



KYOGLÉ COUNCIL

COUNCIL MEETING AGENDA

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

ON MONDAY 14 MARCH 2016

Commencing at 5pm

GENERAL MANAGER: DAVID TUXFORD

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 14 March 2016, 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 Technical Services Section
 - B Planning Services Section
 - C Environmental Services Section
 - D Corporate Services Section
 - E Community Services Section
 - F General Manager's Section
- Item 14 Urgent Business Without Notice
- Item 15 Questions for Next Ordinary Meeting
- Item 16 Confidential Business Paper

DAVID TUXFORD
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.

(DAVID TUXFORD),
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 14 March 2016

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- ITEM 7 CONFIRMATION OF MINUTES**

7.1 CONFIRMATION OF THE MINUTES OF THE 8 FEBRUARY 2016 ORDINARY MEETING

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

A copy of the Minutes of the Ordinary Meeting held on 8 February 2016 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 8 February 2016.

Attachment

Minutes of the Ordinary meeting held on 8 February 2016

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

**9.1 NOTICE OF MOTION -- COUNCILLOR LINDSAY PASSFIELD;
PRIVATISATION OF THE CASINO NORTHERN RIVERS
LIVESTOCK EXCHANGE**

**REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: COUNCILLOR LINDSAY PASSFIELD**

Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Lindsay Passfield for the Ordinary meeting to be held on 14 March 2016.

Community Strategic Plan Item(s)

- Economic Development

Report

A copy of the Notice of Motion follows;



NOTICE OF MOTION

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

That Kyogle Council write to Richmond Valley Council expressing concern at the possibility of the Casino Northern Rivers Livestock Exchange (NRLX) being privatized, and support for its continued operation as a Richmond Valley Council asset.

Signed:

Lindsay Passfield

Date:

1 MAR 16

Councillor comments:

It is widely understood that Richmond Valley Council previously sought and received a \$3.5 million grant and a \$3 million low interest loan to upgrade the NRLX. Subsequently, the Richmond Valley Council resolved to investigate privatisation of the NRLX.

This has led to confusion and speculation among beef producers that access to the grant and loan funds may be lost, and that a privatised operation may not be in the best long term interests of producers.

Recommendation

Not required. Outlined in the Notice of Motion.

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM THE LAST COUNCIL MEETING

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

This report presents responses to questions raised at the last Council Meeting.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

Following are questions raised at the last Council Meeting along with responses:

Councillor John Burley

- *Are there any funds in the budget to carry out an external audit of the facilities at Toonumbar Dam? If we are going to seal the access road to the dam, it would pay dividends to get an audit done on what needs to be done to improve facilities at the dam.*

Response:

There are no funds in the budget to carry out an external audit of the facilities at Toonumbar Dam. An in-house assessment of the facilities was undertaken in the planning process associated with the grant funding application for the initial sealing of the access road. This assessment identified the main deficiencies being the amenities at the Bells Bay Camping area, with the pontoon at the site also identified as needing an upgrade.

The project for which Council has been advised of successful funding through the offices of Kevin Hogan MP includes upgrades to the facilities at the Bells Bay camping area including construction of a new amenities building and improvements to the existing pontoon structure. The project funding includes a contribution of \$17,520 from Kyogle Council towards the amenities building, which is sourced from Developer Contributions held in reserves for this purpose only. The remainder of the works at the Bells Bay site is to be funded from in-kind contribution by way of construction works and materials provided by the operators of Toonumbar Waters Retreat, who also operate the Bells Bay Camping area under lease from State Water. The operators of the Toonumbar Waters Retreat facility have also expressed a desire to invest further in these facilities once the sealing of the access road is completed.

It is understood that the operators have already identified their priorities for future investment at the facility based on their knowledge of the existing facilities and feedback from visitors.

Councillor Maggie Creedy

- *Can Council look at upgrading the signs at the entrance of Kyogle? The signs are tatty and in disrepair and are giving people a poor first impression of the town and the Council area.*

Response:

The existing signage at the entrances to Kyogle and the villages as well as the LGA area boundaries has been identified as being in poor condition and in need of replacement. Rather than replace the existing signage, it is proposed to include it as part of a project to be considered during the budget preparation for the 2016/17 financial year. The project would involve identifying a new brand for the Kyogle LGA, and the upgrade of signage across entrances to Kyogle and all villages, as well as the LGA entrances based on the newly adopted brand.

Councillor Lindsay Passfield

- *The Christmas decorations at Woodenbong are getting jaded -- can they be taken down?*

Response:

The Christmas decorations at Woodenbong have been taken down and any worn or damaged items will be identified for replacement before being put up again for next year.

- *Will Council be able to address the recently submitted maintenance request in relation to slashing and potholes on the route between Woodenbong and Urbenville? This is school bus route and a very heavily trafficked road.*

Response:

Some maintenance work has been carried out but was suspended due to a truck breakdown. Maintenance work should now be completed.

Recommendation

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

ITEM 11 DELEGATES REPORTS

11.1 DELEGATES REPORT: COUNCILLOR LINDSAY PASSFIELD -- LEGUME TO WOODENBONG ROAD ALLIANCE UPDATE

REPORT BY: COUNCILLOR LINDSAY PASSFIELD
CONTACT: COUNCILLOR LINDSAY PASSFIELD

Summary/Purpose

The following delegate's report has been provided by Councillor Lindsay Passfield and provides an information update in relation to works on Mt Lindesay Road between Legume and Woodenbong.

Community Strategic Plan Item(s)

- Roads and Infrastructure
- Economic Development

Report

The Mt Lindesay Road - Legume to Woodenbong Section Progress Report is attached for the information of Councillors.

Recommendation

That Council receives and notes the report, Delegates Report: Councillors Lindsay Passfield -- Legume to Woodenbong Road Alliance Update.

Attachment

Mt Lindesay Road - Legume to Woodenbong Section Progress Report

11.2 DELEGATES REPORT: COUNCILLOR DANIELLE MULHOLLAND -- FAR NORTH COAST WEEDS

REPORT BY: COUNCILLOR DANIELLE MULHOLLAND

CONTACT: COUNCILLOR DANIELLE MULHOLLAND

Summary/Purpose

The following delegate's report has been provided by Councillor Danielle Mulholland and provides an update on the operations of Far North Coast Weeds.

Community Strategic Plan Item(s)

- Governance and Community Service
- Environmental and Planning

Report

Far North Coast Weeds (FNCW) approach to weed management and its Integrated Planning and Reporting Framework reflects the management approaches of the NSW Invasive Species Plan and Weeds Action Program.

This provides direction as to how resources are used to achieve the following goals:

- Prevent the establishment of new weed species in our region – **Exclude.**
- Eliminate or prevent the spread of new weed species in our region – **Eradicate or contain.**
- Reduce the impacts of widespread invasive weed species – **Effectively manage.**
- Ensure community, industry and government stakeholders have the ability and long-term
- commitment to manage invasive weed species – **Build capacity.**

To achieve these predetermined goals, the activities centre on the following key tasks:

- Identification and management of high-risk weed species and the pathways they use to spread into and within our region.
- Formulate new weed detection systems to improve FNCW's capacity to find new weeds early.
- Ensure FNCW have the resources and procedures in place to undertake rapid strategic control measures against new weed incursions.
- Continual analysis of our weed management programs to ensure FNCW are directing resources to where benefits will be the greatest.
- Increase the community commitment and involvement in proactive weed management approaches.

FNCW conducted a control program for paper mulberry across the region. All known infestations and sites were targeted, with the heaviest infestations occurring around the Blue Knob area. In total there were over 10 ha treated across three main sites: Wilson's Creek, Blue Knob and Federal.

Over three weeks were spent inspecting known and high-risk locations in search of new and existing paper mulberry infestations, with control works undertaken where required. A new infestation was discovered near a creek, 8 km from any known infestation. A full survey will be undertaken along the creek to check for further infestations. The alarming rate of new infestations discovered by FNCW's inspectors is a growing concern and further extension and awareness campaigns will be conducted over the following months to try to locate all infestations within the region. Paper mulberry is a major threat to the environment in our region and it is advised that it should be targeted for early eradication.

Alligator weed (class 2)

Council's operations team, assisted by noxious weed inspectors, conducted a full aquatic surveillance and control program from Bangalow to Broadwater. Feedback from the Control Team Leader indicates that the results are the best seen in his time with FNCW. This is encouraging for staff, and for the region, as this project has been ongoing for a number of years and we are finally starting to see dramatic reductions in above ground bio-mass, with limited regrowth being recorded at known sites.

The site at Lagoon Grass has now received numerous treatments and is also showing encouraging signs that the infestation is reducing in size. FNCW believe the rapid containment of these infestations has reduced further spread to other wetlands and has been contained to the lagoon area only.

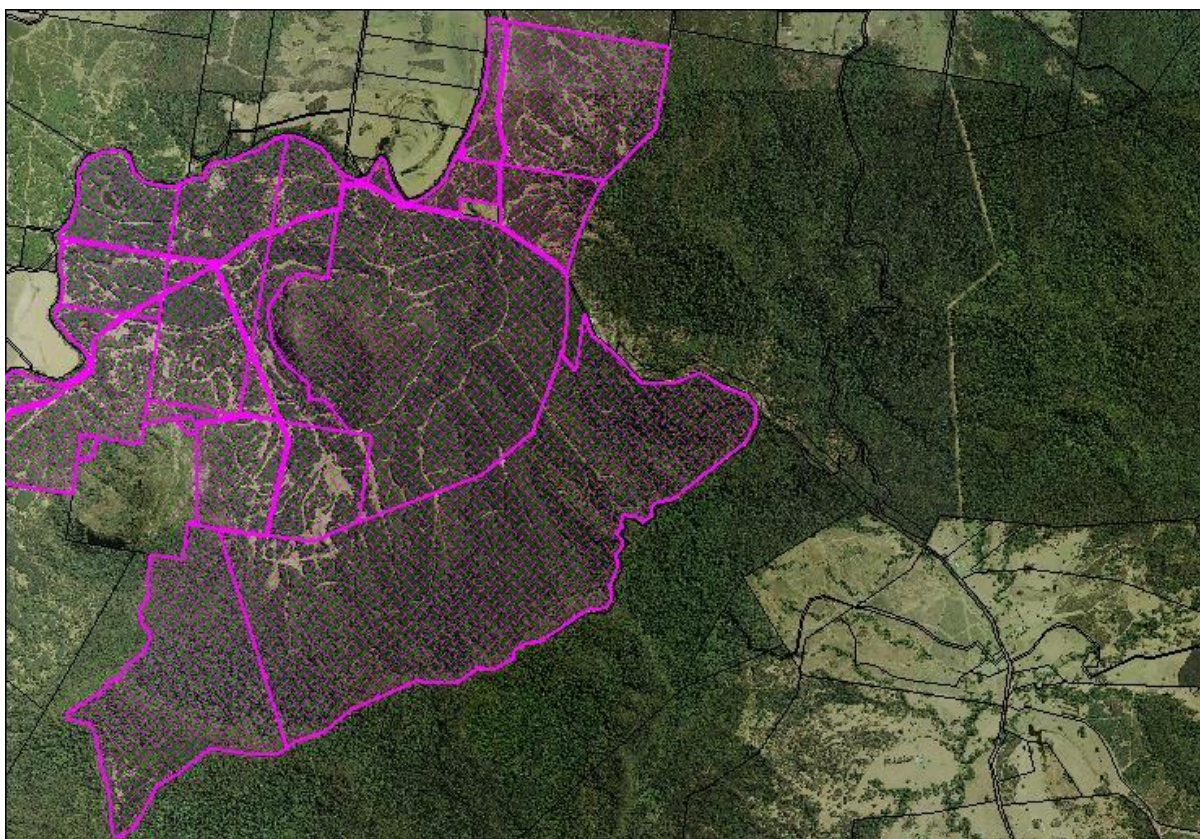
A mail-out to residents along the river system has been conducted, encouraging reporting of any infestations that may have established as a result of previous flooding.

Tropical soda apple (class 1)

FNCW has continued to focus heavily on tropical soda apple. With total infestations now covering close to 4,000 ha across the Council area, it is considered to be the biggest concern for Council and the Department of Primary Industries. Since the last meeting, a further three sites have been discovered, including an infestation near Urbenville in the Kyogle Council local government area.

This infestation is the largest, by area, in the region. Situated close to Beehive Mountain, early indications are that the heaviest infestations seem to occur close to the creek line, however, scattered infestations have been recorded across the entire property.

The state-wide Tropical soda apple taskforce is currently in the process of developing a state plan, which is based on the contents of the Biosecurity Strategy. FNCW is heavily involved in the development of this plan and it is hoped that future investment may be directed by other stakeholders and key groups as a result.



NEW ENTITY

The issue of the structure of the merged entities was considered as a matter of urgency at the meeting held on 22 February 2016. The appearance of the new entity appears to be a takeover by Rous rather than an equitable approach to integrating the three entities. It was resolved that the Chair should write to the Minister for Local Government raising concerns that the noxious weeds functions should not be diminished in any future entity and that this be reflected in any future structure. Of concern was also the establishment of a compulsory service level agreement for Tweed and Kyogle Councils. This letter is attached for your information.

RECOMMENDATION

That Council receive and note the FNCW delegate's report.

Attachment

Letter to Minister for Local Government Paul Toole

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTION

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

This report presents to Council a list of Council resolutions requiring action as at 4 March 2016.

Community Strategic Plan Item(s)

- Governance and Community Service.

Report

Attached to this report is a table detailing resolutions requiring action and their current status.

Recommendation

That Council receives and notes the report, Council Resolutions Requiring Action.

Attachment

Council resolutions requiring action as at 4 March 2016.

12.2 MONTHLY FINANCE REPORT

REPORT BY: ADMINISTRATION AND COMMUNITY

**CONTACT: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY
CAROL O'NEILL**

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 29 February, 2016. 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.

2. (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

1. Finance Reports
2. Report on Councillor Travel

12.3 WORKS PROGRAM PROGRESS REPORT

REPORT BY: ADMINISTRATION AND COMMUNITY

**CONTACT: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY
CAROL O'NEILL**

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
- Roads and Infrastructure
- Village Life
- Economic Development

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.

Report

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

1. Capital Works Progress Program

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 February 2016.

Attachment

Works Program Progress Report February 2016

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

13A.1 ANZAC DRIVE RECONSTRUCTION

REPORT BY: INFRASTRUCTURE WORKS

CONTACT: EXECUTIVE MANAGER INFRASTRUCTURE WORKS JEFF BREEN

Summary/Purpose

This report requests Council reallocate funding to repair Anzac Drive between Norton and Larkin Streets.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Background Information

The asphalt overlay on Anzac Drive has been exhibiting signs of distress for some time. The pavement had previously failed in places particularly between Larkin and Norton streets.

Increased truck traffic associated with Council's off-stream storage and levee bank has exacerbated this problem.

Report

A significant pavement failure of Anzac Drive between Norton and Larkin Streets has manifested over recent months requiring total reconstruction of this section of road.

Traditional "mill and fill" repairs will not be sufficient in this section as the subgrade is composed of low strength clay materials.

A permanent repair is proposed comprising a 300mm dig out, installation of geogrid and/or stabilisation, base course and asphalt seal.

Funding for this work will be from Roads to Recovery. An allocation of \$300,000 for the construction of Boyles Bridge on Grady's Creek Road was allowed for in the Roads to Recovery fund. This project has now been funded from the Bridge Renewal Fund and other Federal Government funds cannot be used on such projects.

With some minor adjustments on allocations within Roads to Recovery budget, an amount of \$243,971 is available within the current allocation for the Anzac Drive reconstruction, which is closely in line with initial estimates for the work.

Recommendation

That Council;

1. Receives and notes the report, Anzac Drive Reconstruction.
2. Allocate \$243,971 to the Urban Streets Capital Works budget for the reconstruction of failed pavement on Anzac Drive in the 2015/16 financial year
3. Adjust Roads to Recovery funding distribution in the 2015/16 budget to balance the projects included in the Roads to Recovery program as follows:
 - Increase Urban Street income by \$243,971
 - Decrease Rural Local Road income by \$9,360
 - Decrease Bridge income by \$236,892
 - Increase Regional Roads income by \$2,281

ITEM 13B PLANNING SERVICES REPORT

13B.1 DEVELOPMENT APPLICATIONS DETERMINED AND OUTSTANDING FOR THE PERIOD 30 JANUARY 2016 TO 29 FEBRUARY 2016

REPORT BY PLANNING AND ENVIRONMENT
CONTACT EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
MANFRED BOLDY

Summary/Purpose

This item presents to Council the Development Applications determined and outstanding for the period 30 January 2016 to 29 February 2016.

Report

There are two separate listings provided in the attachments to this report;

1. Development Applications Outstanding

This lists all development applications that had not yet been determined at the time this report was prepared. This listing includes any development applications received in the period since the last report. Each development application has been given an "Application Status" in the listing as follows;

- **Recent Lodgement** - those received during the period since the last report
- **Awaiting info from applicant** – Council has requested additional information in order to be able to determine the application
- **Finalising** – applications where a determination has been drafted and is expected to be issued in the period before the next report

2. Development Applications Determined

This lists all development applications that have been determined since the last time this report was prepared.

Recommendation

That Council:

1. With the exception of the following items in which Councillors and have declared an interest,
 - Cr..... 13B.1 Development Applications Determined and Outstanding DA.../... - Reason for Declaration -
 - Cr.....13B.1 Development Applications Determined and Outstanding DA.../... - Reason for Declaration -

Receive and note the information contained in the report Development Applications Determined and Outstanding for the 30 January 2016 to 29 February 2016.

2. Receive and note the information contained in the report Development Applications Determined and Outstanding for the period 30 January 2016 to 29 February 2016 only in relation to DA../... and DA../.... In which Councillors have declared an interest.

Attachment

Development applications determined and outstanding February 2016

13B.2 PLANNING PROPOSAL TO AMEND THE KYOGLE LOCAL ENVIRONMENTAL PLAN 2012 RU1 AND RU2 ZONED LAND AND 'DEFERRED MATTER' AREAS

**REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT SERVICES, MANFRED BOLDY**

Purpose

The purpose of this report is to present to Council a proposed amendment to the *Kyogle Local Environmental Plan 2012* (KLEP) to include into the Primary Production RU1 Zone (RU1 Zone) the following affected lands:

- 'Deferred Matter' areas (Deferred Areas) which were previously identified as land to be zoned E Zones and omitted from the LEP by the State; and
- Land currently zoned Rural Landscape RU2 Zone (RU2 Zone)

The proposed amendment is as a consequence of:

- 1) Recommendations of the NSW State Government to include the Deferred Areas into a rural zone within the Kyogle local government area; and
- 2) Other LEP amendments to the suite of permissible land uses in the RU1 and RU2 zones

The recommendations referred to in point 1) above formed part of the overall findings of the *Northern Councils E Zone Review Final Recommendations Report* (the Final Recommendations Report) which was released by the New South Wales Department of Environment and Planning in October 2015. The proposed amendment for the Deferred Matters areas in the KLEP is to zone such land RU1 Zone consistent with the recommendations of the Final Recommendations Report, with the exception of a small area within the Kyogle town area.

Land that is presently zoned RU2 Zone is proposed to be included within the RU1 Zone due to the similarity of land uses that are permitted without or with consent or are prohibited within the two zones. The similarity in land uses and levels of permissibility is due to the original 'closeness' of the two zones when the KLEP was gazetted and further recent amendments to the KLEP.

Community Strategic Plan Item(s)

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

Background Information

Previously Proposed E Zones

As part of its KLEP preparation, the Council identified areas for inclusion in E Zones that established different levels of assessment for developments in the affected areas. The E Zone locations were based on coarse mapping interpretation at the time. The Minister for Planning and Infrastructure, in September 2012, announced a review of the application of environmental zones (E zones) and environmental overlays in LEPs on the Far North Coast. The locations proposed for E zones in the draft KLEP were omitted by the Minister for Planning and became 'Deferred Matter areas and were excluded from the gazetted KLEP. These areas maintained their zonings and land use planning provisions under the earlier Interim Development Orders (IDOs). The Kyogle local government area has approximately 156 Deferred Areas shown within the current KLEP area - two of which are within the Kyogle town area with the rest in rural locations.

The zoning of the Deferred Matters areas, based on the IDOs is Non-Urban 1A. This is the primary rural zoning under these local environmental planning instruments. The mapping of the RU1, RU2 and E Zone areas in the KLEP was originally based on the NSW Rural Land Classification system.

It is understood that a coarse assessment of scenic landscape qualities was also included in the determination of the zones. Factors used in the determination of the Rural Land Classifications include:

- Slope gradient and length (ie steepness)
- Site drainage characteristics
- Soil types and characteristics
- Geomorphology and general site characteristics (ie including likely stability)
- Climate

The system identifies eight potential classifications of land capability. Council staff have advised that the KLEP rural zonings and proposed E3 Zone included in the second draft of the KLEP were based on the following:

- RU1 Zone – Rural Land Classification 1-6
- RU2 Zone – Rural Land Classification 7
- E3 Zone (i.e. Deferred Matter areas) – Rural Land Classification 8 (this is referred to in the report to the Council's Extraordinary Meeting of 30 July 2012 which was adopted by the Council as reflected in the Extraordinary Meeting Minutes)

Classification 8 land is general regarded to be:

"Land unusable for agricultural or pastoral uses. Recommended uses are those comparable with the preservation of the natural vegetation, namely water supply catchments, wildlife refuges, national parks, and scenic areas."

(Source: Table 1 of Emery. K. A., Rural Land Capability Mapping. Land & Water Conservation, Undated)

A review of the E zones was undertaken by consultants on behalf of the State Government. An Interim Report was made publicly available for comment between May-June 2014. The Final Recommendations Report, of October 2015, generally recommends that more rigorous investigation techniques must be applied for any proposed E zones or overlays intended to be used to manage potential land use conflicts and identified ecological biodiversity and aboriginal cultural heritage values.

This is consistent with both Commonwealth and State scientific survey and reporting protocols that already exist and are applied to environmental impact assessment and other approval processes. The recommendations also preclude amenity issues (including scenic landscape issues) from being included in E Zone considerations.

The recommended action in the Final Recommendations Report for Kyogle is:

Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones or additional mapped planning controls.

The recommendations of the Report have since been given statutory effect through the release of the Minister's Section 117 Direction, dated 25 February 2016, which requires affected councils (including Kyogle Council) to comply with the recommendations of the Final Recommendations Report (see Attachment A).

The use of the Non-Urban 1A Zone under the IDOs is no longer possible as the zone does not form one of the zones that are able to be used under the Standard Planning Instrument on which the KLEP must be based. While the Council's original assessment of the proposed E3 Zone accords more closely with the criteria used for the RU2 Zone lands, there is now little practical difference between the RU2 and RU1 Zone under the KLEP. The use of the RU1 Zone to zone the Deferred Matters areas is preferred, especially if the use of the RU2 Zone is to become redundant (see later section in this report).

There are also some Deferred Matters areas situated within existing urban or recreational land within the Kyogle town area. A rural zoning in these locations would not be appropriate and, instead, existing adjoining non-rural zonings should be applied. Such a minor, practical variation is still considered to be within the overall intent of the Final Recommendations Report concerning Kyogle.

The presence of deferred areas in the KLEP together with lack of clarity over the future of E zones in the Kyogle LGA has resulted in landholder uncertainty and has the potential to adversely affect future land management decisions and local investment. While LEP provisions can add to environmental protection measures, the protection of biodiversity characteristics is already covered by both Commonwealth and NSW State legislation, including:

- *Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)*
- *Threatened Species Conservation Act 1995 (NSW)*
- *Fisheries Management Act 1994*
- *National Parks and Wildlife Act 1974*
- *Native Vegetation Conservation Act 1997*

The above mentioned acts already have separate assessment provisions where affected flora or fauna are known to or may exist as well as separate licensing and plan preparation provisions. These provisions apply irrespective of the state's land use planning provisions under the *Environmental Planning and Assessment Act 1979*.

A number of policy documents also apply to ecological investigations that may need to be undertaken under both Commonwealth and State legislation.

This includes Commonwealth guidelines and protocols for environmental impact assessments, reporting, plan making and provision of environmental offsets, as referred to in the Department of Environment webpage:

<https://www.environment.gov.au/epbc/policy-statements>

Specific NSW State guidelines referred to in the Final Report on E zones include:

- *Threatened Biodiversity Survey and Assessment: Guidelines for Development and Activities (Working Draft) 2004*
- *NSW Framework for Biodiversity Assessment, 2014*

The stated NSW protocols are significant and cannot be undertaken in-house by Council. The level of evidence-based investigation required by the Final Recommendations Report for the establishment of either E zones or LEP mapping overlays for biodiversity or cultural heritage matters would require specialist consultant resources. The Council currently has no locally mapped biodiversity information that would meet the requirements referred to in the Final Recommendations Report – ie which includes a requirement that any data used is less than five years old and has been ground verified by independent study in accordance with the guideline protocols.

While there may be some scope for the matters to be considered regionally by affected councils, the overall combined area affecting the Kyogle Council alone, is large. Any such study will require accredited specialist professionals including ecologists and environmental planners, as well as considerable time to undertake and prepare the necessary independent investigations, surveys, consultations and reports in order to comply with the protocols referred to in the Final Recommendations Report. The likely cost to Council for any such studies is expected to be significant and is not accounted for in its current budget.

It is also unclear whether there is likely to be sufficient benefit to the Council as a result of further detailed ecological investigations at this stage, given that:

- The development imperatives and any likely land use conflicts within the Council's LGA appear to be low at best
- There is no recent history of any significant unauthorised clearing of protected vegetation
- Other state-wide biodiversity mapping initiatives by the NSW Government are currently underway (information is not yet publicly available)

Legislation is still in force that protects against any significant impact on biodiversity already, regardless of any LEP amendments that may take place.

The NOROC Planners' Group at its December 2015 Meeting recommended the formation of a joint planners/NRM specialist group to consider a joint approach to any further E zone investigations in the region. This issue is of particular interest to Tweed, Byron, Lismore and Ballina councils where there is apparent stronger support for additional zoning provisions to deal with environmental and amenity issues affecting the local government areas. Implementing the Final Recommendations Report recommendations for the Kyogle LGA will not prejudice further NOROC consideration of the matter or Kyogle's potential involvement in any such discussions.

Inclusion of RU2 Zone Land into RU1 Zone

The Council has undertaken a number of LEP amendments that have either been gazetted, are awaiting gazettal or have been approved for public exhibition. The amendments have introduced a number of additional land uses into the RU1 and RU2 zones which are intended to support agribusiness and other complementary land uses. Attachment B provides a comparison of the different key rural used in the IDOs and the KLEP.

The only substantial differences between the RU1 and RU2 zones are shown in Table 1.

Table 1 Land Use Differences between RU1 and RU2 Zones under Kyogle Local Environmental Plan 2012

Land Use	Permissible with Consent	
	RU1 Zone	RU2 Zone
Boatshed	Yes	No (Prohibited)
Open cut mining	Yes	No (Prohibited)
Place of public worship	No (Prohibited)	Yes

The similarity between the two zones provides an opportunity to rationalise the two zones into a single primary rural zone for the Kyogle LGA, subject to some further clarification concerning the land uses identified in Table 1 and scenic landscape considerations.

Boatsheds

Boatsheds are permissible with consent within the RU1 Zone but are prohibited within the RU2 Zone. Boatsheds are not a land use that has significant prominence within the Kyogle LGA. The demand for boatsheds on land that is currently zoned RU2 Zone is not likely to be significant and should any such proposals eventuate, it is likely that they can be adequately managed through the development consent process on land that is presently zoned RU2.

Open Cut Mining

Open cut mining is not a use with any current significant prominence within the LGA, although potential may exist for future precious metal mining in the western parts of the LGA. Open cut mining does not include quarries which are separately classed as 'extractive industries' and which are already permitted within the RU1 Zone and will be permitted in the RU2 Zone.

While open cut mining is presently a 'prohibited' land use within the RU2 Zone, Clause 7 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (Mining SEPP) states that mining (ie this includes open cut mining) may be carried out on any land where development for the purposes of agriculture or industry may be carried out (with or without development consent), as is the case for the RU2 Zone. Mining is also permissible with consent where under the Mining SEPP the land is the subject of a mining lease that was in place immediately before the commencement of the *NSW Mining Act 1992*.

Accordingly, the KLEP has no effect in prohibiting mining within the LGAs current primary rural areas (ie including the RU2 Zone).

The Department has verbally advised that open cut mining is to be shown as a use that is permissible with consent within the RU1 Zone, as is presently the case in the KLEP. This is consistent with the provisions of the Mining SEPP and is recommended as the preferred approach, should the Council agree to replace the RU2 Zone with only the RU1 Zone.

Places of Public Worship

Places of public worship are presently permissible with development consent in the RU2 Zone but prohibited within the RU1 Zone. The demand for new places of public worship within the LGA is expected to be low and is unlikely to require any indicative strategic placement in terms of zonings.

The potential location of places of public worship is a matter that can best be dealt with as development consent matter, including demonstration of compatibility with other primary production and associated rural land uses.

Inclusion of places of public worship as a land use that is permissible with consent within the RU1 Zone is recommended as the preferred treatment of this land use.

Scenic Landscape Values

The RU2 Zone identifies land which has a lower land capability classification but which still may have agricultural production capacity as well as potential scenic landscape values. This and other characteristics that were used to map the RU2 Zone lands are matters that are already addressed in the Council's *Kyogle Development Control Plan 2014* (KDCP) for any development requiring development consent.

Report

1. Consultation

The proposed LEP amendment has been the subject of internal Council staff discussion including at the MANEX level. Detailed consultation with the public and government stakeholders can be undertaken as part of the formal public exhibition process for the proposed LEP amendment.

2. Proposed Amendments to KLEP

Based on the above, there is little benefit in maintaining 'duplicate' zones for the two similar sets of land use classifications across the LGA. Removal of the RU2 Zone and incorporation of any affected land into the RU1 Zone is expected to provide a more streamlined LEP, remove ambiguity and provide for clearer land use controls over the LGA's rural lands while still maintaining manageable land use permissibility provisions and existing levels of environmental control.

The proposed LEP amendment is to:

- 1) Change the KLEP zone maps to:
 - a) Zone the current 'Deferred Matter' areas primarily as Primary Production RU1 Zone. The exception is for land around Fawcett Creek in Kyogle (previously identified for its bat colonies) which is to be zoned RE1 or R1 based on the adjacent land zonings of the affected Deferred Matter areas.
 - b) Zone all land currently zoned Rural Landscape RU2 Zone to Primary Production RU1 Zone
 - c) Amend Land Application Map – Sheet LAP_001 to remove any reference to Deferred Matter areas
 - d) Amend any Deferred Matter areas on the Lot Size Maps to reflect the current adjacent minimum lot sizes.
- 2) Remove references to the RU2 Zone from the Land Use Table and elsewhere within KLEP
- 3) Include 'places of worship' as a land use that is permissible with consent within the Land Use Table for the RU1 Zone
- 4) Amend the LEP document to remove the note at Clause 1.8 of KLEP making reference to the applicability of the IDOs to Deferred Matter areas

Budget & Financial Aspects

There are no additional budget implications for the proposed amendment to the KLEP. The work is to be wholly undertaken through the use of existing Council staff resources and existing budget allocations. The undertaking of additional studies to determine areas of biodiversity significance, scenic amenity or geotechnical stability for the purposes of zoning or mapped overlays for biodiversity purposes in compliance with the requirements of the Final Recommendations Report would represent a significant additional budget burden that is not within the Council's current budget.

There are no Council budget implications of combining the RU1 and RU2 zoned lands into the existing RU1 Zone.

Recommendation

That Council:

1. Receive and note the report on the proposed amendment of the KLEP to:
 - a. Include the 'Deferred Matter' areas as RU1 Zone land in the Zoning Maps; recognise the Deferred Matters areas as part of the KLEP in the Land Application Map; identify relevant minimum lot sizes for the Deferred Matters areas in the Lot Size Maps based on the adjoining minimum lot sizes for any land with a similar intended use
 - b. Remove any reference to 'Deferred Matters areas on any maps or document of the KLEP
 - c. Rezone existing RU2 Zone land to RU1 Zone as shown in the Zoning Maps of KLEP
 - d. Remove the RU2 Zone Land Use Table and any other reference to the RU2 Zone in KLEP

- e. Include 'places of public worship' as a land use that is permissible with development consent within the RU1 Zone Land Use Table
2. Amend the *Kyogle Local Environmental Plan 2012* (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in Item 1 and as discussed in detail in this report
3. Authorise the General Manager to prepare a Planning Proposal consistent with the contents of this report and submit the Planning Proposal to the Department of Planning and Environment (the Department) for review and Gateway Determination.
4. On receipt of a Gateway Determination stating that Council may proceed with the LEP amendment, the General Manager be authorised to make any necessary changes to the Planning Proposal in accordance with the requirements of the Department and undertake the necessary administrative procedures of the LEP amendment process in accordance with the provisions of Part 3 Division 4 of the EP&A Act, including public consultation
5. On conclusion of public consultation, a further report is to be presented to Council outlining the outcomes of consultation, including submissions received.

Division

Under section 375A of the *Local Government Act 1993*, a division is required to be called to record that manner in which all councillors have voted whenever a planning decision is to be made in relation to a development application, planning instrument or development control plan. The section of the Act applies to a Council decision regarding the matter referred to in this report.

Attachments

1. Section 117 Direction
2. Comparison of Rural Land Use Tables under Kyogle Affected IDOs and KLEP

13B.3 DETERMINATION OF DEVELOPMENT APPLICATION 2015-60 FOR AN AGRICULTURAL PRODUCE INDUSTRY (BLUEBERRY PACKING FACILITY) AT 968 TABULAM ROAD, JACKSONS FLAT

**REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
MANFRED BOLDY**

Purpose

This report presents to Council a recommendation for the determination of development application 2015-60.

Previous Council Consideration

No previous Council consideration.

Community Strategic Plan Item(s)

- Economic Development
- Environmental and Planning

Background Information

The development application was lodged on 12 November 2015 and seeks consent for establishment of an agricultural produce industry on land at 968 Tabulam Road. The value of the development is stated as \$3 million; the application therefore falls outside of the delegation of the Executive Manager Planning and Environment and General Manager to determine and must be determined by the elected Council.

Report

1. PROPOSED DEVELOPMENT

The proposed development involves the establishment of an agricultural produce industry for the packing of blueberries. The facility includes the following components:

- 1) Administration and staff amenities building.
 - 2) Five sheds to accommodate packing facilities and operations.
 - 3) Vehicular access, car parking and loading, unloading and manoeuvring areas for trucks.
 - 4) Wastewater treatment facility and rainwater storage tank.
 - 5) Landscaping including buffer planting.
-

It is proposed to construct the facility in two stages; Stage 1 includes all the development listed above except for three of the packing sheds. Stage 2 will involve the construction of the final three sheds.

2. SITE DESCRIPTION AND PLANNING PROVISIONS

- Zone: RU1 Primary Production
- Overlays: Parts of the subject land are mapped as bushfire prone land; this does not include the location of the proposed development.

The subject land is about 109 ha in area and consists principally of cleared pasture. The western boundary of the land adjoins the Clarence River and part of the eastern boundary adjoins Bottle Creek. The site is located in an area of generally cleared, undulating rural land. Jacksons Flat Road and Tabulam Road run through the site. The development is proposed for the eastern portion of the site, with access achieved from Tabulam Road. The site is about 6.3km from Tabulam via Tabulam Road. The current standard of the majority of the Tabulam Road between Tabulam and the development site is single lane sealed road in varying condition including a single lane timber bridge with some sections of road best described as poor. There is one approximately 700m long section of recently constructed 6m sealed road pavement.

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 RU1 Primary Production

The proposed development is defined as an *agricultural produce industry* which is a type of *rural industry*. *Rural industries* are permitted with consent in Zone RU1. The proposal is consistent with the objectives of the zone.

Clause 6.4 Essential services

Clause 6.4 states that consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. Water, electricity, sewage disposal and stormwater drainage are available or arrangements have been made for their supply.

In terms of vehicular access, Tabulam Road provides vehicular access to the development considering its current standard and the traffic to be generated by the development, but largely at a substandard level.

Two sections of road are 4.2 metres wide and there is an existing single lane bridge: these already require upgrade to a suitable standard to adequately cater for existing and proposed traffic.

Council's engineers advise that the suitable standard is a 7m wide formation with 6 m wide seal. The bridge is programmed for replacement within the next five years.

As the development will create increased demand on Tabulam Road, it is recommended that a condition be imposed requiring a monetary contribution under Council's s94 Developer Contributions Plan 2001 Urban and Rural Roads: the calculated contribution for the development (based on it generating an additional annual average of 42.5 vehicle trips per day) is \$132,981.40. It is also recommended a condition be imposed requiring the widening of a 400 metre section of Tabulam Road (between chainages 12,020m and 12,420m as measured from Clarence Way) that is unsuitable for heavy vehicle traffic, as proposed by the applicant.

(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),

Nil.

(iii) any development control plan, and

Kyogle Development Control Plan 2014

Chapter 1 Non-residential development in rural zones; Part 2 Intensive Livestock Agriculture, Rural Industries and Animal Boarding or Training Establishments

The proposed development complies with the Acceptable Solutions in the DCP aside from the following:

Non-compliance with Acceptable Solutions	Assessment against Performance Criteria
<p><i>A1 Development is not sited on land mapped as Regionally Significant Farmland or Class 1, 2 or 3 agricultural land</i></p> <p>The development is proposed on land that is mapped as Class 3 Agricultural Land. The development will occupy approximately 2.5ha of Class 3 agricultural land.</p>	<p><i>P1 Development does not significantly reduce the viability or potential of Regionally Significant Farmland or Class 1, 2 or 3 agricultural land</i></p> <p>The development meets P1 as the loss of 2.5ha of Class 3 agricultural land out of a 109ha parcel will not significantly reduce the viability of the land. The subject parcel is still considered to be a viable agricultural parcel.</p> <p>The purpose of the development is to facilitate and 'value-add' to farmland production in the area.</p>
<p><i>A3.2 Cut or fill does not exceed 1.5 metres in height or a total height of 3 metres</i></p> <p>The development will result in cut and fill greater than 1.5m in height.</p>	<p><i>P3 Development siting and layout utilises natural grades of the land and minimises cut and fill</i></p> <p>The development meets P3 as it utilises the natural grades of the site to the greatest extent possible. The sheds are proposed on a relatively level part of the site.</p>
<p><i>A6.1 Buildings and structures are not located in visually prominent locations such as ridgelines, hill tops or in prominent locations when viewed from</i></p>	<p><i>P6 The development does not adversely impact significant vistas, landscape character or surrounding properties.</i></p>

<p><i>public vantage points.</i></p> <p>The development is located in a highly visible location when viewed from Tabulam Road travelling north. The scale of the buildings means that the development will create a significant impact on the character of the site and its immediate surroundings. The proposal therefore does not meet A6.1.</p>	<p>Due to its location and topography in the area the development is not highly visible from the majority of the surrounding landscape and therefore does not significantly impact significant vistas landscape character or surrounding properties.</p> <p>Furthermore, a landscape concept plan has been submitted with the application which proposes a band of tree planting to the northern, western and part of the southern sides of the development. It is considered the buffer planting should extend further along the southern side of the development to screen views from the main approach on Tabulam Road and the landscape plan has been amended in red accordingly. With these measures it is considered that the development meets P6.</p>
<p><i>A8.1 Construction of buildings, structures and operational areas does not require the clearing of native vegetation.</i></p> <p>The development necessitates the removal of two large mature eucalypt trees.</p>	<p><i>P8 Development does not adversely impact on ecological functions or biodiversity values.</i></p> <p>The biodiversity values of the site are limited: the removal of two isolated paddock trees will not significantly adversely impact ecological functions or biodiversity values. Native trees proposed to be planted as part of the landscape buffer will result in a net gain in native flora on the site.</p>
<p><i>A17.1 The development is connected to a public road that is of appropriate standard to accommodate the nature of traffic generated by the development.</i></p> <p>The development will be accessed via Tabulam Road. Two sections of Tabulam Road do not presently meet the design standard for a 150AADT Arterial road which requires a 6m sealed pavement with 1 m shoulders. These two sections of Tabulam Road are therefore not of suitable standard to accommodate traffic generated by the development.</p>	<p><i>P17 The development has vehicular access that is safe and suitable for the intended use</i></p> <p>Council's engineers have identified that two sections of Tabulam Road do not meet current standards. It is unreasonable to require the developer to upgrade these two sections of road given they are already sub-standard. A condition has been placed on the consent requiring payment of s94 developer contributions which will be used by Council to pay for upgrade of Tabulam Road. A condition has been placed on the consent that requires the developer to upgrade a section of Tabulam Road this is unsuitable for heavy vehicle traffic.</p> <p>It is therefore considered that the proposal meets P17.</p>
<p><i>A21 Hours of operation are in accordance with Table C1.2 in Appendix 1</i></p> <p>Table C1.2 prescribes preferred operational hours for Rural industries as; 7am-6pm Monday- Friday and 7am-1pm on Saturday with no operation permitted on Sunday. During peak production season the packing facility is likely to operate outside of these hours.</p>	<p><i>P21 Operation of the development does not create unacceptable impacts on surrounding areas</i></p> <p>The development is not anticipated to have unacceptable impacts on the amenity of the surrounding area. The nature of the use does not require use of noisy machinery, does not involve external operations and does not generate significant numbers of truck movements. The nearest house not on the subject property is approximately 650m to the</p>

	north west. It is considered that the development will not have an unacceptable impact on the surrounding area. Conditions have been imposed to require that the operator prepare a noise impact assessment should the operation of the facility result in a noise complaint.
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Chapter 6 Public Notification of Development Applications

Chapter 6 outlines that notification to owners of adjoining land of applications for *rural industries* is required and notification in a local newspaper may be required. Due to the scale of the proposal notification in a local newspaper was deemed to be required. Therefore, adjoining and nearby owners were notified of the proposal and a public notice was placed in the Richmond River Express Examiner on 2 December 2015; the period for making submissions was 21 days. Three submissions were received. The issues raised by the submitters and Council's response are tabled below.

Chapter 8 Off-Street Car Parking

Table C8.1 of Chapter 8 states that an agricultural produce industry requires 1 car park per 2 employees. The development will involve the employment of 60 persons at peak operations, requiring the provision of 30 car parking spaces. The application proposes provision of 30 car parking spaces and therefore meets A1.1. The proposed car parking arrangements also comply with the other relevant development guidelines of Chapter 8 or can be conditioned to comply.

(iia) *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,*

The development will have negligible impacts on the natural environment. The site includes very limited native vegetation and the development will result in the loss of two mature trees. Wastewater from the facility will be appropriately treated before release to the environment. The development will not have adverse social impacts on the locality. The development will have positive impacts on the local economy as it will generate employment and economic activity.

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

The site is considered suitable for the development after consideration of the proposal and its potential impacts. The site is relatively level, is located adjacent to Tabulam Road and is located a suitable distance from surrounding dwellings.

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

Three submissions were received from owners of nearby properties, two of which are located on Tabulam Road.

The concerns raised by the submitters and the response are tabled below:

Issue raised	Response
<p>Tabulam Road does not meet the 'specifications of an Arterial Road'</p>	<p>Tabulam Road does not currently meet the standard for a Local Arterial Road. Council will need to upgrade the road to the required standard. It is unreasonable to require the developer to upgrade the road. It is recommended a condition be placed on the consent that requires a monetary contribution to the upgrade as per Council's s94 developer contributions plan 'Urban and Rural Roads 2001'. It is also recommended that a condition be placed on the consent requiring the widening of a narrow section of road through a set of bends that is unsuitable for heavy vehicle traffic.</p>
<p>The development application does not 'spell out all aspects of the proposed use of the property'.</p>	<p>The application stated that other parts of the subject land may be utilised for the establishment of further blueberry plantings. This is not part of the current development application and therefore its consideration is not relevant to the assessment of the current application. Furthermore, this activity would likely be defined as 'intensive plant agriculture' which is permitted without consent in Zone RU1.</p>
<p>The traffic figures quoted 'fall well short of reality'.</p>	<p>Council's engineers have assessed the application and have not questioned the expected traffic figures provided by the applicant.</p>
<p>'This is the second intensive industry to be developed within a 1.5km radius to be serviced by Tabulam Road.'</p>	<p>The existing piggery on Jacksons Flat Road was approved in the late 1970s and has continued to operate since then. The operation of the piggery is not a matter for consideration as part of the assessment of the subject application.</p>
<p>Access to and from the site from Tabulam Road</p>	<p>Council's engineers have assessed Tabulam Road in the vicinity of the proposed site access and concluded it is suitable for the proposed turning movements. Conditions have been imposed that require application be made for construction of a suitable vehicular access.</p>

<p>Traffic from the development will impact grids on Tabulam Road resulting in additional maintenance and financial burden for owners. Grids should be upgraded by developer.</p>	<p>Grids are the responsibility of the owner as per the agreement with Council. This is not the responsibility of the developer.</p>
<p>The development will result in additional traffic in Tabulam Road which is presently below standard.</p>	<p>It is recommended a condition be placed on the consent that requires a monetary contribution to the upgrade as per Council's s94 developer contributions plan 'Urban and Rural Roads 2001'.</p> <p>It is recommended a condition be placed on the consent requiring the widening of a narrow section of road that is unsuitable for heavy vehicle traffic.</p> <p>Infrastructure Works staff have advised that the existing timber bridge on Tabulam Road is programmed for replacement in the next five years.</p>

(e) *the public interest.*

The proposal has no significant adverse impacts which would be contrary to the public interest. Development of the agricultural produce industry will provide opportunities for employment and additional economic activity to the local community. Preliminary independent assessment by Regional Development Australia has indicated that the construction phase of the proposal is expected to value add to the Kyogle area by an estimated \$1.43 million while the ongoing operation is expected to result in \$4.74 million annually.

4. DEVELOPER CONTRIBUTIONS

As the development will generate additional demand on public infrastructure (ie traffic) Council is entitled to impose developer contributions under Section 94 of the *Environmental Planning Assessment Act 1979*. The relevant contributions plan is Council's s94 Developer Contributions Plan Urban and Rural Roads 2001 (as amended). The development will generate an annual average of 42.5 vehicle trips per day. In accordance with the contributions plan the relevant charge is calculated as \$132,981.40. A condition has been imposed to require payment of this money prior to commencement of the development.

Council's s94 Developer Contributions Plan Residential, Rural Residential and Heavy Haulage Development 2008 seeks contributions for road maintenance required by heavy freight haulage on public roads. As the development involves the haulage of freight with heavy vehicles this s94 contributions plan is also applicable.

A contribution rate of 35.3 cents per tonne of freight has been calculated in accordance with the plan. A condition has been imposed requiring annual payment of a contribution that will be determined by multiplying 35.3 cents by the tonnage hauled.

5. 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 the natural environment, surrounding properties and public infrastructure. The applicant has reviewed the draft conditions of consent and has advised they are acceptable.

Budget and Financial Aspects

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

Recommendation

That Council:

1. Receive and note the report Determination of Development Application 2015-60.
2. Pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, development application 2015-60 for the establishment of an agricultural produce industry (blueberry packing facility), be determined by way of granting consent subject to the conditions contained in Attachment 3 of this report.
3. Prepare and provide to the applicant a development consent notice, generally in accordance with the draft conditions of consent in Attachment 3.

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. Plans recommended for approval
2. Draft conditions of consent

13B.4 DRAFT NORTH COAST REGIONAL PLAN

REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT SERVICES, MANFRED BOLDY

Summary/Purpose

The draft North Coast Regional Plan (draft Plan) was released for public consultation by the NSW Department of Planning and Environment on 2 March 2016 and will be open for public comment until 2 June 2016. This report intends to bring the matter to the attention of the Council and general public and encourages people to make any submissions direct to the Department of Planning and Environment.

Community Strategic Plan Item(s)

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

Background Information

The draft Plan, once finalise and adopted, is expected to form the regional statutory basis for any further sub-regional and local land use plan making and development assessment. A copy of the draft Plan has been separately referred to all councillors and can be viewed on the Department's webpage using the following link:

<http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/draft-north-coast-regional-plan-2016.ashx>

The draft Plan's vision is heavily based on planning for housing and job creation with growth to be centred around key (coastal) urban centres and is based on five key goals, being:

- A natural environment, Aboriginal and historic heritage that is protected and landscapes that are productive
- Offer housing choice in vibrant communities and liveable places
- Housing that meets the needs of changing communities
- A prosperous economy with services and infrastructure
- Improved transport connectivity and freight networks

Each goal has a number of separate actions that are intended to affect councils, other government agencies as well as provide guidance to other parties.

The implementation of the Plan, once adopted, is expected to be overseen by a Monitoring and Coordination Committee consisting of:

- Department of Planning and Environment – Committee Chair
- Regional organisations of councils – while no mention has been made of the proposed Joint Organisations (JOs), it is assumed that any role of the ROCs will be assumed by the JOs

- Office of Environment and Heritage
- Department of Premier and Cabinet
- Department of Industry
- Transport for NSW

A preliminary review of the draft Plan notes that while it is heavily focused on urban development issues for coastal towns, there is little in it that addresses rural development issues and opportunities for coastal hinterland towns and areas.

Economic growth is heavily focused on housing development with no appreciable assessment of rural production and value-add opportunities, access to markets (eg significant growth in South East Queensland and overseas markets), potential catalytic infrastructure and other development and the effects this may have on population growth.

While recognition of coastal towns is undoubtedly important, the draft Plan should equally have regard for the hinterland towns which can be comparatively even more important to their surrounding areas, including Lismore and Grafton as the key sub-regional centres as well as the smaller centres such as Kyogle.

The public exhibition of the draft Plan will allow councils, regional and local stakeholder groups and general public to review the contents, determine whether the draft Plan properly reflects contemporary and future land use planning issues including an appropriately diverse range of issues considered to be important to the region and make submissions.

The Council will ensure that the matter is publicised on its webpage and Facebook page including a link to the Department's own webpage for the matter. A further report is proposed to be presented to the Council at its May Ordinary Meeting, reviewing the draft Plan in greater detail and providing the basis for a formal submission from the Council.

Scope exists for the Council to be involved in or facilitate meetings with other key interest groups, gauge responses and identify any recommendations for change and inform its own deliberations over the submission it should make. Such meetings could involve the ROCs or other individual councils with similar issues to that of Kyogle and may also be attended by Department of Planning and Environment staff. This is a matter that the Council may wish to further pursue during the public exhibition period.

Report

There are no further details that are not already addressed elsewhere in this report.

1. Consultation

The consultation process for the draft Plan is a matter for the Department of Planning and Environment to manage.

Budget & Financial Aspects

There are no appreciable adverse budget implications for the Council over this matter at this stage.

Recommendation

That Council:

1. Receive and note the report
2. Receive a more detailed report at its May Ordinary Meeting to enable it to make a formal submission regarding the draft Plan.

ITEM 13C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 13D CORPORATE SERVICES REPORT

Nil.

ITEM 13E COMMUNITY SERVICES REPORT

13E.1 CHANGE OF USE - FINANCIAL ASSISTANCE GRANT; COLLINS CREEK PUBLIC HALL

**REPORT BY: ADMINISTRATION AND COMMUNITY
CONTACT: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY
CAROL O'NEILL**

Summary/Purpose

The Collins Creek Public Hall Committee is requesting a change of use for their Financial Assistance Grant that Council approved in October 2015.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Economic Development

Background Information

The successful applicants for the 2015/2016 round of Financial Assistance Grants were determined by Council at the October 2015 meeting. The Collins Creek Public Hall Committee was successful with their application for \$1,000 to purchase 12 tables for their hall.

As the resolution specifically states that the allocation is for the purchase of 12 tables, a change can only be made with a further resolution.

Report

The request for the change of use of the Financial Assistance Grant is to purchase both chairs and tables. Correspondence received from the President of the Committee stated:

Our original application to Council was for the purchase of commercial quality tables that have substantially increased in price since we lodged this application.

After extensive research, the Committee can now purchase the tables and chairs to seat 80 people at a cost of \$1,700. The tables available locally are of a lesser quality, but are still sufficient for our needs at approximately 45% of the cost which includes a substantial discount due to not having to pay a \$300 freight cost. The chairs on offer are also currently discounted by 40% and are commercial quality with a 10 year warranty.

The Committee feels justified in requesting this amendment to our financial assistance approval due to a much better outcome by purchasing both tables and chairs for the Collins Creek Hall and the substantial savings in freight costs by purchasing the tables locally. We trust you will consider our request favourably and alter our financial assistance approval for the purchase of tables and chairs for the Collins Creek Public Hall.

Recommendation

That Council approves the Collins Creek Public Hall Committee's request for a change of use of the \$1,000 Financial Assistance Grant to the purchase of tables and chairs for use in the Collins Creek Hall.

ITEM 13F GENERAL MANAGER'S REPORT

13F.1 INNOVATION FUND APPLICATION

REPORT BY: GENERAL MANAGER

CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

This report presents to Council the proposal developed for the Innovation Fund for endorsement.

Community Strategic Plan Item(s)

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

Background Information

Council has received advice that as part of the State Government's "Fit for the Future" reforms, a \$4 million Innovation Fund grants program has been announced. The program aims to help small councils in regional NSW overcome some of the challenges they face in sustaining their communities and maintaining local services.

It will provide one-off grants to help councils develop new ways of working and improve their performance to benefit their local communities.

The new ways of working might include:

- developing more efficient processes,
- different ways of delivering services, sharing resources with other councils,
- using technology to help overcome the challenge of distance.

Report

The Innovation Fund is to be offered over two rounds:

Round 1

Applications for Round 1 are open until 1 April 2016. This round is available to councils who meet the guidelines and are not currently involved in a merger proposal review.

Round 2

The Minister for Local Government will call for applications for Round 2 later in 2016. This round is available to councils that meet the guidelines including those:

- That are no longer involved in a merger process
-

- That were unsuccessful in Round 1

A copy of the Innovation Fund Guidelines is attached for Councillors' information.

For Council's application to be accepted, a resolution of Council needs to accompany the application to demonstrate that it fully endorses the application. This will need to occur at this Council meeting to enable Council officers to meet the 1 April 2016 grant application deadline.

At the last NOROC meeting held on 5 February 2016, discussion was held between the member councils to see whether a group council application was worth exploring. When applying as a group, the grouping may include a larger council as a mentor, sponsor or partner. It is important, however, that the primary beneficiary of the project is the eligible small council and its community, in this case being Kyogle Council. Little to no interest was shown by the NOROC councils present to submit a group application.

As part of Council's "Fit for the Future" final submission in June 2015, Council recognised under:

Section 3: Towards Fit for the Future

3.1 How will your council become/remain Fit for the Future?

Outline your council's key strategies to improve performance against the benchmarks in the 2016-20 period, considering the six options available to Rural Councils and any additional options;

the option of implementing an Integrated Corporate Record Management System.

See below the information contained in Council's "Fit for the Future" final submission.

Option 7: Additional options identified by the council				
Proposal	How will it be achieved/implemented	Proposed milestones	Costs	Risks
Integrated Corporate Record Management System	Review existing system and identify possible integrated solutions and assess options that include the key outcomes which include; <ul style="list-style-type: none"> • Improved Customer Request tracking • Access to mobile forms for field staff • Electronic water meter reading forms 	Assessment of options completed by August 2015	Costs projected in the order of \$100,000 over four years, depending on adopted solution.	Limited options available that deliver integrated outcomes Preferred solution cannot be implemented within existing budget External funding opportunities not realised

	<ul style="list-style-type: none"> • Record management system integration with e-mail system and approvals system • Integration with system to provide for on-line lodging and tracking of Development Applications 			
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If Council was successful in receiving the full \$150,000 grant funding allocation for individual councils under this program, it would need to contribute a co-contribution amount of at least \$64,286, which is a 30% contribution as per the conditions of the grant.

The first phase of implementing such a system would be to review Council’s existing system and identify possible integrated solutions and assess options that include key outcomes being:

- Improved Customer Request tracking.
- Access to mobile forms for field staff.
- Electronic water meter reading forms.
- Record management system integration with e-mail system and approvals system.
- Integration with system to provide for on-line lodging and tracking of Development Applications.

After reviewing Council’s existing systems and identifying integration solutions, the following forms the basis of the grant application to the State Government for the Innovation Fund grants program. Council currently has \$100,000 in the Information Technology budget for upgrades, which can be used in part as Council’s contribution towards the grant application. As previously stated, Council’s contribution must be at least 30% of the overall cost of the project. Currently it is recommended that Council’s contribution sits at just over 39% or \$96,000.

The following is a breakdown of the costs associated with the application. It is estimated that the overall cost of the project will be in the vicinity of \$246,000, which it is recommended that \$150,000 is funded by grant funding and \$96,000 is funded by Council funding.

- **Preparation of Information Technology and Communications Strategy:** The strategy will be the first step in the project and will provide the basis for the implementation of the integrated corporate record management system and associated action plan and priorities. – **Cost \$15,000**

- **Improved Customer Request tracking:** Record Management System integration to allow a wider range of reports to be produced. Current system does not provide reports as required. Staff are required to duplicate "Customer Requests" in a secondary data base in order to produce required reports. System upgrade to HP Records Manager (TRIM) or equivalent system – **Cost \$125,000**
- **Access to mobile forms for field staff:** Depending on the type of forms and the integration needed, Council's current information technology supplier, (Civica) can supply an e-service module and mobile forms, and existing asset maintenance systems can be expanded to allow for field access with the appropriate hardware to collect and record information on inspections and repairs on infrastructure assets to improve asset management capabilities and decision making. e-Services applications can be utilised by Council to build and improve upon its Customer Service capabilities. These applications have the potential to both simplify and enhance the exchange of information between Council and the community. – **Cost \$35,000**
- **Electronic water meter reading forms:** Council's current IT system (Civica) can import electronic readings to its water billing module. Four new tablets (readers) would also be required to enable this to occur. – **Cost \$6,000**
- **Record management system integration with e-mail system and approvals system:** Integration with system to provide for on-line lodging and tracking of Development Applications – **Cost; part of the Records Management System update and integration**
- **Integration with system to provide for on-line lodging and tracking of Development Applications:** Records Management System integration can occur as part of the Records Management System update and integration. However, on-line fee calculator through the e-services module and an on-line applications module are not included in the update and integration and would need to be supplied separately. – **Cost \$40,000**
- **Records Management System Integration with Council Business Paper:** Records Management System and stable Council Business Paper solution (for example InfoCouncil EBP or equivalent) integration to automate the process from the current manual process. – **Cost \$15,000**
- **E-Service System for Staff and Public:** This is a pre-requisite for other e-service systems such as on-line certificates, mobile forms, customer requests etc. – **Cost: part of the e-Service Module.**
- **Website Redevelopment:** Redevelopment of the existing Council website to allow for the additional functionality and customer service on-line capabilities. – **Cost \$10,000**

Summary of Costs:

Council ITC Strategy:	\$15,000
Improved Customer Request tracking:	125,000
Access to mobile forms for field staff:	35,000
Electronic water meter reading forms:	6,000
Integration with system to provide for on-line lodging and tracking of Development Applications:	40,000
Records Management System	
Integration with Council Business Paper:	15,000
Website Redevelopment:	<u>10,000</u>
	\$246,000

Recommendation

That Council:

1. Submit an application for the State Governments' Innovation Grant Funding Program for the project titled **Integrated Corporate Record Management System** as per Council's "Fit for the Future" final submission.
2. Approve the \$96,000 currently voted to the Information Technology budget for upgrades, to be used as Council's contribution towards the grant application as per the conditions of the grant funding.

Attachment

Innovation Fund Guidelines

REPORT BY: GENERAL MANAGER
CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

The purpose of this report is to advise Council of the upcoming National General Assembly (NGA) of Local Government and to seek from Council suggested motions that may be eligible for inclusion in the NGA business paper that would then be discussed and debated at the conference.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

The NGA of Local Government is being held from 19 to 22 June 2016 at the National Convention Centre in Canberra. The theme for this year's NGA is "*Partners in an Innovative and Prosperous Australia*". The NGA theme reflects the renewed focus across all levels of government on the roles and responsibilities of the public sector and the challenge of meeting our communities' needs.

Report

The NGA is Council's opportunity to contribute to the development of national local government policy and currently the Australian Local Government Association (ALGA) Board is calling for motions for the 2016 NGA.

To assist councils in preparing motions, a discussion paper has been prepared by the ALGA and is attached to this report.

For Council to be eligible to have its motions included in the NGA business papers, motions must be consistent with the following principles:

1. Be relevant to the work of local government nationally
2. Be consistent with the themes of the Assembly
3. Complement or build on the policy objectives of your state and territory local government association
4. Propose a clear action and outcome, and
5. Not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

Motions submitted will be reviewed by the National General Assembly Committee as well as by State and Territory Local Government Associations to determine their eligibility for inclusion in the NGA business papers. When reviewing motions, the Committee considers the importance and relevance of the issue to local government. Please note that motions should not be prescriptive in directing how the matter should be pursued. Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state/territory local government association, and will not be included in the business papers.

Through the review process, minor edits may be made to motions to ensure they can be included in the business papers. These edits will change the motion to call for action, for example to "call on the Australian Government" to do something, to ensure relevance to local government nationally by removing state specific references, or to ensure the wording is consistent with current conventions such as referring to the Australian Government instead of the Federal Government.

To assist in facilitating efficient and effective debate, motions that cover similar matters will appear grouped together in the business papers and the matter will be debated only once with the lead or strategic motion being that which is debated.

Motions that are agreed to at the National General Assembly become resolutions. These resolutions are then considered by the ALGA Board when setting national local government policy, when the Board is making representations to the Australian Government at Ministerial Councils, during meetings and in ALGA publications. The ALGA Board is not bound by any resolution passed at the NGA.

Motions are to be submitted online and should be received by no later than 11.59pm on Friday, 22 April 2016. All proposed motions from Council need to be adopted by Council.

As previously stated, this is a great opportunity for Council to contribute to the development of national local government policy.

Recommendation

That Council:

1. Receive motions from Councillors by close of business on Thursday, 31 March 2016 to allow inclusion in Council's April Council meeting agenda and that the motions fall under the following principles:
 - Be relevant to the work of local government nationally
 - Be consistent with the themes of the Assembly
 - Complement or build on the policy objectives of your state and territory local government association
 - Propose a clear action and outcome, and
 - Not be advanced on behalf of external third parties that may seek to use the NGA to apply pressure to Board members or to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of, local government.

2. Adopt the motions proposed to be included in the National General Assembly Business Papers at the April Council Meeting.
3. Nominate the Mayor and another Councillor to attend and represent Kyogle Council at the 2016 National General Assembly of Local Government to be held from 19 to 22 June 2016 at the National Convention Centre in Canberra.

Attachment

ALGA Call for Motions Discussion Paper (distributed to Councillors only)

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

16.1 OFFER FOR PURCHASE OF LAND

REPORT BY: URBAN AND ASSETS

**CONTACT: EXECUTIVE MANAGER URBAN AND ASSETS GRAHAM
KENNETT**

Reason for Confidentiality

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

- (d) commercial information of a confidential nature

16.2 EASEMENT AGREEMENT

REPORT BY: URBAN AND ASSETS

**CONTACT: EXECUTIVE MANAGER URBAN AND ASSETS GRAHAM
KENNETT**

Reason for Confidentiality

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

- (d) commercial information of a confidential nature
 - (g) advice concerning litigation, or advice that would otherwise be privileged
-

16.3 ORGANISATIONAL STRUCTURE REVIEW

REPORT BY: GENERAL MANAGER

CONTACT: GENERAL MANAGER DAVID TUXFORD

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