



KYOGLE COUNCIL

COUNCIL MEETING AGENDA

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

ON MONDAY 10 JULY 2017

Commencing at 5pm

GENERAL MANAGER: GRAHAM KENNETT

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Ordinary Meeting to be held at the Kyogle Council Chambers, on Monday 10 July 2017 at 5pm.

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 | Question Time |
| Item 6 | Public Access |
| Item 7 | Confirmation of Minutes |
| Item 8 | Mayoral Minute |
| Item 9 | Notices of Motion |
| Item 10 | Questions with Notice from Councillors |
| Item 11 | Reports from Delegates |
| Item 12 | Information Reports |
| Item 13 | Reports from General Manager |
| | A Assets and Infrastructure Services |
| | B Planning and Environment |
| | C General Manager's Section |
| Item 14 | Urgent Business Without Notice |
| Item 15 | Questions for Next Ordinary Meeting |
| Item 16 | Confidential Business Paper |

GRAHAM KENNETT
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

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 and we acknowledge elders, both past and present.

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

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.

(GRAHAM KENNETT),
GENERAL MANAGER.

5.7 Question Time (Council Policy)

A public Question Time session is scheduled following the Declaration of Interests as part of the Ordinary Meeting. This session allows residents to ask questions of Councillors or Management on any issue without prior notice.

Each speaker has a maximum allowable time of 5 minutes.

If a response to a question is not able to be provided during question time, the speaker should be requested to put their question in writing and a written response will be provided in due course and tabled at the next available Council meeting.

The Chair has the right to refuse any question, to refuse to take any further questions from an individual or to cut short the session.

Speakers are not to debate answers.

Speakers are not to make any insulting or defamatory statements, and to take care when discussing other people's personal information (without their consent).

The maximum duration of this session is 30 minutes.

5.8 Public Access (Council Policy)

That Public Access be scheduled for all Ordinary Meetings of Council.

A maximum of 30 minutes is allowed for the Public Access segment.

Individual residents concerned about a particular issue may make application for public access and are required to register with the General Manager by phone or in writing by the close of business on the working day preceding the meeting day; and include the subject matter of the matter proposed for discussion.

The General Manager, in consultation with the Mayor will consider each application for public access on its merit.

Residents will not be granted more than one public access request each calendar year (except where the subsequent request(s) directly relate to an item on the agenda for the meeting at which public access is requested).

No more than two speakers for a subject will be permitted at any meeting.

If granted Public Access by the General Manager, the individual resident will be allowed five (5) minutes to address Council with an extension of five (5) minutes for Councillors to direct questions to the speaker.

Applicants who submit an application outside the above times will generally be refused, however, where unusual circumstances exist, the Mayor may at his/her discretion, advise the Council that a public access application has been received and Council has the option to grant public access.

COUNCIL MEETING AGENDA

Monday 10 July 2017

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- ITEM 1 APOLOGIES**
- ITEM 2 OPENING PRAYER**
- ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**
- ITEM 4 DECLARATION OF INTERESTS**

ITEM 5 QUESTION TIME

ITEM 6 PUBLIC ACCESS

ITEM 7 CONFIRMATION OF MINUTES

**7.1 CONFIRMATION OF THE MINUTES OF 13 JUNE 2017 ORDINARY
COUNCIL MEETING**

REPORT BY: GENERAL MANAGER'S DEPARTMENT
CONTACT: GENERAL MANAGER

Summary/Purpose

A copy of the Minutes of the Ordinary Meeting held on 13 June 2017 is included in the attachments to the business paper.

Community Strategic Plan Item(s)

- Governance and Community Service

Recommendation

That Council adopt the Minutes of the Ordinary Meeting held on 13 June 2017.

Attachments

Minutes of the Ordinary Meeting held on 13 June 2017.

7.2 CONFIRMATION OF THE MINUTES OF THE 26 JUNE 2017 EXTRAORDINARY COUNCIL MEETING

REPORT BY: GENERAL MANAGER'S DEPARTMENT
CONTACT: GENERAL MANAGER

Summary/Purpose

A copy of the Minutes of the Extraordinary Meeting held on 26 June 2017 is included in the attachments to the business paper.

Community Strategic Plan Item(s)

- Governance and Community Service

Recommendation

That Council adopt the Minutes of the Extraordinary Meeting held on 26 June 2017.

Attachments

Minutes of the Extraordinary Meeting held on 26 June 2017

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

**9.1 NOTICE OF MOTION - COUNCILLOR JANET WILSON; REDUCING THE
USE OF PLASTIC BAGS IN THE COMMUNITY**

REPORT BY: GENERAL MANAGER'S DEPARTMENT

CONTACT: COUNCILLOR JANET WILSON

Summary/Purpose

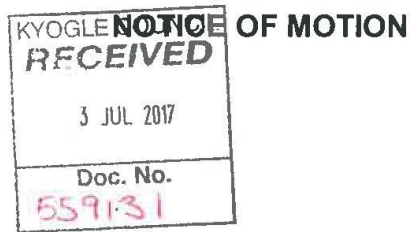
This item presents to Council a Notice of Motion received from Councillor Janet Wilson for the Ordinary meeting to be held on 10 Julye 2017.

Community Strategic Plan Item(s)

- Village Life
- Waste & Water

Report

A copy of the Notice of Motion follows:



I, Councillor Janet Wilson, hereby give notice that at the next Ordinary Meeting of Council I will move;

That council support an initiative to reduce plastic bag use across the LGA by working with the Kyogle CWA Evening group, the Chamber of Commerce and Progress Associations to encourage residents to stop using plastic bags.

Signed: *Janet Wilson*

Date: *3/7/17*

Councillor comments:

Plastic bags are a major contributor to landfill and harm to wildlife, the waterways and the environment. Many communities are developing 'Ban the Bag' campaigns. This motion aims to work with community organisations to encourage people to swap to more environmentally friendly options by participating in a project which is being developed by the Kyogle CWA Evening branch which has started to make cloth bags for shopping that can be distributed around shops. They are called boomerang bags, people can use it and then return it to a bin outside participating shops when they are next in town.

This is a project that engages people of all ages in a community activity which encourages people to reduce plastic bag use. It builds on the idea that has been introduced in the Gateway cafe for coffee mug re-use. Members of the community have been asking for some time for action on the matter of plastic bags and their impact on the environment. This motion attempts to start to address the issue by council taking a support role to community action.

Staff comment

The use of plastic bags to hold and carry retail goods – notably supermarket goods – has been a significant matter of national concern. Single use plastic bags are already banned at a state and territory level in South Australia, Northern Territory, and Australian Capital Territory and will also be banned in Queensland from 2018. No effective legislated 'ban' exists in New South Wales. At present, it has been up to individual NSW communities to collaborate with retailers to agree not to use single use plastic bags.

The most immediate environmental benefits include wind-blown litter reduction (this is a significant operational issue at landfills and some transfer station facilities) as well as some reduction in required landfill space. The actual landfill volumes saved are small.

It is estimated that Kyogle would save about 7-8 tonnes of landfill (figures based on comparable figures estimated for Lismore population – Lismore City Council – see Echo Netdaily; 13 December 2016). Plastic wrapped garbage also has less compaction capability than unwrapped waste. A reduction in the use of single use plastic bags is therefore also likely to provide some minor improved compaction at landfills.

Significant benefits can also be realised where bags are stopped from entering the natural environment, notably through watercourses. This includes through reductions in unsightly waste as well as stopping potential ingestion of bags or bag fragments. While some bags are now based on bio-degradable products, bags that do not undergo degradation as well as some that are merely broken down into smaller fragments have also been shown to enter food chains as micro-particles.

Programs like 'Boomerang Bags' are community responses reflecting growing community concern over the use of plastic bags and are achieving expanding support and represent one way of helping change the culture of single use plastic bags. Stopping the use of such bags in NSW is, at present, ultimately up to individual communities including their retailers.

The CWA initiative introducing the 'Boomerang Bags' Program to Kyogle is one that should receive in principle support because it places a spotlight on the issue of waste reduction and tries to provide a practical means of achieving this.

While the Council has no regulatory power to stop the use of plastic bags within the local government area, it can take a leadership role to gauge broader community sentiment, advocate for State action or promote the value of a reduction in plastic bag usage with its retailers and the broader community.

The issue of reduced plastic bag dependence has also been raised by neighbouring councils and there may benefit in discussing the matter at a NOROC level.

Recommendation

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM THE LAST COUNCIL MEETING

REPORT BY: GENERAL MANAGER'S DEPARTMENT
CONTACT: GENERAL MANAGER

Summary/Purpose

This report presents a response to questions raised by Councillors and taken on notice by staff at the last Ordinary Council Meeting.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

The following questions were raised at the 13 June 2017 Ordinary Council Meeting and taken on notice by staff. The responses have been included.

Councillor Kylie Thomas:

- A resident raised a customer request a few weeks ago in relation to a lantana growing at the intersection of Homeleigh Road and Kyogle Road causing a lack of visibility for motorists. Can we follow up with that customer as to what we are doing in relation to that?

Response: A CAR No. 552221 was received on 25 May 2017 and inspected on 21 June 2017 and a works order has been issued for slope mowing of this area during the next run through Kyogle Road. The customer will be advised of this outcome.

Councillor Lindsay Passfield:

- Is there a potential for Council to explore public private partnerships in relation to transitional accommodation for the aged?

Response: The *Local Government Act 1993* generally defines a public private partnership (PPP) as:

- a) between a council and a private person to provide public infrastructure or facilities (being infrastructure or facilities in respect of which the council has an interest, liability or responsibility under the arrangement), and*
- b) in which the public infrastructure or facilities are provided in part or in whole through private sector financing, ownership or control, but does not include any such arrangement if it is of a class that has been excluded from the operation of this Part by the regulations.*

Generally, a PPP will require some tangible contribution of asset (eg land or capital) or operation (eg ongoing commitment to resource operating costs, including money, labour or provision of other services).

The Local Government Act 1993 has formal provisions for PPP arrangements for local governments, including project assessments involving reporting to the Director-General.

Kyogle Council, to date, has not resolved to consider any PPP arrangement for any specific transitional accommodation for aged projects nor has it been approached by any private individuals or entities regarding any specific projects.

The North Coast Community Housing (NCCH) Company Ltd (a not-for-profit entity) has had discussions with the Council to identify possible sites for further investigation within the local government area.

Council had \$61,292 allocated in its 2016/2017 Budget for purposes of aged care facilities investigations. Competing staff resource requirements and lack of any defined investigation or project plan have resulted in this money being unspent at the end of the financial year.

Council staff have recently been liaising with NCCH to undertake a potential site audit across the Kyogle LGA to identify possible sites for public housing, including for aged persons, including based on NCCH preferred site criteria. A study brief has been prepared and could be sent to prospective consultants for quotations to prepare a GIS summary of possible sites, should the Council decide to revote an amount of money towards the project for the 2017/2018 Budget Year. The information obtained could then form the basis of further project feasibility assessments for any preferred sites.

While this information may be of benefit for possible future NCCH projects in Kyogle, the information would also serve as a useful resource for Council regarding broader development potential across the LGA including by other potential developers.

While this exercise would not preclude a PPP arrangement for any such project, a PPP may not be essential for a project to succeed.

- There has been a proliferation in relation to B&Bs across our LGA. I am not sure how many of these, or the signage associated with them, have been subject to a development application. It may be appropriate for management to review Airbnb advertising and have a look at those to make sure they are kosher.

Response: Bed and Breakfast (B&B) accommodation with no more than five bedrooms is permitted with consent in the Kyogle Local Environmental Plan 2012 (KLEP) in a number of Zones including RU1, RU2, R1 and RU5. State Environmental Planning Policy (Exempt and Complying Development) contains provisions that allow B&Bs to be approved as Complying Development, except where on bushfire prone land.

The Council does not have accurate figures on the number of B&B premises operating within the LGA or their approval status. The Council has operated on a basis of dealing with suspected illegal development on an 'as referred to Council' basis or as specific instances have become known (eg through general inspections of premises). The Council has not had the staff resources to undertake any comprehensive audits of such premises given its current suit of development priorities.

Specific instances of potential non-compliance should always be referred to the Council and inspections with potential follow up action can then be programmed as part of the Council's operations or reported back to Council for consideration of further action. Where instances of non-compliance are found to exist, the Council will always give operators reasonable opportunity to apply for approval (eg Complying Development approval or Development Consent). Should enforcement action be necessary, the Council will always provide a courtesy warning, issue a draft Order and only then proceed to a final Order stage which may result in Court action.

Council's records system indicates that 15 farmstay-style developments have been approved over time with three B&Bs shown to have been approved. However, it is thought that the records system cannot be relied on to accurately show the number of B&B approvals due to issues associated with data transfer between the previous and current systems.

Councillor Robert Dwyer:

- In light of the tragic accident that occurred in Kyogle, can Council write to the RTA or appropriate body insisting boom gates be put on that level crossing?

Response: At the time of responding to this question, the incident in question was still being investigated. Once the investigation process is completed, Council will write to Transport NSW and the NSW Level Crossing Strategy Council to ensure they are aware of the incident and asking that the upgrade of the level crossing be considered a priority within the Railway Level Crossing Safety Improvement Program.

Councillor Maggie May:

- Would it be feasible to lease out the recycling shop if someone was willing to tender and run it independent from Council?

Response: Council's staff has currently suspended any operations involving the previous 'Tip Shop' at the Kyogle Landfill on safety and other operational grounds. The site is likely to be required, at least partly, once the State's drink container deposit legislation becomes law. This is likely to require remodelling of the site. An opportunity may then arise for a newer purpose-built facility to be constructed which may also be able to house a materials re-use 'shop' on the site.

Scope may then exist for expressions of interest to be called from interested organisations to manage such a facility on a no, or very limited, cost basis to the Council. The current state of the building is not considered to be appropriate for an independent operator or the public to use.

Recommendation

That Council receives and notes the report, *Questions from the Last Council Meeting*.

ITEM 11 DELEGATES REPORTS

Nil.

ITEM 12 INFORMATION PAPERS

12.1 MONTHLY FINANCE REPORT - JUNE 2017

REPORT BY: GENERAL MANAGER'S DEPARTMENT

CONTACT: MANAGER FINANCIAL SERVICES

Summary/Purpose

This report presents financial reports to Council for information.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Legislative Requirements

Clause 212 of the Local Government (General) Regulation 2005 states that:

- (1) The responsible accounting officer of a council:
 - (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - (i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.
- (2) The report must be made up to the last day of the month immediately preceding the meeting.

Report

The following information is presented for information only.

(A) Finance Reports

Summary reports outlining Council's financial position as at 30 June 2017. The reports presented include:

- Rates Statement and Graph
- Statement of Bank Balances
- Summary of Investments

It should be noted that these reports do not include accounting adjustments to be brought to account on an annual basis. The reports also remain unaudited as at the date of presentation to Council.

(B) Councillors Travel Expenses Report

Included as an attachment to this report is a schedule showing payments to Councillors for travel claims made during the month. As stated in the notes, some Councillors may have outstanding claims that cover more than one period.

Recommendation

That Council receives and notes the information contained in the Monthly Financial Report.

Attachments

Combined Financial Report June 2017

12.2 WORKS PROGRAM PROGRESS REPORT JUNE 2017

REPORT BY: GENERAL MANAGER'S DEPARTMENT
CONTACT: MANAGER FINANCIAL SERVICES

Summary/Purpose

This report provides an update on the progress of Council's Capital Works Program, Plant Replacement Program, Quarry Operations and RMS Ordered Works for the information of Council.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Agriculture
- Visitor Attractions

Background Information

This report is intended to present to Council information on progress of the implementation of the annual works programs across all departments of Council, as well as the performance of the quarry and State Highways operations.

The report is provided as a separate attachment covering four main areas;

1. Capital Works Report

This section of the reports shows all capital works projects and provides a brief status report and expenditure year to date for each project, including any external funding which applies.

2. Plant Acquisition and Sales

This section of the reports shows the plant replacement program and the year to date income and expenditure associated with the program.

3. State Highways Ordered Works

This section of the reports shows the status of the Ordered Works under the Roads and Maritime Road Maintenance Council Contract (RMS RMCC) which is included in the State Highways budget area. The report shows each approved Works Order and the approved income and expenditure year to date.

4. Quarries Report

This section of the reports shows the income and expenditure for each of the four operational quarries for the year to date, including stock on hand and a brief description of current activities relating to quarries.

Budget & Financial Aspects

This report is provided for information only and any budgetary issues that may be identified as a result of these reports will be dealt with during the regular quarterly budget review process.

Recommendation

That Council receives and notes the information contained in the Works Program Progress Report June 2017.

Attachments

Works Program Progress Report June 2017

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A ASSETS AND INFRASTRUCTURE SERVICES REPORT

Nil.

ITEM 13B PLANNING AND ENVIRONMENTAL SERVICES REPORT

13B.1 ALCOHOL FREE ZONES

REPORT BY: PLANNING AND ENVIRONMENT

CONTACT: DIRECTOR PLANNING AND ENVIRONMENT

Summary/Purpose

This item aims to provide information to Council on the re-establishment of Alcohol Free Zones following advertising of the proposed Alcohol Free Zones in the local media.

Background Information

Council received a report at the June Ordinary Meeting, which proposed the re-establishment of Alcohol Free Zones (AFZ).

Alcohol Free Zones presently exist in the town of Kyogle and the villages of Woodenbong and Tabulam.

The current AFZ operational period expired on June 30, 2017.

Report

At the close of the advertising period and subsequent correspondence to identified stakeholders, Council has not received any written or verbal responses.

Issues:

1. The Kyogle, Tabulam and Woodenbong Police have strongly supported the proposed re-establishment of the existing Alcohol Free Zones.
2. No objections have been received to the proposed re-establishment of the Alcohol Free Zones.
3. The NSW Police support the view that the Alcohol Free Zones provide an effective control mechanism to restrict the consumption of alcohol in public streets, and to prevent and deter street offences.

Legislative Requirements:

Sections 644A and 644B of the Local Government Act 1993.

Recommendation

That Council:

1. Receives and notes the report, *Alcohol Free Zones*.
2. Re-establishes the Alcohol Free Zones in the town of Kyogle and the villages of Woodenbong and Tabulam for the period of July 1, 2017, to June 30, 2021 in accordance with Sections 644 – 644A and 644B of the Local Government Act, 1993.

13B.2 DEVELOPMENT MANAGEMENT PANEL – FUNCTION AND OPERATION POLICY

REPORT BY: DIRECTOR PLANNING AND ENVIRONMENT
CONTACT: DIRECTOR PLANNING AND ENVIRONMENT

Summary/Purpose

The *Development Management Panel – Function and Operation Policy* (the Policy) was adopted by the Council in July 2013. The policy outlines procedures for the operation of a panel of professional staff for the assessment and ‘determination’ of development application matters. The Policy has been used as a procedural basis for the Council’s assessment of development applications. However, the Policy is inconsistent, at best, with the provisions of the Local Government Act 1993 regarding the exercise of determination powers and for this reason, this report proposes that the Policy be rescinded and incorporated into a Council (administrative) procedure which does not purport to provide any powers of determination either to the panel or individuals – such matters are to be kept consistent with the provisions of the LG Act, including Council’s *Delegations of Authority Register*.

Community Strategic Plan Themes

- Governance and Community Service

Report

Council’s Development Management Panel (DMP) is an ‘in-house’ staff forum which meets weekly to consider the status of development applications currently before the Council and discuss technical assessment matters affecting proposals. The DMP consists of town planning, environmental health, building and engineering professional staff and is administered by the Planning and Environmental Services Department. The Panel has made collective recommendations to the Director Planning and Environmental Services regarding the preferred determination and conditions for development applications as well as implementing the necessary assessment processes, including dealing with requests for further information. The DMP has also been used to manage the workflow of all DAs and other development related applications as well as providing a pre-lodgement service to prospective applicants.

The stated role of the DMP is to:

“Apply on whole of organisation consideration of all aspects of development applications including compliance with current legislation and Council policy practice”.

In light of any such considerations, the DMP Policy implies that the DMP has a power to:

“Concur or refuse to concur with recommendations of the Planning & Environment Department regarding the determination of such applications”.

The power to delegate authority to exercise a head of power (i.e. make a decision) as referred to under the LG Act is expressed through sections 377-379 inclusively and sections 744 and 745 of the Act. The Council maintains a register of 'delegated authorities' delegated from the General Manager under section 378 of the Act – the *Delegations of Authority* register (the Register). The DMP does not feature in the Register.

The DMP Policy purports to have an over-riding power of decision making in relation to "recommendations of the Planning & Environment Department". This seems to include the role of the Department's Director, which is contrary to the delegations conferred by the General Manager in accordance with the LG Act. The Policy also stipulates circumstances where the DMP "will not determine" development applications. These circumstances are already adequately dealt with in relation to powers delegated to Council staff from the General Manager. The Policy's statements in this regard, are inconsistent with what is envisaged by the legislation and creates ambiguity.

Council staff has, to date, used the DMP Policy as a 'procedural guide' for the holding of meetings only. The determination of DAs has been solely driven by the delegations of authority that have existed at the time.

Conclusion

The DMP Policy presents a level of purported authority which is inconsistent with the provisions of the LG Act. The procedural aspects of the Policy are useful and should, more appropriately, be incorporated into an internal staff procedure. It is recommended that the Council adopt this course of action to ensure clarity and consistency with the provisions of the LG Act.

Recommendation

That Council:

1. Receives and notes the report, *Development Management Panel - Function and Operation Policy*.
2. Rescinds its Development Management Panel – Function and Operation Policy.

Attachments

1. Development Management Panel – Function and Operation Policy

**13B.3 DETERMINATION OF DEVELOPMENT APPLICATION 2015-72
FOR SUBDIVISION AT 45 ANZAC DRIVE, GENEVA**

**REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: DIRECTOR PLANNING AND ENVIRONMENT**

Purpose

This report presents to Council a recommendation for the determination of development application 2015-72.

Previous Council Consideration

At its meeting of 15 June 2017 Council resolved:

That Council receives and notes the report, Determination of Development Application 2015-72.

That Council undertake a workshop on DA 2015-72.

The matter was discussed at a Councillor workshop on Monday 26 June 2017. Following the workshop it is recommended the consent include an additional requirement for the erection of a fence along the Anzac Drive development frontage. Proposed Condition 10 has been modified to reflect this requirement.

Community Strategic Plan Item(s)

- Village life

Background Information

On 17 December 2015 a development application was lodged seeking consent to subdivide Lot 1 DP 307050 into 25 residential lots and a rural residual lot.

Several submissions were received objecting to the development. Council's Development Management Panel Policy requires the application to be determined by the elected Council.

Report

1. PROPOSED DEVELOPMENT

The application as lodged sought to subdivide the land to create 25 residential lots and a residual lot that included a residential zoned portion and the rural zoned remainder.

Plans were amended by the applicant to address issues raised by Council staff and the final proposed development is for the subdivision of the subject site into 24 residential lots and a residual lot that includes a residential portion and the rural zoned remainder. Residential lots range in size from 595m² to 1,236m². The residual lot is approximately 5.9 hectares in area. The development requires the construction of a new internal road and intersection with Anzac Drive, new property connections to Anzac Drive for three lots, as well as civil works to establish essential services to lots.

2. SITE DESCRIPTION AND PLANNING PROVISIONS

- Zone: R1 General residential and RU1 Primary Production
- Overlays: Flood Planning Area, Regionally Significant Farmland.

The subject site is approximately 8.45 ha in area. The proposed development is located on the northern portion of the lot which is in Zone R1 General Residential. The subject site and its surrounds as well as the LEP land zoning are shown in Figure 1 below.

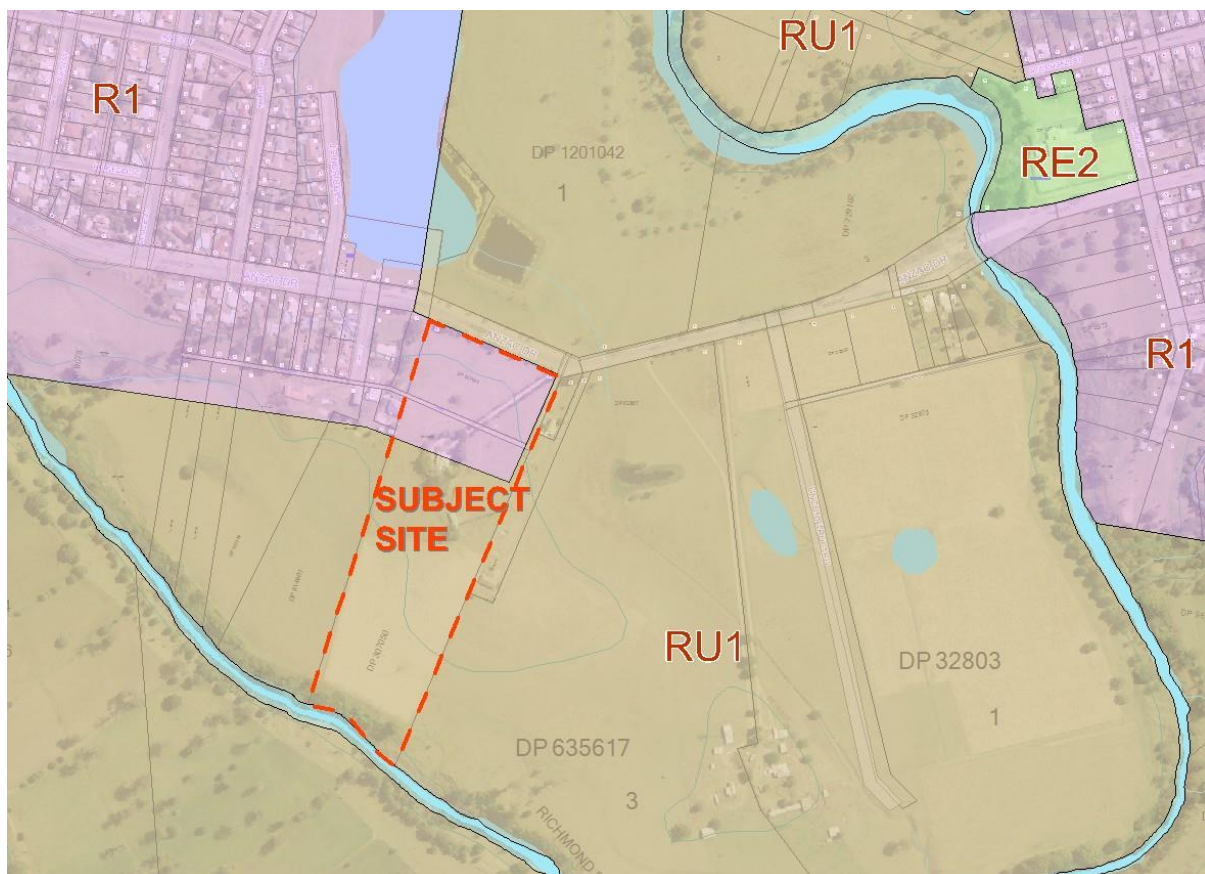


Figure 1 Subject site and its surroundings with LEP Land Use Zoning overlay

The majority of the land presently consists of cleared pasture and domestic garden with a dwelling and ancillary structures located on the hillcrest of the site.

The land falls to the south and meets the Richmond River. The fringes of the northern and eastern boundaries of the site are within the Flood Planning Area of the LEP and are shown as being within the Flood Fringe hazard category of the Kyogle Floodplain Risk Management Plan 2009. This means these parts of the site are subject to minor flooding in the largest probable flood event.

3. ASSESSMENT

Section 79C Evaluation- *Environmental Planning and Assessment Act 1979*

(1) *Matters for consideration—general*

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*

Kyogle Local Environmental Plan 2012

Zone R1 General Residential Objectives

The Objectives of Zone R1 clearly indicate its intent to be developed or used for residential purposes; the proposed development is consistent with this Objective.

Cl 2.6 Subdivision – consent requirements

The applicant has applied for consent.

Cl. 4.1 – Minimum subdivision lot size

All proposed lots will be greater than the 500m² minimum lot size.

Cl. 4.1B – Minimum subdivision lot sizes for certain split zones

The proposal is consistent with Clause 4.1B as all the rural zoned land is contained within proposed Lot 19.

Cl. 6.2 Flood planning

The lower parts of the subject site are within the Flood Planning Area of the LEP Flood Planning Map. The Kyogle Floodplain Risk Management Plan shows this part of the site as being in the Flood Fringe flood hazard category, meaning there may be minor inundation during the largest probable flood events. The lots affected are Lots 1-9 and Lot 25 however, the majority of the area of these lots is located on land that is higher than the minimum required flood immunity requirements as specified by the Kyogle Floodplain Risk Management Plan 2009. Floor levels of future dwellings will also be assessed as part of the development application process for these dwellings. The subdivision will not significantly alter flood behaviour, nor will it result in social or economic costs. The development is considered to be compatible with the flood hazard of the land and therefore, the proposal is consistent with Clause 6.2 (3) (a-e).

Cl. 6.4 – Essential services

Infrastructure is available at the site. Conditions will be applied to ensure all lots are serviced by reticulated water, sewerage, stormwater drainage, electricity, telephone and internet services.

(ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved),*

Not applicable.

(iii) any development control plan, and

Kyogle Development Control Plan 2014

Chapter 2 Subdivision – Part 4 Residential Subdivision in Urban Areas

The proposed boundary adjustment meets the Objectives and relevant Development Guidelines.

(iiiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

Not applicable.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,

Not applicable.

(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,

No significant adverse impacts anticipated.

(c) the suitability of the site for the development,

The site is considered suitable for the development.

(d) any submissions made in accordance with this Act or the regulations,

Public notice of the application was given in the Richmond River Express Examiner. Owners of adjoining land were also notified of the application. Five submissions were received from four adjoining land owners. All submitters objected to the proposed development. The grounds for objection and Council's response are shown in Table 1 below.

Table 1- Objections raised in submissions and Council's response

Objection raised	Council's response
The Land Use Conflict Risk Assessment does not address the use of the northern parts of Lots 21 and 22 DP 814607 for grazing. Development of residential lots in proximity to grazing may create conflict.	The LUCRA does not recognise that grazing is undertaken in this area. This activity has potential to create land use conflict with adjoining residential uses from noise and odour. Council has no record of complaints from other residents adjoining this land and, given the low numbers of cattle and the small area grazed, there is considered to be a low likelihood of land use conflict. Even so, a condition has been added that will require the construction of a 1.8 metre high gap free timber paling fence on the western boundary of the development site. This fence will significantly reduce any potential for land use conflict.
The LUCRA does not note the garaging of buses that is undertaken on Lot 23 DP 814607. Submitter does not want the residential subdivision to impact on the use	It is not considered that the development is likely to result in land use conflict between new residents and the existing bus accommodation. The garaging of buses in a

<p>of the land for bus parking.</p>	<p>residential area is subject to its own provisions under <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> and the KLEP. These provisions effectively require the operator of such a business to take account of the surrounding residential context of the area in order to benefit from such provisions.</p>
<p>Submitter does not want to be liable for half of the cost of fencing the common boundary with the development site. Submitter also seeks to have covenants placed on the lots that adjoin the boundary. The submitter did not make clear what this covenant should require but the comment appears to request that owners of the new lots be required to maintain fencing.</p>	<p>A condition has been imposed to require the developer to construct a 1.8 metre high paling fence along this boundary. A condition to require a covenant on the title of these lots in regard to maintenance of fencing is not considered to be a reasonable imposition. Other fencing issues are subject to the <i>Dividing Fences Act 1991</i>.</p>
<p>Submitter states that as the existing dwelling on Lot 22 DP 814607 is located very close the western boundary of the development site, any new house on proposed Lot 17 may adversely impact natural light, views and privacy enjoyed by the residents of this dwelling. In this regard the submitter requests that a covenant be placed on proposed Lot 17 that will limit the height of any future dwelling to a single storey dwelling.</p>	<p>Proposed Lot 17 is located to the east of the existing house however, with a 6 metre setback from the new road, any future house will not be within the north-eastern outlook of the existing dwelling on Lot 22. Therefore, it is not considered that a future dwelling will significantly impact on the outlook of the dwelling on Lot 22, nor its natural light. A condition has been imposed to required construction of a 1,800mm paling fence along this property boundary which will assist to maintain privacy between the dwellings. It is not considered reasonable to impose a covenant on proposed Lot 17 that will restrict any future dwelling to a single storey.</p>
<p>Submitter is concerned that the development will alter and/or increase stormwater runoff which may impact adversely on their property.</p>	<p>This property is not downstream of the subject site and no stormwater is to be directed towards this property. Council is satisfied that adequate provision for stormwater management will be incorporated into the development in accordance with the Council's standards.</p>
<p>Submitter questions whether Anzac Drive should be widened to include turning lanes into the new road.</p>	<p>Council's engineers have assessed the proposal and have imposed conditions that require the upgrade of Anzac Drive to accommodate the intersection with the new road and traffic levels expected to be ultimately generated by the proposed development in accordance with the Council's standards.</p>
<p>Submitter questions whether a bus stop is needed.</p>	<p>Council's engineers have not advised that a bus stop is required.</p>

<p>Submitter is concerned that the construction of the new road will impact their property entrance which is located in proximity to the new road.</p>	<p>The vehicular access to 43 Anzac Drive will be maintained.</p>
<p>Submitter is concerned noise and light from the new road will negatively impact their amenity.</p>	<p>A condition has been imposed that will require street lights to be hooded to avoid light spill onto the property at 43 Anzac Drive.</p> <p>A condition has been imposed to require the installation of street trees along the new road. These trees will assist to improve the appearance of the new development and partially screen the development from the submitter's residence.</p>
<p>Submitter is concerned stormwater from the development may enter their property.</p>	<p>Stormwater will not be discharged towards this property.</p>
<p>Submitter asks how the new lots will be serviced by sewer and what the location of any new pump station will be.</p>	<p>At the time of public notification no sewer pump station was proposed. In response to Council's information request the applicant revised the development proposal including the servicing of several lots with a sewer pump station. The sewer pump station is proposed to be located within the road reserve of the new internal road, within approximately 5 metres of the eastern property boundary. The pump station is not anticipated to create any significant noise impacts on the amenity of adjoining properties and will have negligible visual impact. Street tree planting along the new internal road will assist to screen views from the existing dwelling.</p>

(e) *the public interest.*

The proposal has no significant adverse impacts which would be contrary to the public interest. The development of additional residential lots will add to the supply of residential land in Kyogle and provide additional options for residential development.

Section 94 of the *Environmental Planning and Assessment Act 1979*

The development will create additional lots and therefore s94 developer contributions charges are applicable. The contributions have been calculated in accordance with Council's three s94 developer contributions plans and are \$8,248.50 per additional lot.

Section 64 of the *Local Government Act 1993*

The development will create additional serviced lots and therefore s64 charges for water supply, sewerage and stormwater drainage are applicable.

Charges have been calculated in accordance with Council's Development Servicing Plan 2011 and are \$6,365.37 per additional lot.

4. CONCLUSION

The application has been assessed against the relevant provisions in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and has been found to comply. Conditions have been imposed to mitigate or avoid impacts on or from surrounding properties.

Budget and Financial Aspects

The determination of the application carries no financial implications for Council that cannot be met by the existing Planning and Environmental Services budget.

Recommendation

That Council:

1. Receives and notes the report, *Determination of Development Application 2015-72*.
2. Pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, determine development application 2015-72 for the subdivision (1 lot into 25 lots) of Lot 1 DP 307050 at 45 Anzac Drive, Geneva by way of granting consent subject to the conditions contained in Attachment 3 of this report.
3. Prepare a notice of determination and provide it to the applicant.

Division:

Under Section 375A 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. Submissions received
2. Plans recommended for approval
3. Draft conditions of consent

13B.4 FUTURE TOWNS PROGRAM

**REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: ECONOMIC DEVELOPMENT OFFICER**

Summary/Purpose

This report is to inform Council on the outcomes of the Future Towns program.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Economic Development
- Environmental and Planning

Background Information

Council received \$50,000 funding through the NSW Department of Industry - Future Towns Program. Of this, \$20,000 was used to install free Wi-Fi in 'hot spots' throughout the Kyogle CBD. The remainder was used to engage Council's consultant - Caddie Marshall from Adloyalty - to deliver the Digital Readiness component of the Project. The project was a collaboration between Kyogle and District Chamber of Commerce, Kyogle High School and the Council.

The Digital Readiness component consisted of a series of workshops and one-on-one business health checks for businesses in the Council area as well developing an 'Adopt-a-Business' process involving collaboration between Kyogle High School students and local businesses interested in expanding their digital footprint. A feasibility investigation was also undertaken for potential start-up businesses seeking an 'emporium-style' retail outlet within the old IGA building within the town centre.

Report

The project consisted of three program components, being:

Base Package

- Digital ready business workshop – held in conjunction with Chamber of Commerce and Kyogle High School

Plus Package

- Establish an on-line presence – support website development and business directory development with Chamber of Commerce
- NBN activation opportunities – establishment of community fixed wireless connection in consultation with NBN

- On-line marketing capability building – implementation of an “adopt-a-business” project in partnership with High School and businesses
- Development of regional business mentoring network – feasibility study of a “Shades of Village Life Emporium” start-up retail cluster in conjunction with Chamber of Commerce

(Additional) Funding Package

- Digital activation initiative – Provision of free Wi-Fi to the Kyogle commercial precinct

Kyogle Council undertook the non-Wi-Fi installation components of the project through a professional consultant using the list of preferred consultants provided by the Department. The successful consultancy was Adloyalty Pty Ltd from Canowindra, NSW.

Installation of Wi-Fi points within the Kyogle commercial precinct has been project-managed by the Council in consultation with the NBN Manager and Coopers Communications Pty Ltd (as a Telstra contractor) who were chosen to undertake installation of Wi-Fi transmission points.

Adloyalty proved to be both extremely cost competitive, addressed the project scope exceptionally well and provided extensive engagement with community stakeholders as well as the Council’s staff. The consultancy demonstrated a high level of professionalism and experience as well as empathy for community and business factors affecting smaller regional towns such as Kyogle. The project has already led to increased digital activation by a range of businesses. The project included well targeted and presented workshop and individual meetings, built business awareness of key digital marketing principles, available platforms and access to readily available free digital support tools for those businesses that attended the workshops and meetings.

The project also assisted the business community and Council to better rationalise the range of digital platform initiatives that have been underway – helping to reduce duplication, facilitating better integration and improving the potential business impact and value of the initiatives. This has included webpage and other platforms developed or currently being developed by Kyogle Council, Chamber of Commerce and a range of individual businesses.

Stakeholder feedback to date has been positive from all participants. This has particularly been the case from the other project partners, being the Chamber of Commerce and Kyogle High School. TAFE NSW has also been keenly interested in the project, notably the Adopt-a-Business initiative and is keen for this to act as another option into the already established Youth Job PaTH Program. The project has not only achieved its original goals of improving digital readiness in the local business community but has also provided another structured way of achieving vocational training and job opportunity within the region by providing a level of coordination not previously considered.

Businesses that attended the workshops participated actively in the project. This included direct improvement in their digital presence and increased interest in Chamber of Commerce membership (ie an indicator of business interest). Council has been approached by a number of businesses keen to be further involved in collaborative efforts to improve business marketing in the locality and region.

The Adopt-a-Business initiative originally had some risk of potential 'exploitation' of youth. This was quickly overcome by sustained interest and suggestions from Kyogle High School representatives, including students, at meetings and workshops. This included suggested modifications to the program to improve its structure and delivery by making it more relevant to school curriculum requirements, school timetables and student needs. Key aspects of this included:

1. Preferred formation of student teams to deal with businesses, thereby providing greater scope for student collaboration (ie an important aspect of the curriculum), increased capacity for recipient businesses, potential for enhanced creativity and solution finding through better collaboration and improved response times for businesses
2. Development of an application form (ie process) for businesses to use, thereby enabling better vetting and managing and recording of requests from businesses by the school as well as providing a greater level of student welfare through better vetting of businesses and their operators
3. Improving the value of the program by also linking it to the local Youth Job PaTH Program

The feasibility investigation of the 'Shades of Village Life Emporium' concept (referred to in Council's adopted Community Strategic Plan) identified that:

- Cost constraints existed as a result of commercial lease costs relative to group income generation potential and ability to sustain operating costs for the 'preferred site'.
- The practical need for a single entity to manage operation of the preferred site and lease requirements and lack of any such entity at the present time or foreseeable future.
- Preferred commercial lease period – preferably exceeding 12 months and probable reluctance from start-up businesses to commit to any extended lease period.
- Need for building improvements to be undertaken – expected to be done by occupants – associated costs for extensive works expected to be too cost-prohibitive for envisaged businesses and associated business model.
- Likely insufficient and irregular income streams for goods and services sold at an 'emporium' to sustain other operating costs – ie poor cash flow.

The consultant found that there is insufficient strong interest to practicably establish an emporium-style retail outlet for start-up businesses at this stage but that this may change as the area's economic base grows in the future. Accordingly, such a concept should be one that the Council and local business community retain, in principle, for the future. In the meantime, there are current retail outlets which serve a similar purpose to that envisaged to the emporium idea. These have largely established over the past two years which have seen a sharp rise in 'culture related' retailing in the town.

The consultant's report recommends that these businesses should continue to be used to showcase goods and services from start-up and niche artisan seeking a retail outlet presence in Kyogle. This is likely to provide the most immediate benefit for such start-up businesses as well help better sustain existing businesses.

While any group wishing to form and establish a combined start-up presence would be equally assisted by Council, the Council and the Chamber of Commerce have already adopted an approach which encourages use of existing retail facilities within town centres by interested individual start-up artisan businesses.

The Wi-Fi component of the project forms a key part of realising and helping to further activate digital readiness opportunities. This is particularly the case for visitors to the area who will be able to gain high speed access to digitally connected local businesses. Local businesses will also be able to use the service.

Conclusion

The Kyogle Future Towns Program – Digital Readiness Project is practical initiatives of the NSW Government to assist local businesses maintain competitiveness and market access as well as providing a further useful form of infrastructure to the town centre. The business health check processes and tools identified in the consultant's report provides practical ways of realising the digital readiness potential provided by the enhanced infrastructure as well as providing a useful guide to businesses generally. The Council's aim is to maximise the benefits to local businesses more broadly and on this basis should publicise its consultant's report more broadly (eg on its webpage and social media pages) as well as incorporate the principles in the report as part of its own day-to-day digital communication strategies.

Recommendation

That Council:

1. Receives and notes the report, *Futures Town Program*.
2. Writes to the Kyogle and District Chamber of Commerce and the Kyogle High School thanking them for their valuable cooperation in this Project.

Attachment:

Adloyalty Report

ITEM 13C GENERAL MANAGER'S REPORT

13C.1 COMMUNITY ASSISTANCE REPORT

REPORT BY: GENERAL MANAGER'S DEPARTMENT

CONTACT: MANAGER CORPORATE SERVICES

Summary/Purpose

To present to Council an updated policy for community grants and assistance.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

At the Council workshop held 24 October 2016, Councillors requested the following additions to the grants program.

- Use the Councillor Workshop process as a means of discussing staff assessed applications prior to presentation to a formal meeting of the Council.
- Applicants should be required to address a number of pre-set criteria when applying
- Information presented to Councillors should include information on past grants awarded
- That the workshop to assess applications would be dedicated to that purpose
- That there should be an incentive for co-contributions and or matching contributions
- That the policy should allow for grants of a higher value than the current maximum \$1000 and allow flexibility on the determination on the maximum amount from year to year.
- Not have a separate allocation of funding for community grants and economic development and that all funding should be available under one process
- Allow for staff to assist applicants when requested.
- Include a formal grant acquittal process.

Report

As requested at the 24 October 2016 Councillor Workshop, the grants program has been updated. The updated policy titled *Community Assistance* was presented to Councillors at the 26 June 2017 Workshop for information and discussion.

The *Community Assistance* policy combines the current *Community Funding Support* policy and *Financial Assistance* policy and incorporates the additions requested at the 24 October 2016 Workshop as listed above.

The draft policy is presented here for Councillor endorsement to go on public exhibition for a period of 28 days.

Recommendation

That Council:

1. Receives and notes the report, *Community Assistance Policy*.
2. Places the draft *Community Assistance Policy* on public exhibition for 28 days, closing 7 August 2017 and seek submissions from the community on its content.

Attachment:

Draft Community Assistance Policy

13C.2 BUDGET ADDITIONS FOR 2017/18

REPORT BY: GENERAL MANAGER'S DEPARTMENT
CONTACT: GENERAL MANAGER

Summary/Purpose

The purpose of this report is to seek Council approval to amend the 2017/2018 budget to include additional externally funded items.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Roads and Infrastructure

Report

The following items have been identified to be added to the 2017/18 budget.

1. New Kyogle Rural Fire Service Building

Council and the Northern Rivers Rural Fire Service (RFS) have been undertaking preliminary planning for the construction of a new building to house the Kyogle RFS Brigade, which is currently operating out of a small brick shed at the Kyogle Council Works Depot on Highfield Road. Council has secured a lease over the site identified by the RFS which is located on railway land managed by the Australian Rail Track Corporation (ARTC) in Ettrick Street Kyogle next to the Kyogle Lions Club shed. The Northern Rivers RFS has secured funding for the construction of the new building in the 2017/18 financial year. The building will be constructed under a contract to be administered by Kyogle Council, and as per the standard arrangements for RFS building assets, the building will remain a Council owned asset occupied by the RFS. The building construction is to be funded 100% by the Rural Fire Service. The budget amount advised by the Northern Rivers RFS is \$447,825. Site investigations have been completed and tenders for the construction of the building are expected to be called in late July early August.

2. Natural Disaster Restoration Works Funding

Council has now lodged its claims under the National Disaster Relief and Recovery Arrangements (NDRRA) for the full restoration works associated with the March 2017 Natural Disaster event. To date the following restoration works have been approved;

- \$404,520 Bridge 198-47 McClellands Road
- \$624,024 Bridge 120-20 Sawpit Creek Road
- \$624,599 Bridge 27-16640 Collins Creek Road
- \$430,372 Landslip Cawongla Road

- \$303,409 Landslip Kyogle Road
- \$262,572 Landslip Williams Road

The final claims have been lodged with NSW Public Works for assessment totalling \$10,480,622, which includes the amounts listed above as being already approved. The restoration works are funded 100% through the NDRRA arrangements, with a \$29,000 contribution from Council which will be accounted for in the 2016/17 year.

Budget & Financial Aspects

Both the items proposed to be added to the budget are externally funded, and as such there are no implications on any other budget areas. There is a \$29,000 contribution from Council towards the first \$110,000 of NDRRA restoration works approved, and this will be accounted for in the 2016/17 year.

Recommendation

That Council:

1. Receives and notes the report, *Budget Additions for 2017/18*.
2. Includes an additional \$447,825 in the 2017/18 Emergency Services Capital Works Budget with matching income from the Northern Rivers Rural Fire Service.
3. Includes additional budget items in accordance with all approvals received for funding of restoration works under the National Disaster Relief and Recovery Arrangements program for the March 2017 Natural Disaster Events.

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

16.1 ACTING GENERAL MANAGER CONFIDENTIAL

**REPORT BY: GENERAL MANAGERS DEPARTMENT
CONTACT: GENERAL MANAGER**

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals

16.2 GENERAL MANAGER'S PERFORMANCE AGREEMENT CONFIDENTIAL

**REPORT BY: GENERAL MANAGERS DEPARTMENT
CONTACT: GENERAL MANAGER**

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals

APPENDIX / ATTACHMENTS

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON MONDAY 10 JULY 2017