and encases a central timber post which is showing signs of rot.
3. Rot is discernible along the stud wall which is possibly the result of the factory operations, including bottling and cleaning.
4. The building is poorly constructed and has no formal structural bracing to resist lateral loads due to wind loading or roof tie downs.
5. The existing footings supporting the building are likely to be structurally inadequate.

The report concludes that "It is our opinion that it would not be economically feasible to convert the existing structure to a commercial building that would comply with the structural requirements of the Building Code of Australia." This has ramifications beyond the proposed development as the structural requirements for a commercial building under the BCA in this instance would not differ from those for a residential development. This limits the capacity for the retention and adaptive re-use of the building and constitutes an economic case proffered by the Applicant to justify the development proceeding.

Economic hardship can constitute an appropriate justification to strike an item from a heritage schedule and the case forwarded by Spinaze Consulting suggests that the potential heritage item in its derelict state would cost more to restore than the final value of the finished work would return. This highlights the importance of the ongoing occupation and use of heritage items as it is quite evident that "there has not been a maintenance program in place as the [vacant] structure has fallen into disrepair and is now in a neglected state" (Lyon Architects 2009:3).

The heritage consultants, Lyon Architects, describe that, "Unfortunately, due to the termite infestation evident in the existing structure and the dilapidated state of the existing building fabric, the building is unsuitable to be used or retained for use as offices … It is our recommendation that the existing building and other structures on the subject site be demolished."

Section 79C(c) the suitability of the site for the development

The scale and nature of the development is sympathetic with the prevailing residential land uses in the vicinity of the subject land. The use of the premises for the purposes of offices constitutes an activity that is not expected to have any adverse impact upon the amenity of the locality.

Heritage and structural reports comprising the development application indicate that the site is suitable for redevelopment.

Section 79C(d) any submissions made

No submissions were received and no notification was undertaken pursuant to Council's *Development Control Plan No. 9 – Public Notification of Development Applications*.

Section 79C(e) the public interest

The proposed development would serve to revitalise the subject land which is currently unutilised and unmanaged. It would provide floor space for the purposes of commercial

premises (offices) in a highly accessible area that includes immediate road and pedestrian linkages to the Kyogle CBD.

The jobs created in the development and ongoing use of the site is considered to be a public benefit. However, the endorsement of the proposal comes at a cost to the original timber heritage of the township of Kyogle and the social significance that it embodies.

Having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* it is recommended that the application be approved subject to conditions of consent.

Recommendation

That Council issue Development Consent Notice 2010/66 for the demolition and the erection of commercial premises (offices), 1 Wyangarie Street, Kyogle, subject to the following conditions.

PLANNING

1. The development shall be in accordance with development application number 2010-66 submitted by the Applicant on 13 November 2009, and in accordance with the following:

Statement of Environmental Effects entitled "Proposed Office Building for FE Marsh & Co, Wyangarie Street/Ettrick Street Kyogle," prepared by GM Project Development and Management, December 2009.			
Plan prepared by Lyon Architects on behalf of WHK.			
Reference No.	**Revision**	**Name of Plan**	**Date**
09/13	**D**	**Proposed Sketch Plan Scale 1:100 @ A1**	**5 November 2009**

except where otherwise provided by the conditions of this development consent.

2. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

3. This development consent is limited to a period of two (2) years in accordance with Section 95(2) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless:

   (a) work relating to the development is physically commenced before the date on which the consent would otherwise lapse; or
   (b) application is made to Council for an extension before the date on which the consent would otherwise lapse.

4. The use of the site must not extend to the road reservation adjoining the premises at any time.

5. The land the subject of this consent notice must be left in a clean and tidy state at all times.

6. The land use must not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.

7. An archival photographic record of the structure known as "Kyogle Leveretts Cordials former" must be made prior to and during the removal of any fabric in general accordance with the NSW Heritage Branch guidelines for archival photography (see www.heritage.nsw.gov.au), including interior and exterior photographs. This record must be presented to the Kyogle Council and the Kyogle and District Historical Society prior to the issue of a construction certificate.

8. The proposed sign must be:
   - directly associated with the use of the premises as offices;
   - professionally designed and legible;
   - structurally sound and not in any way hazardous;
   - located entirely within the boundaries of Lot 4 in DP 730840;
   - designed and situated so as not to obstruct traffic; and
   - non-reflective, non-iridescent and non-illuminated or mobile.

CONSTRUCTION/ DEMOLITION

9. A Construction Certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the Construction Certificate is obtained from an accredited certifier the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.

10. All demolition work must comply with the provisions of AS 2601 – 2001 “The Demolition of Structures” as in force at 1 July 1993.

11. The hours of work for any **offensive noise generating** construction or demolition activity of the proposed development are to be limited to the following time restrictions:

    Monday to Friday - 7.00am to 6.00pm
    Saturday - 8.00am to 1.00pm

    No noise generating activities are to take place on Sundays or public holidays.

12. Burning of site refuse and materials is not permitted and all such materials shall be prevented from escaping onto adjoining land.

13. All waste materials generated from construction and demolition works shall only be disposed at waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste 2008* and the *Protection of the Environment Operations Act 1997* and waste regulations there under.

14. Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site and eventually into natural or constructed drainage lines or watercourses. Control measures must be installed prior to the conduct of works and must remain in place and be maintained until the site has been adequately revegetated or landscaped to prevent soil erosion. Work may not proceed until the sedimentation controls are in place. Failure to comply with these requirements may result in penalty notices being issued without further notice.

15. Removal and disposal of asbestos is to be in accordance with the requirements of the WorkCover Authority of NSW.

16. The effects of vibration, dust, noise and concussion on adjoining buildings and their occupants must be minimised, by selecting appropriate demolition methods and equipment.

17. Appropriate signage must be provided on the work site and in a prominent position visible to the public:

    a) stating that unauthorised access to the work site is not permitted; and
    b) showing the name of the builder or person responsible for the site and a telephone number at which that person can be contacted outside working hours.

18. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.

19. Should the builder change from the builder nominated on the building application form, Council shall be notified in writing prior to the new builder commencing any works. The written notification shall include written concurrence of the new builder and a photostat copy of his builders licence.

BUILDING WORKS

20. The metal roof and wall cladding is to be installed in accordance with AS 1562 – 1992, Design and Installation of Sheet Roof and Wall Cladding.

    NOTE: All roof capping and flashing to be scribed on a Dwelling.

21. The roofing must have a low reflective finish.

22. All footings shall bear on natural ground having an even, uniform bearing capacity not subject to differential bearing values upon stable, firm and undisturbed foundations, free from roots and fill.

23. The building must be protected against attack by subterranean termites. This can be achieved by:

a) Soil treatment in accordance with AS 3660.1 - 2000 of the subsoil area beneath all concrete slabs and including additional treatment of a 300mm wide horizontal barrier around the perimeter, edge protection and treatment of all slab penetrations.

b) Maintenance of a 75 mm wide strip around the entire slab to allow visual inspection. The area immediately adjoining the external wall is to be kept clear of landscaping or gardens.

c) other chemical or physical measures which meet the objective of protecting primary building elements against subterranean termite attack. If this option is chosen, full details are required to be submitted for Council's consideration.

NOTE 1: The approved chemical for underslab spraying does not provide protection against termites over the economic life of the building.

NOTE 2: Depending on the slab construction a vertical 150 mm wide chemical barrier may be required to the external perimeter of the slab.

NOTE 3: Landscaping and Gardens - Most termite barriers require the area immediately adjoining an external wall to be kept clear of any landscaping or gardens. This is necessary either to prevent the bridging of the termite barrier or to ensure the area is visible for inspection.

NOTE 4: It is recommended that the slab penetrations be protected by a physical barrier where a non reticulated chemical protection is used.

A durable notice must be permanently fixed to the building in a prominent location such as a meter box, indicating;

a) the method of protection; and
b) the date of installation of the system; and
c) where a chemical barrier is used, its life expectancy as listed on the National Regulation Authority label; and
d) the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.

24. Where termite barriers are installed that rely on periodic visual inspection, a minimum of 400 mm clearance between the lowest floor framing member and the finished ground level must be achieved. On sloping sites the 400 mm clearance may be reduced to 150 mm within a distance of 2.0 metres of external walls.

25. The wet areas are to be treated and impervious to moisture at all floor wall junctions with an approved material in accordance with the Building Code of Australia, and Australian Standard 3740. The shower area is to be provided with a completely impervious tray using either a preformed tray of approved material or an in-situ treatment complying with AS 3740. Floor surfaces shall be impervious and graded to a floor waste.

26. Where the height of the structure above finished ground level is greater than 1.0 metre, a continuous balustrade a minimum of:

    a) 1.0 metre high above the finished floor level of decks, landings, balconies and the like, and
    b) 865 mm high above the nosings of the stair treads or floor of ramp,

    must be provided. The maximum permissible opening in the balustrade is 125 mm.

27. Emergency lighting and exit signs shall be installed in accordance with the building code of Australia Volume 1 sec E and AS 2293.1

28. Fire Hose reels shall be installed the building in accordance with Building Code of Australia and AS 1221.

29. Portable fire extinguishers' shall be installed the building in accordance with the Building Code of Australia and AS 2444.

30. Emergency exit plans shall be displayed in the building show means of egress in the event of and emergency.

31. Sanitary Facilities must be provided in accordance with section F of the Building Code of Australia.

32. Access and egress shall be provided to the building in accordance the Building Code of Australia section D.

33. The location of any fixed plant servicing the proposed development must not result in the emission of offensive noise.

    Offensive noise means:

    (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:

        (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
        (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

    (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

CARPARKING

34. Provision shall be made for seven (7) carparking spaces with a bitumen sealed/paved or equivalent surface constructed and landscaped. Documentary

evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

35. A sign shall be erected to the satisfaction of Council to clearly indicate off-street parking is available.

36. One (1) car space shall be set aside, constructed and signposted for disabled carparking in accordance with the provisions of the Building Code of Australia and the requirements of AS2890.1 - 1993 "Off-street Car Parking" Cl 2.4.5(b) and the Proposed Sketch Plan.

WATER/ SEWER

37. The water supply service shall be sized in accordance with Australian Standard 3500.1 to service the whole development.

38. Provide 6/3 litre dual flush toilet suites to all water closets.

39. The proposed development is to be connected to Council's water supply system. A connection fee applies (see current Fees and Charges).

40. The building must be located clear of the sewer main, by a minimum distance of 1.5 metres, or the equivalent of the invert depth of the main, whichever is the greater.

41. The proponent is responsible for ensuring that the existing sewer pipe in the property is not damaged while performing the works. If the existing sewer pipe is damaged during the course of performing the works, the proponent will:

    - notify Kyogle Council immediately when the breakage occurs, and
    - repair the damage at no cost to Kyogle Council.

42. No retaining wall structures shall be constructed on land within any water, sewerage or drainage easement/s over that land or above any water, sewerage or drainage pipes on the land.

43. The proposed development is to be connected to Council's Sewerage System. A connection fee applies (see current fees and charges).

44. All house drainage and sanitary plumbing and sewerage work must be carried out in accordance with the requirements of the N.S.W. Code of Practice ” Plumbing and Drainage “ and the National Plumbing and Drainage Code AS 3500.

ROADS AND DRAINAGE

45. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.

46. The proponents shall construct a new 1.2m wide reinforced concrete footpath for the full frontage of Ettrick Street and Wyangarie Street and provide connectivity to the existing footpath network and the proposed development. All design and

construction is to be in accordance with the Northern Rivers Local Government Development and Design and Construction Manuals.

47. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent approval by Council.

    Construction (contract) price Bond
    up to $50,000 - 10% of contract price (minimum bond $1,000)
    over $50,000 $5,000 plus 5% of balance over $50,000

48. That there shall be no loss of support to the Councils foot path area as a result of excavation within the site. Details of how this support will be maintained during construction shall be submitted for the Councils approval prior to the commencement of any work.

49. Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.

50. The applicant is to make written application to Council (accompanied by a location plan) for a vehicular access to the development and construct it in accordance with Council's approval (refer to Council's Property Access and Addressing Management Plan). No other accesses may be constructed or opened onto a Council road without the prior written approval of Council.

51. All allotments where access is obtained from a sealed road shall have a sealed vehicular access from the roadway to the boundary of private property in accordance with Councils Property Access and Addressing Management Plan.

52. Council must be notified in writing, prior to commencement of building operations of any existing damage to kerb and gutter or footpaths.

    Absence of notification signifies that no damage exists and the applicant is therefore liable for the cost of reinstatement of any damage to the kerb and gutter or footpath which may be necessary after the completion of the building. Where unmade or grassed footpaths are disturbed by the passage of builder or suppliers' vehicles, the footpaths are to be graded and restored to original level with loam.

53. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.

54. Full design plans of the proposed engineering works shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

55. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.

56. Prior to carrying out any works within a public road reserve, the proponent shall complete an application under Council's Road Reserve Management Plan and receive written approval from Council. Satisfactory arrangements for restoration with Council's Technical Services Department shall also be required, with all works constructed according to Council's Development, Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.

57. A certified "Works as Executed" plan from a qualified Engineer or Registered Surveyor is to be submitted before the final inspection certifying that the works have been constructed in accordance with the drawings and to the levels specified.

DEVELOPER CONTRIBUTIONS

58. The proponent shall pay to Council all Water, Sewerage and Drainage Headworks Levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993, the rates and amounts applying at the date of this notice, totalling $1,360.00 are set out in the schedule for your information.

    The proponent shall also comply with all requirements of the Water Supply Authority regarding the connection of water supply and sewerage services to the development. A Section 27 Certificate issued under the Water Supply Authorities Act 1987 shall be submitted to Council prior to release of the Occupation Certificate.

    The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

    If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

59. Payment of contributions levied under Section 94 of the *Environmental Planning and Assessment Act 1979* and the Kyogle Section 94 Contributions Plan – Urban and Rural Roads 2002 (as amended) are required. Kyogle Council levies these contributions for the provision of public amenities and/or public services in such a manner as will meet the increased demand for those amenities and/or services arising from this development as identified in the attached schedule. The contributions shall be calculated in accordance with the Kyogle Council Section 94 Contributions Plan – Urban and Rural Roads Section 94 Contributions Plan. The rates and amounts applying at the date of this notice, totalling $9,572.48, are set out in the schedule for your information.

Payments are subject to annual indexation in line with Council's chosen Consumer Price Index (CPI), being CPI Brisbane as published by the Australian Bureau of Statistics. Indexation adjustments shall be included in the final calculation of the contribution amount and paid in accordance with Section 1.8 of Council's Urban & Rural Roads Section 94 Contributions Plan. Determined amounts of contributions remain valid for a period of three (3) months from date of issue. Unpaid contributions at the expiration of this time period shall be subject to pro rata yearly adjustments or CPI indexation.

Proponents of Development may be entitled to a discounted rate of contribution in some circumstances. Eligibility and discount amounts are specified in Section 4 of Council's Section 94 Urban and Rural Roads Contributions Plan, pertaining to developments in both Rural and Urban areas. Contributions required by the proponent of development pursuant to the "heavy haulage contribution rate" calculated and specified in clause 2.3.3 shall not be entitled to a discounted rate.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Advisory Note

1. This approval does not necessarily guarantee compliance with the *Disability Discrimination Act 1992*, and the applicant is therefore advised to investigate their liability under the Act. Your attention is drawn to AS1428 parts 2, 3, and 4 inclusive. This may be used as a comprehensive guide for disability access.

2. Occupation of the proposed development prior to its completion may result in Council initiating legal action for breaches of the provisions of the *Environmental Planning and Assessment Act 1979*, as amended.

3. The development must comply with the requirements of the Work Cover Authority of NSW.

Note:

Under Section 735A of the Local Government Act 1993, a division is required to be called whenever a planning decision is put at a Council or committee meeting.

Attachments

1. Floor plan and elevations. Project No. 09/13
2. Proposed sign

KYOGLE COUNCIL

ATTACHMENTS

EXTRAORDINARY COUNCIL MEETING

ON 18 JANUARY 2010