



KYOGLÉ COUNCIL

COUNCIL MEETING AGENDA

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

ON MONDAY 11 NOVEMBER 2013

Commencing at 5.00 p.m.

GENERAL MANAGER: ARTHUR PIGGOTT

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 11 November 2013, at 5.00 p.m.

DECLARATION OF PECUNIARY INTEREST

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

BUSINESS

- Item 1 Apologies
- Item 2 Opening Prayer
- Item 3 Traditional Lands Acknowledgement
- Item 4 Declaration of Interests
- Item 5 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

ARTHUR PIGGOTT
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.

(ARTHUR PIGGOTT),
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 11 November 2013

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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 14 OCTOBER 2013 ORDINARY MEETING

Summary/Purpose

A copy of the Minutes for the Ordinary Meeting held on 14 October 2013, are included in the attachments to the business paper.

Community Strategic Plan Item(s)

- Governance and Community Service

Recommendation

That the Minutes of the Ordinary Meeting held on 14 October 2013 be adopted.

Attachments

1. Minutes of the Ordinary meeting held on 14 October 2013 (separately attached)
-

7.2 CONFIRMATION OF THE MINUTES OF THE EXTRAORDINARY MEETING 28 OCTOBER 2013

Summary/Purpose

A copy of the Minutes for the Extraordinary Meeting held on 28 October 2013, is included in the attachments to the business paper.

Community Strategic Plan Item(s)

- Governance and Community Service

Recommendation

That the Minutes of the Extraordinary Meeting held on 28 October 2013 be adopted.

Attachments

1. Minutes of the Extraordinary Meeting held on 28 October 2013 (separately attached)

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

Nil.

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM THE LAST COUNCIL MEETING

Summary/Purpose

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

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure
- Environmental and Planning

Report

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

Councillor Maggie Creedy:

There is no mention in the list of Council Resolutions Requiring Action of the Council decision to impose fines on the organisers of the illegal doof party held at Roseberry Creek.

1. Does this mean that the fines have been paid in full?
2. If this is not the case what action is being taken to recover this money?

Response

Nine infringement notices were issued. The Office of State Revenue has advised that three have been paid in full, three are being paid off on a payment plan, and three are currently being pursued. The three notices to pay reasonable costs and expenses to Council have not been paid and Council will pursue these in accordance with its debt recovery policy.

Councillor John Burley:

1. Where is the Toonumbar Road project up to, what is the cost and recommendations if it was to proceed?

Response

Testing of the existing pavement and a preliminary design have been carried out. This information will enable an estimate of cost of the works to be carried out. There has been no further progress than this in recent weeks. This is because of staff absences through annual leave and sick leave which has required a reassignment of duties. It is expected that an estimate will be available for the December meeting.

Recommendation

That the report on Questions from Last Council Meeting be received and noted.

ITEM 11 DELEGATES REPORTS

11.1 DELEGATES REPORT - NATIONAL TIMBER COUNCILS' ASSOCIATION

Summary/Purpose

The following delegates report in respect of the National Timber Councils Association has been provided by Councillor Lindsay Passfield for the information of Councillors.

Community Strategic Plan Item(s)

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

Background Information

The report represents the minutes of the National Timber Councils Association 2012 annual general meeting.

Report

NATIONAL TIMBER COUNCILS ASSOCIATION ANNUAL GENERAL MEETING

Date: Friday 16 November 2012

Time: 7.00am – 8:00am

Location: Wrest Point Hotel, Sandy Bay Tasmania

Attendance:

Hon Sid Sidebottom MP ALP

Senator Richard Colbeck MP Liberal Party

Neil MacKinnon TCCI

Cr Malcolm Hole Wellington Shire Council

Cr Lindsay Passfield Kyogle Shire Council

Cr Jenny Blake Golden Plains Shire Council

Cr Barry Jarvis Dorset Council

Cr Cheryl Arnol Glamorgan Spring Bay Council

Bob Gordon Forestry Tasmania

Cr Jan Barwick Tasman Council

Cr Ian Chaffey Tumbarumba Council

Cr Deirdre Flint Central Highlands Council

Ms Hannah Rubenach Break o'Day Council

Apologies: See full list at end of minutes.

Minutes:

Welcome The meeting was opened by President, Cr Malcolm Hole. Cr Hole welcomed all attendees and introduced guest speakers.

Guest speakers Cr Hole introduced the three prestigious speakers (in order of appearance): Hon Sid Sidebottom MP (Parliamentary Secretary for Agriculture, Fisheries and Forestry); Senator Richard Colbeck (Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry); Neil MacKinnin, CEO Tasmanian Chamber of Commerce and Industry.

Cr Karen Stephens stated that roads and bridges, funding and lobbying is a state issue and cannot be done by NTCA. She also liked the idea of TTV associate membership and said the response to the Socom work was encouraging. Jennifer Cromarty and Michael Willis left at 10.50am.

Receipt and confirmation of previous minutes

Copies of the minutes have been circulated to all delegates prior to the meeting.

Motion: That the minutes be accepted.

Moved: Cr Jenny Blake Seconded: Chris Hastie Carried

President's report

It is my pleasure to present to you our Annual report. It has been without any doubt, a year of great challenge, but the year has also brought significant strength to our organisation. Perhaps our greatest challenge was the constant turn-over of our coordinators; we started with Jillian, Alex came and went before Christmas, and it wasn't until April that we were fortunate to secure our incumbent, Kevin Peachey. And we have been so fortunate to have someone who had timber knowledge, contacts, skills and above all that, the enthusiasm required to drive this National committee. His impact for our organisation has been outstanding. And we thank you for your input, your dedication, and your drive Kevin.

Our meeting at the National General Assembly has always been a rushed event. However, having almost 40 people attend this year may provide some guidance for the future and possibly suggestions for forthcoming meetings in Canberra. As is our custom in Canberra, we seek appointments with members of Parliament of all persuasions: the Government, Opposition, Independents, and even the Greens to press our case on behalf of our members. During the year, we received a welcoming from all other members of Parliament with whom we had made meeting arrangements and had sent them our agenda; except for the Greens. On our agenda was included; protection of jobs in Rural Australia, especially the Timber Industry; a request for \$1 million to prepare a national Timber Impacted Road study similar to the Victorian TIRES report; a review of long term supply from Native forests; bio-energy (we even took sample pellets); trees for carbon trading... should councils rate them on the basis as agriculture, commercial use, or on capital improvement as they grow; and industry skills development in rural and regional communities.

We received unanimous support for our TIRES study proposal and were assured of appropriate consideration of the proposal by Minister Albanese. We are currently having a professionally produced submission prepared on behalf of our financial members seeking the \$1 million for the study.

The delegation comprised of Cr Malcolm Hole, Cr Lindsay Passfield, Steve Kozlowski, Kevin Peachey (NTCA Coordinator). Those visited on the day included (in order on the day), Advisors to Hon Simon Crean MP, Hon Robert Oakeshott MP, Advisor to Hon Tony Windsor MP, Hon Darren Chester MP, Hon Sid Sidebottom MP, Senator Richard Colbeck MP, Senator Barnaby Joyce MP, Hon Mike Kelly MP.

Much of our time this year has been taken up by the organisation of the association's inaugural conference. The program is currently being locked into place, and it will be different to any other conference that you may have attended. We will be dealing with potential for Timber Industry Growth in Rural and regional areas, and exploring ways for this to happen. We need the feed-back from this conference to enable us to present a case to the Federal Government for Research and Development (R&D) into new uses of timber and timber and forestry waste material.

Our intention is to encourage the Government to allow R&D to be located in rural areas; this is to encourage population growth and strengthen educational facilities in the rural areas. To assist in staging this inaugural local Government/forestry/timber conference, we have submitted a request for \$50,000-00 from the current Federal Government. As this a whole of Government and Industry event, we trust that it will be looked on favourably.

Our current aim is to increase our membership base towards thirty. It is a struggle when we have amalgamations and changes to councillors to maintain our numbers. Amalgamations in Queensland took out four members, poverty in NSW took out some members, make up of councils took out some in Victoria, but after the current elections, we will be getting some back (HOORAY). We lost all in W.A. because nobody knows what is going on, S.A. means well but.....and here in Tasmania there has been a good level of support, lots of promises but few new members. Over the past six years, we have in some way or another, contacted almost 140 councils with timber in their shire in some way, and most have said they were interested in joining. Few have paid the subscription, which we have deliberately kept low to enable the smallest council to be part of the National Body. We run the organisation on "the smell of an oily rag", so have little finances to go visiting councils and selling the benefits. If councils continue to promise but not deliver membership, then this time next year we may need to discuss the future of strength together, or going our separate ways.

On your and my behalf, I wish to thank the Municipal Association of Victoria for their continued support with housing, officers, advice. It is great to have that backing. I also wish to acknowledge the continued support from the Australian Local Government Association (ALGA) in assisting in promoting our meetings. Members will receive shortly a list of suggested Strategic Directions for next year, please make your comments quickly and allow the executive members to prepare for our June meeting in Canberra.

I thank members for their courtesy and suggestions over the past 12 months. It has been an interesting year.

Motion: That the President's report be accepted

Moved: Cr Cheryl Arnol Seconded: Cr Barry Jarvis Carried

Treasurer's report

The end of year financial statements from Watco Partners were circulated at the meeting.

Motion: That the Treasurer's report be accepted

Moved: Cr Jenny Blake Seconded: Cr Barry Jarvis Carried

General Business

Cr Malcolm Hole wished to thank Cr Lindsay Passfield of Kyogle Shire Council for his service to the NTCA Executive Committee, following news that he would be resigning from his position at Vice President of the association. Cr Passfield has been a strong contributor to the association.

Discussion lead to the formation of the 12 regional councils who had formed the Regional Tasmania collective, and these councils were commended on their activities in supporting forestry dependent communities.

Close Meeting closed 8am

Recommendation

That the delegates report provided by Councillor Lindsay Passfield in respect of the National Timber Councils' Association be received and noted.

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTION

Summary/Purpose

This report presents to Council a list of Council resolutions requiring action as at 31 October 2013.

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 the Council resolutions requiring action report be received and noted.

Attachments

1. Council resolutions requiring action as at 31 October 2013 (separately attached).

12.2 FINANCIAL REPORT OCTOBER 2013

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 October, 2013. 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 the information contained in the Monthly Finance Report – October 2013 be received and noted.

Attachments

1. Councillors Travel
2. Financial reports

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

13A.1 ENERGY AUDITS OF KEY SITES

Summary/Purpose

This report is to provide Council with information on the outcomes of the energy audits recently undertaken on key sites in the Kyogle area.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life

Previous Council Consideration

At its meeting of November 28, 2011 Council resolved;

“That staff provide a report to Council outlining the cost/benefit of the proposed installation and grant funding sources available for the project.”

Report

Council engaged a consulting firm Partners Energy Management to undertake a series of level 2 energy audits across key sites in the Kyogle area. The sites audited were the Administration Building, Seniors Centre, Council Depot, Kyogle Swimming Pool Complex and the Library.

The summary report for the five audits is included in the attachments to this report. The full audit reports can be made available to any interested party, and a copy of the audit report for the Seniors Centre has already been provided to the users of the site for their information. Copies of the other audit reports have been provided to the relevant staff responsible for the management of each site.

Council's total energy consumption is around 1,500,000kWh per annum across all sites and functions. The sites audited have an annual energy consumption of approximately 300,000kWh, or 20% of the total energy consumption.

The results of the audits concluded that total savings of 47.5% of total energy used at these sites could be achieved with a capital outlay of \$116,724. If fully implemented, this would provide an annual saving of \$48,419, giving a simple payback period of 2.4 years for the capital outlay identified.

The savings were achieved by a combination of measures. A brief discussion of the main groupings of these measures is provided below;

1. Change of Supplier and/or Tariff

It has been suggested that Council could achieve significant savings on the price of energy by negotiating with the available retail service providers. The recent separation of the retail arm of Country Energy, and the creation of the infrastructure owner of Essential Energy, has changed the environment across the retail sector.

At present, all Councils electricity accounts are with a single provider, Country Energy. Country Energy has been purchased by Origin Energy, and as a result of this take over, all Councils accounts have been transferred across to Origin Energy. As a result of this, there is little to no initiative for Council to have all its accounts with a single provider. There is now an opportunity for Council to go to the market place and negotiate the best combination of service charges and consumption tariffs that it can, on a site by site basis.

This process will take some time, and an analysis of all existing accounts and energy consumption patterns at each site, to ensure that the market negotiations occur on a fully informed basis. It may be that Council can negotiate a bulk discount for all accounts with one retail provider, but it may also be the case that this process will result in Council's electricity bills being spread across a number of retail service providers.

It is intended to undertake the analysis and negotiations with the various retailers in the 2014/15 financial year. It is recommended that this process be managed by a specialist energy consultant, and as such it is expected that there would be a small cost associated with this process, in the vicinity of \$5,000.

2. Retrofitting Program

Many of the energy saving measures involve retrofitting of more energy efficient fixtures and appliances to replace existing less efficient ones. This includes items such as lighting, hot water systems, building insulation, pumps, appliances and installation of timers and sensors to control some items. In all cases these measures require an initial capital investment to realise the energy savings identified.

The estimated capital investment for each measure is included in the capital cost in the summary of recommendations for each of the sites audited. A summary of the capital cost of these "other" measures per site is included in the Budget and Financial Aspects of this report.

3. Photovoltaic (PV) Energy Production Systems

The other main measure for reduction of costs across the sites audited is the installation of PV systems to generate electricity to meet some of the day time demand. The systems proposed are the standard system comprising of a series of roof mounted solar panels, and inverter, and connection to mains power supply to allow any excess energy produced to be returned to the grid.

It is important to consider the comments made in relation to the current market for the purchase of grid power generated by these systems.

At present the payment for energy fed into the grid is around 8 cents per kWh, compared to a charge of around 30-35 cents per kWh for energy purchased from the grid. This has a lot to do with the guarantees of 60 cents per kWh payment for energy returned to the grid from solar systems installed during the last years of the previous state government.

The effect of these guaranteed returns on the market is a reduction in the price for any other grid feed in systems. When the existing guarantees run out in the next two years, there is an expectation that this price will change significantly as a result of increased competition for the energy return. This may make the pay back period for PV systems shorter, and improve the long term benefit of the same. For the purposes of this audit, the pay back periods have been assessed at current market returns of 8 cents per kWh.

There are then two main cautions in relation to the installation of PV systems. The first is not to over capitalise and install a system too large for the site, as the auditor has suggested has been done at the seniors centre. The second is not to install these systems instead of realising energy savings. A PV system will produce energy for you, but where opportunities to reduce energy consumption exist, these should still be pursued, even when the PV system is to be installed.

Budget & Financial Aspects

The table below provides a breakdown of the capital cost items identified in the recommendations of the audit reports for the five sites;

Site	Capital Cost Items
Kyogle Swimming Pool Complex - 15kW PV System	\$19,000
Kyogle Swimming Pool Complex - Other	\$22,455
Kyogle Seniors Centre* - Other	\$9,195
Kyogle Library - 5kW PV System	\$8,482
Kyogle Library - Other	\$13,095
Kyogle Depot - 5kW PV System	\$8,482
Kyogle Depot - Other	\$3,100
Administration Building - 10kW PV System	\$15,090
Administration Building - Other	\$17,825
	\$116,724
<i>* Note-excludes cost of PV system installed 2012/13</i>	

The main capital cost item identified in the recommendations from the audits is a series of PV system installations, ranging in size from 5-15kW. These total \$51,054 of the \$116,724 in capital costs identified in the audits, and represent a significant investment, particularly if this amount is extrapolated across all Council sites.

The auditor has identified a method of cash flow and capital investment whereby the savings from each year are utilised to fund the capital cost items for the following year. In this manner, the capital cost items can be implemented over a number of years, with a relatively small initial investment.

As each capital costs item is brought on line, the subsequent savings can be used to fund further capital costs in the following years' budgets, without the need to increase total expenditure above the current budget levels. If such a program was initiated over a five year period, all the capital costs and savings could be implemented without additional increases in the total budget. There is however, still a need to fund the initial capital costs items in the first one or two years.

Recommendation

1. That the report on Energy Audits of Key Sites be received and noted.
2. That the recommendations of the energy audits be used to prepare a budget for implementation of energy efficiency improvements across all Council sites and functions as part of the preparation of the 2014/15 Operations and Delivery Plans.

Attachments

1. ENERGY SAVINGS PLANS SUMMARY report, Partners Energy Management, August 25, 2013

Summary/Purpose

This report is to provide information on an offer of funding from the NSW Government through the Local Infrastructure Renewal Scheme or LIRS.

Community Strategic Plan Item(s)

- Waste & Water

Background Information

The LIRS scheme was implemented by the NSW Government in 2011 as part of its Local Infrastructure Backlog Policy. The LIRS provides a 3% interest subsidy to assist Councils to cover the cost of borrowings associated with the delivery of critical infrastructure.

Previous Council Consideration

At its meeting of October 28, 2013 Council resolved;

That Council advise the NSW Government of its intent to accept the LIRS offer of funding advising them also that this is to be confirmed at the November ordinary meeting of Council allowing for public comment.

At its meeting of August 12, 2013 Council resolved;

That a report be brought to Council to update Councillors on the Kyogle floodplain modification measures and the Kyogle water supply augmentation project.

At its meeting of October 22, 2012 Council resolved;

1. *That the Tenders for Design Services for Kyogle Water Supply Augmentation report were received and noted.*
2. *That Council brings forward \$90,000 from the 2013/14 Capital Works Program for the Kyogle Water Supply Augmentation to the current financial year at a 1:1 State:Council funding ratio.*
3. *That Council accepts the tender of MWH for Contract No. 2011/12-013.*

Report

The following information was presented to Council at its meeting of August 28, 2013 in response to Councils resolution of August 12, 2013 in relation to the Kyogle Water Supply Augmentation;

Kyogle Water Supply Augmentation

The Kyogle Integrated Water Cycle Management Strategy (WCMS) Study was adopted by Council in 2006 in response to a number of issues relating to Council's urban water services of water supplies, sewerage and stormwater management. The concept of IWCMS was developed by the NSW Government. It uses a catchment based assessment of the issues relating to urban water management, and then applies a "triple bottom line" assessment of the options using economic, environmental and social criteria to compare these options against each other. The Kyogle IWCMS Study was one of a handful of projects undertaken under the guidance of the NSW Government, and the preparation of an IWCMS is now part of the best practice criteria that must be met in order for a Local Water Utility to be eligible to access funding under the Country Towns Water Supply and Sewerage Program (CTWSSP), which funds the backlog of capital works that existed in 1996.

Council formed a Project reference Group for the Kyogle IWCMS that consisted of representatives from a number of local community groups, as well as representatives from the various state government agencies and Councils in the area. The consultation process consisted of five project reference group workshops, a community survey, and a community workshop and display. The consultation process is described in detail in Appendix A of the Kyogle IWCMS Study.

The project reference group identified 67 different options, including new dams on the upper Richmond River, transfer of water from Casino or Toonumbar Dam, and the use of an off-stream storage. These options were developed to a level of details to allow assessment, and then grouped into a series of five scenarios, which were then assessed against nine criteria developed by the project reference group.

Council received an Achievement Award in the category of Strategic Urban Water Management Leadership in the 2006 Green Globe Awards, as well as a Highly Commended Award at the Engineers Australia Sydney Division Excellence Awards in 2007 in the category of Engineering for Regional Communities for the Kyogle IWCMS Study. Council was also the inaugural winner of the Environmental Best Practice for Local Water Utilities Award at the Local Government and Shires Associations Excellence in the Environment Awards in 2010 for the implementation of the IWCMS.

The main issues affecting the water supply identified in the IWCMS process were;

- 1. Poor condition of existing water treatment plant*
- 2. Lack of town water supply security*
- 3. Variable poor raw water quality*
- 4. Water treatment plant waste water discharged to stormwater system*

These issues have been proven to be very real, and impacting on the local community and the water supply customers. This is particularly relevant in recent years where there has been an increase in operational costs due to the failure of components of the ageing WTP, an increase in the frequency of dirty water breakthrough events due to the variable poor water quality, a clean-up notice being issued by the EPA for the WTP backwash, and the near failure of the water supply during the drought period in 2001.

The adopted scenario addresses these issues by;

1. Refurbishment of the existing WTP using the original building and allowing for an increased capacity, automation of the treatment and backwash processes, and on line monitoring equipment to ensure compliance with the Australian Drinking Water Guidelines
2. Provision of an off-stream storage with 12 months restricted supply (200ML), increased river water extraction capacity
3. The off-stream storage and upgraded raw water pumping station will allow the harvesting of cleaner water when it is available in the Richmond River. The off-stream storage will also have provision for chemical dosing and bulk solids removal, as well as a destratification system for controlling algae in the storage. The raw water for the WTP will be sourced from the off-stream storage and will be of a much more uniform quality, with little variation from day to day.
4. The water treatment plant waste water discharge is to be controlled to discharge during the night time into the sewerage system, via a flow retarding structure. The waste water will be discharged during the times of lowest flows in the sewerage system.

Additional benefits of the final scenario that were achieved due to the integrated planning approach are;

- that the existing weir can be modified to allow for fish passage as it will no longer be needed for on-stream storage, opening up 500km of waterways upstream of Kyogle to migrating fish
- the final site identified for the off-stream storage integrates with the flood modification works and provides suitable material for construction of both the storage embankment and the flood levee bank
- The waste water from the water treatment plant will provide an improvement to the quality of the water in the Richmond River downstream of Kyogle, as well as providing residual chemicals that will assist in the treatment process in the STW
- The upgraded water supply will cater for growth out till 2030, and provide a secure supply in times of drought, and deliver water that meets the Australian Drinking Water Guidelines. These factors will ensure that there is no inhibition to future economic growth in the township associated with an inadequate water supply that lacks the security needed by businesses and the local community.

Since the Kyogle IWCMS was adopted in August 2006, the water supply augmentation component of the Strategy has been further developed by firstly identifying four suitable sites for the off-stream storage. Flood modelling undertaken in 2006 reduced this to two suitable sites with minimal flood impact. This was followed by geotechnical investigation of the two remaining sites in 2007, which revealed one preferred site, which was subsequently purchased by Council in 2008. Council then completed a Concept Development Report and Review of Environmental Factors in March 2010. Following completion of these, Council commenced the detailed design for the various components of the off-stream storage. The detailed design process is expected to be completed in the next 2 months, and the project will then be "construction ready" with the construction stages to be developed based on the capital works program adopted by Council.

The capital works budget assumes that Council will be granted a subsidy of 50% under the CTWSSP, and this subsidy will also apply to the pre-construction costs incurred to date. The CTWSSP is set to wind up over the next two years, and access to funding is subject to a staged approval system. The first stage is the endorsement of the IWCMS, which has been achieved. Only the works included in the adopted IWCMS are eligible for funding under the CTWSSP. The second stage of the approval process requires the development of detailed designs and tender documents to the point where Council is ready to call tenders for the works. The current program is for Stage 2 approval to be sought and obtained in the 2013 calendar year.

In December 2012 Council lodged an application for funding under Round 2 of the LIRS, for the Kyogle Water Supply Augmentation. Council was notified that it had been successful in August 2013 through the Department of Premier and Cabinet, Division of Local Government.

Council now has a formal Agreement that is required to be executed under Council seal as part of the requirements of the LIRS. A copy of the Agreement is included in the attachments to this report.

The LIRS subsidy provides for reimbursements of the 3% interest subsidy payments on the loan of \$2,000,000, with a total value of \$345,109 over the ten year life of the loan.

Budget & Financial Aspects

The LIRS subsidy is to be applied to the \$2,000,000 loan planned for the Water Fund in the 2014/15 financial year. The loan, and the associated LIRS subsidy, is included in Council's Long Term Financial Plan and in the budgets and borrowings contained in Council's 2013/14 Operational and Delivery Plan. There are no budget amendments necessary with the acceptance of the LIRS funding, as this subsidy was included in the budget preparation.

The budget for the Kyogle Water Supply Augmentation Capital Works Component is as follows;

Components	Estimated Cost
Water Treatment Plant Upgrade	
Backwash discharge to sewer	\$280,000
Replace pressure filter system	\$400,000
Upgrade clear water pump station	\$95,000
Process automation and control	\$160,000
Electrical upgrade	\$80,000
Refurbishment of gravity filtration system	\$400,000
General civil works	\$160,000
Sub-total	\$1,575,000
Weir and Raw Water Pump Station	

Provision for Fish Passage over weir	\$280,000
Modifications to Pump station pipework	\$150,000
Monitoring equipment and telemetry upgrade	\$70,000
Sub-total	\$500,000
Off Stream Storage	
Sludge Lagoons	\$150,000
Chemical Dosing Facility	\$120,000
Clear Water Pump Station	\$220,000
Rising Main Extensions	\$220,000
Embankment construction	\$2,290,000
Sub-total	\$3,000,000
Total Project Construction Estimate	\$5,075,000

Council has assumed 50% subsidy under the Country Towns Water Supply and Sewerage Program (CTWSSP) for the total project, including the pre-construction activities and land purchase for the off-stream storage.

The nature of the CTWSSP is such that only the strategy adopted out of the Integrated Water Cycle Management Strategy is eligible for subsidy, and Council must have completed all pre-construction activities before applying for Stage 2 approval under the program.

It is anticipated that Council will be lodging its Stage 2 application in December 2013. Once stage 2 approval is obtained, Council can then call tenders for the works, with the final Stage 3 approval granted based on actual tendered prices. This is expected to occur in the 2014/15 financial year when all funding for the project is available.

Recommendation

1. That the report on the NSW Local Infrastructure Renewal Scheme be received and noted.
2. That Council authorises the Mayor and General Manager to sign the Local Infrastructure Renewal Scheme Funding Agreement for Kyogle Water Supply Augmentation.
3. That Council authorises the Common Seal to be affixed to the Local Infrastructure Renewal Scheme Funding Agreement for Kyogle Water Supply Augmentation.

Attachments

1. LIRS Agreement Kyogle Water Supply Augmentation

Summary/Purpose

This report provides a review of the Kyogle Council Public Gates and Bypasses (Cattle Grid) Management Plan and Public Gates and Bypasses (Cattle Grid) Policy and makes recommendations for amendment.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Background Information

Council's Public Gates and Bypasses (Cattle Grid) Policy and Management Plan provide for the orderly management of public gates, and a framework to assess and endeavour to satisfy, the needs of both road users and landholders.

Legislation under the Roads Act 1993 and Roads Regulation 2008 afford Council the ability to issue Public Gate Permits on roads under its control.

The legislation restricts the issue of permits to under the following conditions;

- Unfenced roads
- Roads must pass through a parcel of land owned by the applicant
- The Public Gate must be on a boundary fence

The current Management Plan does not allow for Public Gates to be placed on roads classified as a State Road or Arterial Road or as a Local Arterial Road.

Previous Council Consideration

Council adopted the Public Gates and Bypasses (Cattle Grid) Policy and Management Plan in 2005.

Report**1. POLICY REVIEW**

Only minor compliance changes are proposed for the Policy except for the insertion of a clause for cost recovery.

The proposed amendments are highlighted in attachment one.

2. MANAGEMENT PLAN REVIEW

An examination of the existing Bypasses and Gates register reveals that a significant number of installations are unregistered (67) and/or exist on roads in contravention of Council's approved Management Plan.

Existing Public Gates/Grids

The numbers of Public Gates and Bypasses that currently exist and their status' are shown in the table below.

Road Classification	Registered	Unregistered	Temporary	Rd Examples + no. of permits
Arterial	10	1 (Paddys Flat Rd)		Iron Pot Ck Rd:1 Tabulam:4 Peacock Ck Rd:2
Collector	47	3		Tunglebung Ck Rd: 9 Theresa Ck Rd:5
Feeder	42	11		Haystack Rd:5 Old Dyraaba Rd: 3 Simes Rd: 4
Residential Access	164	50	4	Main Ck Rd:4 Coxs Rd : 4 Jackson Flat Rd:5
Access Street	3	2 on unclassified road		Hillview Rd:2
Total	266	67	4	

Recommended Amendments

Attached is the approved Management Plan marked up with recommended amendments (attachment 2). Some amendments are administrative only eg change of titles, changes to legislation and have no effect on the intent of the Plan.

A summary of significant proposed amendments include;

1. Section 4 – update of legislation
2. Section 4 – add “The road must not be a sealed road or have a 7 day average daily traffic count in excess of 100”
3. Provision for charging a fee. This will be subject to statutory requirements for setting fees and charges

4. Section 5.2 Consultation added
5. Section 5.4.1 applies same conditions for application for an unregistered Public Gate or Bypass as for a new application
6. Section 5.4.2 – modified to leave discretion
7. Section 6 Revocation of Permits/Removal of Infrastructure added- new section which provides for permits to be revoked or removal of gates, grids, etc. Grounds include; Failure to act, Complaint, No Permit, Non-Compliance and Change of Circumstances.
8. Section 7 Subdivisions – Does not permit Bypasses and Gates within a subdivision, but subject to meeting all other requirements, may be permitted at the subdivision extremities.
9. Section 8.4 – requirement for Cattle Ahead signs added as per solicitor's advice
10. Section 10 Inspection – places the onus on the permit holder to provide inspection reports to Council.
11. Section 11 Annual Compliance Review – puts the onus on the permit holder to conduct an annual review
12. Appendix B – declaration by applicant modified to incorporate advice from solicitor.

Existing Non-compliant Bypasses and Gates

Of greatest concern is the continued existence of gates, grids and bypasses on Arterial roads. These roads, such as Tabulam Road, Paddys Flat Road, and Iron Pot Creek Road, are some of Kyogle Council's higher traffic volume and economically important roads.

Eight years after the adoption by Council of the Public Gates and Bypasses (Cattle Grid) Policy And Management Plan eleven grids still exist on arterial roads; ten permitted and one without a permit.

Roads are narrowed to a single lane of traffic and may pose a risk to the safety of the travelling public.

Also, the likelihood of unwanted interactions between cattle or other farm animals and vehicles is increased on higher traffic volume roads.

Council's Liability – A Legal Opinion

A legal opinion has been attained (attachment 3) which provides an opinion on Council's potential liability with respect to the issuing of permits for Public Gates and Bypasses.

Essentially the legal opinion advises that the liability rests with the permit holder even though Council is the road authority and issues the permits.

Of course, if any action is brought against Council the decision will be made by a judge, however advice indicates that there is no precedent in New South Wales for such action.

Recommendations made by the solicitor under "Possible solutions" such as "Cattle Ahead" signs, etc, have been considered and incorporated into the proposed amendment to the Management Plan.

Administration

The administration of over 300 permits is an onerous and costly undertaking if all the provisions of the Management Plan are to be complied with.

Tasks include inspections, issue of permits, data base maintenance, dealing with complaints, etc. The cost of this work is of the order of \$10,000pa.

Budget & Financial Aspects

Some current administrative costs will be recovered if fees are applied

Recommendation

That Council;

1. Direct the General Manager to publically notify and exhibit the proposed amendments to the Bypasses and Gates Policy (documented in ATTACHMENT 1) in accordance with Section 160 of the Local Government Act 1993.
2. Direct the General Manager to publically notify and exhibit the proposed amendments to the Bypasses and Gates Management Plan (documented in ATTACHMENT 2) in accordance with Section 160 of the Local Government Act 1993.

Attachments

1. Amended Public Gates and Bypasses (Cattle Grid) Policy
2. Amended Public Gates and Bypasses (Cattle Grid) Management Plan
3. Letter of advice regarding Public Gates and Bypasses from Andrew McInnes, Solicitor

ITEM 13B PLANNING SERVICES REPORT

13B.1 DEVELOPMENT APPLICATIONS RECEIVED, DETERMINED AND OUTSTANDING FOR THE PERIOD 1 OCTOBER, 2013 TO 31 OCTOBER, 2013

Report

2007/161

Property: Lot 1 DP 529272 Fairy Mount Parish, Rous County
Address: Kyogle Rd Kyogle
Applicant/Owner: Newton Denny Chapelle / GF & CJ Rogers
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Draft consent prepared

2010/58

Property: Lot 1 DP 17828 Fairy Mount Parish, Rous County.
Address: Greer St Kyogle
Applicant/Owner: GM Project Development & Management / C Viel & RC Endres
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting additional information

2011/20

Property: Lot 13 DP 1081723 Fairy Mount Parish, Rous County.
Address: Kyogle Rd Homeleigh
Applicant/Owner: Coastline Building Certification / PJ & SJ Owen
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting additional information

2011/181

Property: Lot 51 DP 755719 Loadstone Parish, Rous County.
Address: Gradys Creek Road Gradys Creek
Applicant/Owner: Newton Denny Chapelle / SM Sherman
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting applicant's response to Council's letter

2012/39

Property: Lot 1 DP 122685 Boorabee Parish, Rous County.
Address: Taveners Road Little Back Creek
Applicant/Owner: MG Hughes
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting additional information from applicant

2012/43

Property: Lot 2 DP 709493 Capeen Parish, Rous County.
Address: Duck Creek Road Duck Creek
Applicant/Owner: Riordans Consulting Surveyors / SR Barrett
Proposal: Subdivision

Received:	Referred To DMP For Comment
Status:	Adjoining owner notification closes 8/11/13
<hr/>	
2012/69	
Property:	Lot 13 DP 1013228 Fairy Mount Parish, Rous County.
Address:	Green Pigeon Road Green Pigeon
Applicant/Owner:	PC & WL Poussart
Proposal:	Ecotourism / Health Retreat
Received:	Referred To DMP For Comment
Status:	Awaiting applicant's response to Council's letter
<hr/>	
2012/70	
Property:	Lot 2 DP 263202 Jiggi Parish, Rous County.
Address:	Oxbow Road Cawongla
Applicant/Owner:	L Trantino & DM Trantino
Proposal:	Multiple Occupancy
Received:	Referred To DMP For Comment
Status:	Awaiting applicant's response to Council's letter
<hr/>	
2012/76	
Property:	Lot 3 Sec 4 DP 759111 Donaldson Parish, Rous County.
Address:	Lindsay Street Woodenbong
Applicant/Owner:	LK Whitford & GR English / KL Whitford
Proposal:	Bed & breakfast accommodation
Received:	Referred To DMP For Comment
Status:	Awaiting additional information from Applicant
<hr/>	
2012/79	
Property:	Lot 101 DP 781824 Fairy Mount Parish, Rous County.
Address:	Stratheden Street Kyogle
Applicant/Owner:	Bettina Pty Ltd / TE Calleja
Proposal:	Change of use
Received:	Referred To DMP For Comment
Status:	Draft consent prepared
<hr/>	
2013/6	
Property:	Lot 20 DP 755744 Toonumbar Parish, Rous County.
Address:	Crossleys Road Afterlee
Applicant/Owner:	Riordans Consulting Surveyors / BK Perry
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Awaiting Applicant's response to Council's letter
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2013/9	
Property:	Lot 1 DP 572171 Geneva Parish, Rous County.
Address:	Daleys Lane Geneva
Applicant/Owner:	Newton Denny Chapelle / GB, RJ & RA Daley
Proposal:	Subdivision
Received:	Referred to DMP For Comment
Status:	Deferred commencement consent issued subject to conditions
<hr/>	
2013/10	
Property:	Lot 92 DP 755706 Ettrick Parish, Rous County.
Address:	Brown Knob Road, Eden Creek
Applicant/Owner:	Newton Denny Chapelle / R & JJ Hibbens

Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting applicant's response to Council's letter

2013/11

Property: Lot 11 DP 1105782 Runnymede Parish, Rous County.
Address: 13174 Summerland Way, Kyogle
Applicant/Owner: Riordans Consulting Surveyors / CA & KA Woosley & DB Page
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting Applicant's response to Council's information request

2013/12

Property: Lot 312 DP 1115305 Peacock Parish, Buller County.
Address: Peacock Creek Road, Gorge Creek
Applicant/Owner: GJ Faulks / Faulks Holdings Pty Ltd
Proposal: Private Cemetery and Boundary Adjustment
Received: Referred To DMP For Comment
Status: Awaiting RFS response

2013/14

Property: Lot 1 DP 358872 Roseberry Parish, Rous County.
Address: Summerland Way, Grevillia
Applicant/Owner: LW Hoffman / Ladeb Pty Ltd
Proposal: Replacement of Service Station & Dwelling
Received: Referred To DMP For Comment
Status: Awaiting applicant's response to Council's letter

2013/16

Property: Lot 2 DP 210310 Hanging Rock Parish, Rous County.
Address: Lilly Pilly Lane, Barkers Vale
Applicant/Owner: GM Louttit / GM Louttit
Proposal: Dwelling Additions
Received: Referred To DMP For Comment
Status: Awaiting assessment of additional information

2013/33

Property: Lot 222 DP 4517 Fairy Mount Parish, Rous County.
Address: Campbell Road Kyogle
Applicant/Owner: Stephen P McElroy & Associates P/L / AG & SM Prideaux
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/41

Property: Lot 1DP 14550 Fairy Mount Parish, Rous County.
Address: Wyangarie Street Kyogle
Applicant/Owner: Stephen P McElroy & Associates Pty Ltd / GK Duley
Proposal: Sheds
Received: Referred To DMP For Comment
Status: Approved by Council

2013/44

Property: Lot 13 Sec C DP 6798 Queebun Parish, Rous County.
Address: Summerland Way Kyogle

Applicant/Owner: MW Donnelly / MW & SC Donnelly
Proposal: Change of use – dwelling to serviced apartment
Received: Referred To DMP For Comment
Status: Report to Council

2013/48

Property: Lot 11 DP 1116232 Fairy Mount Parish, Rous County.
Address: Fawcetts Plain Road Fawcetts Plain
Applicant/Owner: We Build-Um Pty Ltd / RP & MG Sabol
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/51

Property: Lot 70 DP 752395 Sandilands Parish, Drake County.
Address: Tooloom Street Mallanganee
Applicant/Owner: KA Fodor
Proposal: Change of Use
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/56

Property: Lot 2 Sec 5 DP 7628 Geneva Parish, Rous County.
Address: Smith Street Geneva
Applicant/Owner: All Steel Garages & Sheds / LJ Davis
Proposal: Garage
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2013/61

Property: Lot 10 DP 1147983 Wiangaree Parish, Rous County.
Address: Chisholm Court Fawcetts Plain
Applicant/Owner: G C & P M Edmed
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/62

Property: Lot 7 DP 1186807 Jiggi Parish, Rous County.
Address: Silky Oak Place Cawongla
Applicant/Owner: Mr C W Luther / Complete Coating Commercial Pty Ltd
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2013/63

Property: Lot 1 DP 657255 Fairy Mount Parish, Rous County.
Address: Summerland Way Kyogle
Applicant/Owner: T J Bendall/ S & T J Bendall
Proposal: Additions
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/64

Property: Lot 2 DP 1173670 Wiangaree Parish, Rous County.
Address: Summerland Way, Kilgra

Applicant/Owner: SG Penman
Proposal: Dwelling additions
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/65

Property: Lot 10 Sec 8 DP 759111 Donaldson Parish, Rous County.
Address: Dalmorton Street, Woodenbong
Applicant/Owner: MW & J Watson / MW Watson
Proposal: Shed
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2013/66

Property: Lot 41 Sec B DP 6798 Runnymede Parish, Rous County.
Address: Merrigan Street, Kyogle
Applicant/Owner: Trueline Patios & Extensions / JA Caban
Proposal: Dwelling Additions
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

CDC2013/9

Property: Lot 3 DP 15852 Fairy Mount Parish, Rous County.
Address: Fawcett Street, Kyogle
Applicant/Owner: NR Bayley / AA Seawright & NR Bayley
Proposal: Dwelling Alterations
Received: Referred To DMP For Comment
Status: Approved subject to conditions

Recommendation

1. That, with the exception of the following items in which Councillors
and have declared an interest,
 - Cr..... 10B.1 Development Applications
Received, Determined and Outstanding DA.../... - Reason for Declaration -
 - Cr.....10B.1 Development Applications
Received, Determined and Outstanding DA.../... - Reason for Declaration -

The information contained in the report Development Applications Received, Determined and Outstanding for the period 1 October 2013 to 31 October 2013 be received and noted.

2. That the information contained in the report Development Applications Received, Determined and Outstanding for the period 1 October 2013 to 31 October 2013 only in relation to DA../... and DA../.... In which Councillors have declared an interest be received and noted.

13B.2 DEVELOPMENT APPLICATION 2013/044 – CHANGE OF USE FROM A DWELLING TO A SERVICED APARTMENT - M & S DONNOLLEY – 301 SUMMERLAND WAY KYOGLE

Summary/Purpose

Development Application 2013/044 for a change of use from a dwelling to a Serviced Apartment came about following Council becoming aware that the dwelling was being used and let in conjunction with the Kyogle Motel.

Following receipt and public notification of the Development Application, one submission was received raising a number of issues and suggested mitigation measures.

Staff have tried to resolve the issues through a process of discussion and negotiation however, an amicable outcome has not been achieved with the matter being requested to be presented to Council for determination.

Previous Council Consideration

The matter has not previously been before Council.

Community Strategic Plan Item(s)

- Environmental and Planning

Background Information

In May 2013, Council received an inquiry as to the approved use of the dwelling situated at 301 Summerland Way as it was alleged that the dwelling was being used for commercial purposes for the accommodation of visitors and guests in conjunction with the operations of the Kyogle Motel.

Council wrote to the landowner on 24 May 2013 seeking advice as to whether the dwelling was in fact being used as alleged.

Advice was received from the landowners that they were using the dwelling as additional accommodation in conjunction with their Motel operation. The landowner was subsequently advised that a DA would be required for the change of use.

A Development Application was received on 23 July 2013 and adjoining landowners were notified. One written submission was received from the landowner of 299 Summerland Way (**Copy attached**).

Staff have endeavoured to address, resolve and negotiate an outcome between the applicant and the landowner of 299 Summerland Way. An agreed outcome has not been achieved and it has been requested that the matter be referred to Council for determination.

Report/Assessment

1. APPLICATION

Application under Clause 2.3 of the Kyogle Local Environmental Plan (KLEP) 2012 for the change of use from a dwelling to a serviced apartment on Lot 13 Section C DP 6798, 301 Summerland Way, Kyogle.

A “serviced apartment” is defined as “tourist and visitor accommodation” which is a permissible land use within the zone.

The “serviced apartment” will be operated and let as part of the Kyogle Motel.

2. SITE DESCRIPTION AND PLANNING PROVISIONS

- Zone R1 General Residential
- Lot 13 Section C DP 6798 has an area of 1012m²
- Existing residential dwelling house, garage and carport on site
- Site has frontage to Summerland Way and existing rear access from Boorabee Street to the garage and carport. Proposal is to access the serviced apartment via Boorabee Street.
- Site not mapped as potentially bushfire prone land, nor is it mapped as flood prone land.
- No actual physical works proposed within the dwelling for change of use.

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 application:

- (a) the provisions of:
- (i) any environmental planning instrument, and

Kyogle Local Environmental Plan 2012

A “serviced apartment” is included in the definition of a “tourist and visitor accommodation” use in the KLEP 2012.

- Clause 2.2 – The subject property is zoned R1 under the Land Zoning Map (KLEP 2012)

- Clause 2.3 – The development is defined as “tourist and visitor accommodation” under the provisions of KLEP 2012 and this is a permissible land use within the subject zone with the consent of Council. In accordance with the objectives of Zone R1 the proposal will enable a non-residential land use which is compatible with the amenity of the area. The site is also in proximity to two (2) motels.
- Clause 6.4 – Adequate essential services available.

North Coast Regional Environmental Plan

This document is now a deemed SEPP. In considering any Development Application Council must consider this document and in particular Part 6 Division 1 Tourism. The proposal is not inconsistent with Clause 67 (Objectives) and Clause 75 (Development Control – tourism development).

(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

DCP No 4 B & B Establishments and Farmstay Accommodation

Whilst this DCP does not specifically include the use as a serviced apartment, it does include relevant issues to also be considered for this land use. For assessment of this proposal, comment is provided on the following matters:

- Disability accessibility – not applicable as a result of this change of use as no construction certificate is required
- On-site parking – at least 3 sealed on-site parking spaces existing with the garage and carport. Additional tandem or stacked parking available.
- Signage – no signage proposed.
- Access – no direct access from Summerland Way for vehicles. Vehicular access restricted to Boorabee Street only.
- Food preparation – the existing kitchen can be used by occupants. Food Act and Regulations not applicable.
- Toilet/bathroom – existing facilities.
- Fire Safety – 1 x hardwired smoke detector, 1 x battery smoke detector, 1 x fire extinguisher – may need fire blanket also in kitchen (ensure rooms not individually let)
- Visual and Acoustic Privacy – include condition in consent to ensure development maintains privacy for nearby properties.
- Outdoor Recreational Facilities – none provided include condition

- Management – site will be managed by the owners/operators of Kyogle Motel. Bookings, management and cleaning services provided by the motel. Guests can order breakfasts or dinner meals which would be prepared in the motel's licensed kitchen and delivered to the apartment.
- Number of guests – these would be restricted to the capacity of the 3 bedrooms and lounge room sofa (max 8 persons). Guests would not be permitted to occupy caravans, motor homes, camper trailers etc on the property.

DCP No 9 Public Notification

In accordance with the table in Clause 3 the proposed tourist development has been advertised to adjoining and adjacent property owners. The advertising period was 16 August, 2013 to 30 August, 2013.

No submissions were received during the notification period, however, an adjoining owner, 299 Summerland Way contacted Council and advised that DA notification was sent to an old address, although it is the present Council listed address. The owner of 299 Summerland Way was advised on 16 September, 2013 that she could have an additional 14 days from the 16 September, 2013 to make a submission if so inclined.

A submission was received on 24 September, 2013. Issues raised were security, privacy (mainly relates to northern boundary with actual Motel), noise, vehicles parking across driveway, loss of property value and visits by prostitutes. The submission concluded by suggesting a 1.8m Colorbond fence be erected around her property with gate for rear driveway and replacement of the existing air conditioner in lounge room with a low noise unit.

The following deals with the issues raised:

- Security – points (a) and (b) can be dealt with by condition of consent advising operators to ensure these actions are stopped. In relation to (c) a 1.8m high solid fence (timber or Colorbond) is considered to be an onerous and unreasonable request.

As an alternative, the installation of a solid fence from the front building line of the serviced apartment to 1m past the Summerland Way side of the existing garage was put to the applicant for consideration.

The applicants consider this request to be unreasonable due to the existing good quality but mesh fence in place and the solid wall of the carport attached to 299 Summerland Way.



The applicant did offer to continue to plant out the fence with “jasmine bush” similar to the one that is currently planted along this same section of common boundary. The applicant also offered to go halves in a solid fence if the owner of 299 Summerland Way agreed.

A further discussion with the objector advising of the discussion with the applicant and their non-acceptance of a solid fence in this location, progressed to the greater concern of the open carport further to the west. It was indicated that tenants/visitors who occupy the house often congregate in the carport which has clear view into the objector’s carport and house. It was indicated that this should be fenced to stop this invasion of privacy and provide the objector with some added security.





Following a site inspection and discussion with the applicant, the applicant agreed to install a solid privacy screen along the full length of the carport but proposed it to be constructed in line with the edge of the carport slab (not on the boundary line) and be of solid construction not more than 600mm off the floor and terminating at least 1.8m in height. It was suggested that this would provide privacy from anyone sitting or standing in the carport.

This, offer along with several other specific requirements were presented to the objector on Wednesday 30 October 2013 for their consideration. They contacted Council on Thursday 31 October advising that they did not accept the proposal and requested the matter to be referred to Council as they seek a solid fence 1.8m high along the common boundary.

- Privacy – points (a) and (c) relate to the existing motel which is not part of this proposal. Both landowners should deal with this as a separate issue. In relation to point (b), This is not considered an issue with the proposal however a specific condition may be imposed for the operators to make their clients aware that they should not enter 299 Summerland Way.
- Noise - noise is dealt with by conditions of consent and statutory noise levels.
- Vehicles parked partially across driveway – to be dealt with by conditions of consent.
- Loss of property value – no evidence of any impact on property values provided.
- Visits by prostitutes – management by the owners should be able to control this matter. A specific condition proposed.

The author of the submission has proposed the following to deal with the proposal, with staff comments in brackets.

- That privacy fencing 1.8m Colorbond fencing and gate across driveway in back fence be erected around my property [299 Summerland Way].

(Whilst partial fencing could be supported, the extent of fencing proposed cannot be justified for this development. A 1.8m high fence (timber or Colorbond) could be justified from the front building line of the serviced apartment to either the western extent of the carport or to Boorabee Street. As most of the use will be between the carport and the house a 1.8m solid fence from the building line to Boorabee Street could be sufficient to maintain privacy to the land to the north. But as outlined above this matter has been discussed with the applicant who does not support the proposal and offered an alternative)

- Existing air conditioner be replaced with a low noise unit.

(Draft conditions of consent deal with noise from air conditioners and any offensive noise.)

(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 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 proposed use as a “serviced apartment” will not create any significant use of the land above that expected with a dwelling house. As such, no significant adverse environmental, social or economic impacts expected.

Conditions of consent can deal with management issues such as noise, amenity, privacy, rooms not to be individually let and no additional occupancy above those accommodated internally.

The proposed use would not attract additional Section 94 or Section 64 contributions.

(c) the suitability of the site for development.

The site is owned by the owners of Kyogle Motel, 295 Summerland Way which is only separated from the site by one dwelling. The development does not require any works to cater for the proposed use. The site is considered suitable for the proposed use.

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

One submission from an adjoining property owner received and outlined in the body of this report.

(e) the public interest

The proposal is not considered to be contrary to the public interest.

Referrals

Only internal referrals required and were made. Recommended conditions and comments have been incorporated into the assessment and consideration of this application and the draft conditions should the application be approved.

4. DETERMINATION

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 with the relevant provisions of the Act and Council's Planning Instruments.

However, Council is asked to consider, after taking into account the matters raised and presented by the adjoining landowner in regard to the privacy concerns, and the requested means of mitigation by the adjoining landowner and the proposed solutions offered by the applicant.

The options put to council are the construction of a 1.8m high solid fence (timber/Colorbond) along the common boundary between 301 and 299 Summerland Way (from the front building line to 1 metre west of the Boorabee frontage of the carport), or,

Installation of a solid privacy screen along the full length of the carport at the edge of the carport slab (not on the boundary line) and be of solid construction not more than 600mm off the carport floor and terminating at least 1.8m in height, and the planting of "jasmine bush" at 1 meter spacings from the existing jasmine bush to 1 meter west of the Summerland Way frontage of the existing garage.

Budget and Financial Aspects

There are no budget implications for Council with this application or report.

Recommendation

1. That the report on Development Application 2013-44 for the Change of Use from a Dwelling to a Serviced Apartment at 301 Summerland Way Kyogle be received and noted.
2. That Council, after considering the matters raised and presented by the adjoining landowner and the Applicant determine which of the following two conditions are the most appropriate for this development:

- (i) A 1.8m high solid fence (timber/Colorbond) is to be installed within 3 months of this notice of determination at the full cost of the applicant along the common boundary between 301 and 299 Summerland Way from the front building line to 1 metre west of the Boorabee frontage of the existing carport.
 - (ii) A solid privacy screen is to be installed along the full length of the existing carport at the edge of the carport slab (not on the boundary line) and be of solid construction not more than 600mm off the carport floor and terminating at least 1.8m in height, and the planting of "jasmine bush" at 1 meter spacings from the existing jasmine bush to 1 meter west of the Summerland Way frontage of the existing garage.
3. That pursuant to Section 80(1) of the *Environmental Planning and Assessment Act 1979* Council approve the application subject to recommendation 2 above and the draft conditions attached to this report.
4. That those persons who made a submission be advised of Council's determination of this matter

Division:

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

Attachments

1. Submission in response to the proposed development.
2. Floor/site plan
3. Statement of Environmental Effects provided by the applicant
4. Draft Conditions of Approval for Development Application 2013/044

Summary/Purpose

This report presents a proposal to amend the Kyogle Local Environmental Plan 2012 to change the zoning of land at 19-25 Andrew Street, Kyogle from Zone R1 General Residential to Zone IN2 Light Industry. The report also seeks a resolution to forward the planning proposal to the Department of Planning and Infrastructure for gateway determination and, subject to an affirmative determination by the Department, to carry out necessary procedural steps to process the planning proposal, including community consultation.

Previous Council Consideration

No previous Council consideration.

Community Strategic Plan Item(s)

- Environmental and Planning
- Economic Development

Background InformationSubject site and context

The site (Lot 101 DP 1078192) is located at 19-25 Andrew Street. It adjoins the railway corridor to the east, rural land to the south and residential properties to the west. The majority of properties fronting Andrew Street are used for residential purposes exclusive of the subject site and the two lots opposite the subject site on the northern side of Andrew Street. Fairymount Creek traverses the lot adjoining the subject site's western boundary. Figure 1 below shows the site and its context.

Existing development

Development consent was granted in 1998 through DA 1998-66 for a light industrial activity (seed drying enterprise). Development consent was granted in 2001 through DA 2001-96 for construction of a shed to accommodate the light industrial activity.

Existing land use zone

Prior to the commencement of the Kyogle Local Environmental Plan 2012 the site was zoned Village. The LEP 2012 applied Zone R1 General Residential to the site; it appears that the intent of this zoning was to avoid a disjointed zoning pattern and hence all properties on the southern side of Andrew Street were zoned R1 General Residential. This zone did not restrict the existing approved light industrial use of the land.

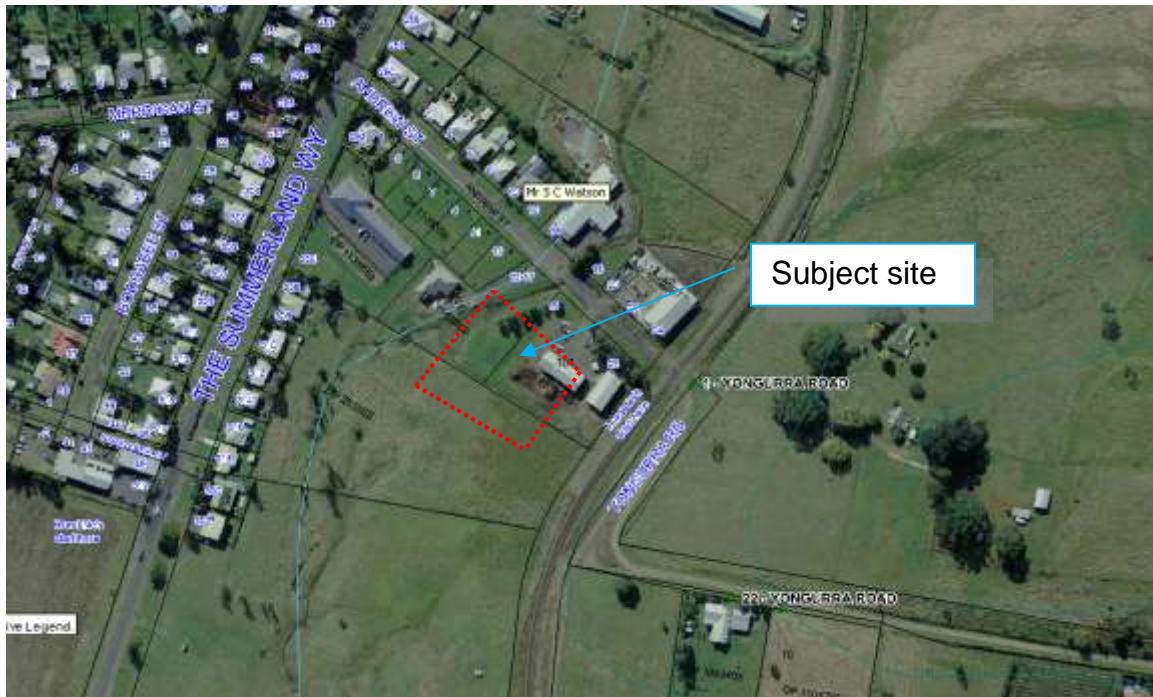


Figure 1 Subject site and context

Report

Rationale for the proposal

The owner of the property seeks to expand the light industrial use of the site. The current zone R1 General Residential prohibits light industrial uses. Therefore, the property owner seeks to change the zoning to IN2 Light Industry so that light industrial uses are permitted with consent on the site. Subject to the LEP being amended to change the zoning, the land owner has indicated they will lodge an application to extend the light industrial use of the site.

Assessment of the proposal

The proposal represents an appropriate change for the following reasons:

- The site accommodates an existing light industrial use.
- Light industry is prevalent on nearby surrounding properties; light industrial and retail uses are established on land on the opposite side of Andrew Street.
- The proposed zoning will permit future extension of the light industrial use of the land, subject to a development application and granting of development consent.

The proposal is not expected to create adverse impacts on the amenity of residential properties nearby for the following reasons:

- Land adjoining the site's western boundary is owned by the owner of the subject site. The next nearest residential property is approximately 35 metres from the site's western boundary.
- Land adjoining the eastern boundary of the site is railway corridor and on the eastern side of this, rural land.

- Land adjoining the site's southern boundary is in Zone R1 General Residential however, is prone to flooding where it adjoins the subject site and is considered to have limited development potential where it adjoins the subject site.
- Activities permitted in the IN2 Light Industry zone are restricted to low-impact commercial activities such as depots, warehouse and distribution centres and light industries.
- There is limited area of the lot remaining available for development; therefore, any future extension is likely to be of a smaller scale than the existing development.

In conclusion, the proposed change in zoning and any likely expansion of the light industrial use of the site is considered unlikely to have any significant impacts on residential amenity in the surrounding area. The proposal to zone the land IN2 Light Industry is considered to be an appropriate change that will permit future extension of the light industrial use of the land, subject to a development application and granting of development consent.

Proposed community consultation

The planning proposal details proposed community consultation. As this is not deemed to be a contentious or significant proposal, community consultation is to be relatively succinct and is intended to comprise:

- Notification of adjoining and surrounding landowners and business owners by mail.
- Placing a notice in the Richmond River Express Examiner.
- Placing a notice on Council's website.
- Consultation with relevant State agencies, including; Australian Rail Track Corporation and Roads and Maritime Service.
- Allow 14 days for submissions.

Project timeframe

The project timeframe is provided in the Planning Proposal at Appendix 4.

Delegation of plan making powers

This proposal meets the criteria for an LEP amendment that is of 'local planning significance' that can be made by Council rather than having to be sent back to the Minister for final approval and making. It is recommended that Council request the Minister for an authority to exercise delegation to enable Council to finalise the making of the plan.

Budget and Financial Aspects

This report has no financial implications.

Recommendation

1. That Council support the proposal to amend the Kyogle LEP 2012 to change the zoning of Lot 101 DP 1078192 to Zone IN2 Light Industry.
2. That Council submit the planning proposal to the Department of Planning and Infrastructure for review and gateway determination.
3. That Council request the Minister for Planning and Infrastructure to grant Council authority to exercise delegation of plan making powers.

4. That upon an affirmative gateway determination being received from the Department of Planning & Infrastructure, Council staff carry out the procedural steps associated with the progress of the planning proposal, including community consultation.
5. That a further report be presented to Council on this matter following the conclusion of community consultation and review of submissions.

Division:

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

Attachments

Attachment Planning Proposal

13B.4 PLANNING PROPOSAL TO ENABLE RURAL BOUNDARY ADJUSTMENTS AND SPLIT ZONING SUBDIVISION

Summary/Purpose

This report presents a proposal relating to the amendment to Kyogle Local Environmental Plan 2012 as follows:

- By adding a clause to enable boundary adjustments of lots zoned either RU1, RU2, RU4 or R5 where such lots are below the minimum lot size shown on the Lot Size Map, where such adjustments do not create any additional dwelling opportunities, and where the adjustment does not adversely impact upon the agricultural potential of the lands involved.
- By adding a provision to Clause 4.2A(3) in order that lots the subject of an approved boundary adjustment retain any dwelling entitlement.
- By adding a clause to permit the creation of RU1, RU2 or RU4 zoned residue lots that are less than the minimum lot size shown on the Lot Size Map, where their creation results from the subdivision of land zoned residential or rural village.

Community Strategic Plan Item(s)

- Economic Development
- Environmental and Planning

Background Information

The present format of the Kyogle Local Environmental Plan 2012 has significant limitations for subdivision in relation to rural boundary adjustment subdivision and the creation of residual rural zoned lots arising from urban subdivision.

The objectives of this planning proposal are:

- To provide for greater flexibility in relation to the subdivision of land zoned RU1, RU2, RU4 or R5 by:
 - Permitting boundary adjustment subdivisions where one or more allotments involved is less than 90% of the minimum lot size specified for subdivision subject to the application not involving the creation of any additional dwelling opportunities and only where the adjustment does not adversely impact upon the agricultural potential of the land.

- Permitting subdivision of the land zoned residential or rural village which results in the creation of a residue lot containing land zoned either RU1, RU2 or RU4 and which has an area less than the minimum lot size shown the Lot Size Map.
- To ensure existing dwelling entitlements are not lost as a result of a boundary adjustment.

Previous Council Consideration

This report is in response to a motion, unanimously adopted at Council's meeting of 13 May, 2013 which in part stated:

"That in keeping with discussion at the Councillor workshop Council staff further pursue investigation of the option of boundary adjustment less than the current 90% option (without further increases in housing entitlements)."

Report

- **Boundary Adjustment Subdivision**

Since the introduction of the LEP, Council has received a number of requests for the adjustment of boundaries between rural zoned lots where one or both of the lots are below the minimum lot size. In the majority of these cases there has been identified planning merit in that the adjusted lots would retain or enhance agricultural productivity potential. The current provisions of the LEP do not allow for Council to consent to such applications except where the proposed adjusted lots comply with the minimum lot size or comply with the limited variation available under Clause 4.6(6).

Where existing lots have a dwelling entitlement, the entitlement should remain following the boundary adjustment.

Residue Lots

Council has received enquiry regarding the subdivision of lands in a residential or rural village zone which will result in a single RU1, RU2 or RU4 zoned residue lot. The current LEP provisions do not permit this except where the proposed residue lot complies with the minimum lot size or complies with the limited variation available under Clause 4.6(6).

Assessment of the Proposal

Both issues have created limitations to sound planning outcomes. This is similar to many other local Councils in proximity to Kyogle. The only avenue available to rectify the situation is to amend the KLEP 2012 by utilising the "Gateway Process".

The proposal for permitting boundary adjustments of undersized lots and for creating residue lots is consistent with the historic pattern of development within the Council area. Council has traditionally permitted the adjustment of boundaries between rural lots to facilitate improved layouts and/or increased agricultural productivity.

The proposal is not expected to have any adverse impacts on the character or amenity of rural lands or facilitate the fragmentation of agricultural land.

In conclusion, if these proposed changes to the LEP are not implemented, there will be no avenue for Council to approve certain subdivisions that depart from adopted minimum lot sizes despite the potentially positive merits of an application. A copy of the Draft Planning Proposal is included at the Appendix 1 which provides the wording of recommended amendments to KLEP 2012.

Proposed Public Consultation

Community consultation would involve:

- Placement of a notice in the Richmond River Express Examiner
- Placement of a notice on the Kyogle Council website and Department of Planning & Infrastructure website.

If endorsed by the Department of Planning and Infrastructure, they will prescribe the duration of the public exhibition period in the Gateway determination.

Project Time Frame

The project time frame is provided as Part 6 of the planning proposal.

Budget & Financial Aspects

Apart from staff costs to prepare the draft planning proposal, the only direct cost will be for advertising in the local paper.

Recommendation

1. That Council support the proposed amendments to the Kyogle LEP 2012 to permit boundary adjustments of undersized lots and subdivision of lands with a split zone as outlined in this report and the planning proposal at attachment 1.
2. That Council submit the planning proposal to the NSW Department of Planning and Infrastructure for review and gateway determination.
3. That upon an affirmative gateway determination being received from the Department of Planning and Infrastructure, Council staff carry out the procedural steps associated with the progress of the planning proposal, including community consultation.
4. That a further report be presented to Council on this matter following conclusion of the community consultation.

Division:

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

Attachments

1. Planning proposal (separately attached)

13B.5 REVIEW OF POLICIES FOLLOWING EXHIBITION PERIOD – PLANNING & ENVIRONMENT SECTION

Summary/Purpose

This report advises Council of the outcome from the Public Exhibition on the draft amendments and proposed revocation of various Council Policies administered through the Planning and Environment Section.

The Draft Policies were placed on Public Exhibition from 23 August to 20 September 2013 with submissions being received up to 4 October 2013.

No public submissions were received however, several minor matters were raised internally and are addressed in this report.

Previous Council Consideration

Council considered a report on the proposed amendments and deletions at its 12 August 2013 meeting when it resolved:

1. *That Council receive and note the report on the Review of Policies – Planning & Environment Section*
2. *That Council endorse and exhibit in accordance with section 160 of the Local Government Act the updated Draft Local Approvals Policies, Draft Local Orders Policies and Draft Local Policies for a period of not less than 28 days and receive submissions for 42 days after the date the draft local policies were placed on exhibition:*
 - *Draft Local Approvals Policy – Temporary Accommodation;*
 - *Draft Local Approvals Policy – Cemeteries and Burials;*
 - *Draft Local Approvals Policy – Dance Parties;*
 - *Draft Local Orders Policy - Animal Ownership;*
 - *Draft Local Policy - Enforcement Policy*
 - *Draft Local Policy - Development Management Panel Policy*
3. *That Council revoke the following Local Policies and advertise its decision to revoke them in accordance with section 166 of the Local Government Act*
 - *Local Approvals Policy – Amusement Devices*
 - *Local Orders Policy - General*
4. *That Council retain for comprehensive review the Local Policy - Removal or Impounding of Livestock from a Public Place.*
5. *That at the conclusion of the exhibition and submission period a report addressing any and all submissions received be presented to Council prior to it making its final decisions in regard to the Local Policies*

Community Strategic Plan Item(s)

- Governance and Community Service
- Environmental and Planning

Background Information

Chapter 7 of the Local Government Act 1993 provides Council the power to regulate and outlines the process and procedure to carryout Regulatory Functions.

In particular, Part 3 of Chapter 7 outlines the process for adoption and review of Local Policies concerning Approvals and Orders. Local Approval Policies (LAP's) or Local Order Policies (LOP's) must;

LAP's:

Specify the circumstances when an approval is required;
Identify the criteria it will take into consideration before determining an application;
Other matters specific to an approval;

LOP's:

Identify the criteria Council will take into consideration before issuing an Order under Section 124 of the Act.

An LAP or LOP must be publicly exhibited. Council must take into consideration any matter arising during or through the exhibition and consideration of submissions and must publicly advise of its adoption and commencement date.

An LAP or LOP is automatically revoked 12 months after the declaration of the poll for the local election unless, Council has reviewed and/or amended the document, and if determined that the amendments are sufficient to warrant public exhibition in accordance with Clause 160 of the Act, has done so and considered the submissions, if any, before determining to continue with the LAP or LOP.

LOCAL POLICIES:

In addition to LAP's and LOP's, Council has a suite of Policies which guide management and the operations of Council. These Policies have been reviewed and those that have been amended and proposed to be retained are attached to this report. Those Policies to be revoked are also attached to this report.

The following Draft Local Approvals Policies, Draft Local Orders Policies and Draft Local Policies were placed on exhibition from 23 August through to 20 September 2013, with submissions being received up to 4 October 2013.

No Public submissions have been received.

Several minor matters were raised internally by staff and have been included (Tracked Changes) to the relevant Draft Policies.

The minor amendments are considered negligible and proved clearer operational direction or refinement with current legislation.

The Draft Policies publicly exhibited:

- *Draft Local Approvals Policy – Temporary Accommodation;*
- *Draft Local Approvals Policy – Cemeteries and Burials;*
- *Draft Local Approvals Policy – Dance Parties;*
- *Draft Local Orders Policy - Animal Ownership;*
- *Draft Local Policy - Enforcement Policy*
- *Draft Local Policy - Development Management Panel Policy*

In addition, Council resolved to rescind two Policies. In accordance with the Local Government Act, Public Notice must also be given of Council's intention to revoke the following Policies and must consider any submissions received prior to formerly revoking the Policies.

The two Policies proposed to be revoked are:

- Local Approvals Policy – Amusement Devices
- Local Orders Policy - General

No submissions have been received.

Internal submissions:

Draft Local Approvals Policy – Cemeteries and Burials

Recently, it was necessary for the Mayor to review the staff's assessment of a request for a private burial following the staff's decision not to support a request for a private burial due to the proposal not completely complying with the standards outlined in the adopted Policy.

The Policy does provide a process for reconsideration by Council, if a person is dissatisfied with the determination of the staff. The recent circumstances surrounding the urgent request for a review was due to the proposed private burial request being made after the person to be interred had deceased. In that situation, and due to the urgency, the request for review was referred to the Mayor for reconsideration. Following consultation with the General Manager and Executive Manager Planning and Environment, an approval was granted. This matter was then reported to the next available Council meeting for the endorsement of Council.

It is for this reason that the matter is referred to Council to consider whether it wishes to amend Clause 4.3 to enable the Mayor to reconsider a refusal by staff when a proposal does not comply 100% with the standards outlined in the Policy.

If Council consider this an appropriate and acceptable inclusion then the following paragraph could be inserted after the first paragraph in Clause 4.3.

Where time is of the essence and circumstances are such that a reconsideration cannot be held over for the next available Council meeting, the Mayor may, after consulting the General Manager and relevant staff, reconsider the previous decision of staff and may confirm or change the determination having taking into consideration the grounds for review. The determination of the review is final. The outcome of the reconsideration will then be reported to the next Council meeting for Council's information.

The obvious issue which arises with such an insertion could be the play of urgency and the unfair pressure that such a request for review places on the Mayor when a proposal does not meet the minimum standards outlined in the Policy.

Draft Local Policy - Enforcement Policy

Reference to the Rural Fires Act 1997 was identified for deletion in Clause 13 – Delegation for Enforcement Action.

The need to maintain this reference was confirmed following further reading of the Rural Fires Act where an employee of the local Council may be delegated the authority to act as an “authorised officer” pursuant to the Rural Fires Act.

It is therefore proposed to reinstate reference to the Rural Fires Act 1997 in Clause 13 – Delegation of Enforcement Action.

Revocation of Policies

That Council proceed to revoke the following Local Policies, noting that no submissions were received objecting to their revocation.

Local Approvals Policy – Amusement Devices
Local Orders Policy - General

Public Notification

In accordance with the requirements of the Local Government Act, Council’s decision to adopt the Local Approvals and Local Orders Policies and their commencement date along with its decision to revoke two Policies needs to be publicly notified.

It is further proposed that the commencement and revocation date for the Policies is Monday 2 December 2013 some 21 days following Councils decision.

Budget and Financial Aspects

The costs for advertising, exhibition and notification are within the budget allocation for advertising and exhibition.

Recommendation:

That Council:

1. Receive and note the report on the public exhibition of the revised Policies – Planning & Environment Section.

2. Determine if it wishes to include the following additional paragraph in clause 4.3 of the Draft Local Approvals Policy – Cemeteries and Burials:

Where time is of the essence and circumstances are such that a reconsideration cannot be held over for the next available Council meeting, the Mayor may, after consulting the General Manager and relevant staff, reconsider the previous decision of staff and may confirm or change the determination having taking into consideration the grounds for review. The determination of the review is final. The outcome of the reconsideration will then be reported to the next Council meeting for Council's information.

3. Reinstate reference to the Rural Fires Act 1997 in Clause 13 – Delegation of Enforcement Action of the Draft Local Policy – Enforcement Policy.
4. Subject to any additional amendments made at the Council meeting adopt the following Policies as exhibited:
 - Draft Local Approvals Policy – Temporary Accommodation;
 - Draft Local Approvals Policy – Cemeteries and Burials;
 - Draft Local Approvals Policy – Dance Parties;
 - Draft Local Orders Policy - Animal Ownership;
 - Draft Local Policy - Enforcement Policy
 - Draft Local Policy - Development Management Panel Policy
5. Proceed to revoke the following Policies as exhibited:
 - Local Approvals Policy – Amusement Devices
 - Local Orders Policy - General
6. Notify its decision to adopt and revoke the above Policies in accordance with the requirements of the Local Government Act.
7. Nominate the 2 December 2013 as the operational and revocation dates for the above adopted and revoked Policies.

Division:

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

Attachments

Copies of each of the above mentioned Policies (as advertised) are **circularised**

Summary/Purpose

This report is to present to Council the final draft Kyogle Swimming Pool Inspection Management Plan 2013 for adoption, which was exhibited as required and resolved by Council.

There were no submissions received during the public exhibition or submission period.

Previous Council Consideration

The draft Kyogle Swimming Pool Inspection Management Plan 2013 was presented to Council at its 12 August 2013 Ordinary meeting when Council resolved:

1. *That the report on the Swimming Pools Amendment Act 2012 and the Draft Kyogle Swimming Pool Inspection Management Plan be received and noted.*
2. *That the Draft Kyogle Swimming Pool Inspection Management Plan be placed on public exhibition for a period of 30 days and copies be distributed to the usual location throughout the local government area.*

Community Strategic Plan Item(s)

- Governance and Community Service
- Environmental and Planning

Background Information

Following extensive community and industry consultation during 2011 and 2012 the State Government implemented a range of new regulatory measures for swimming pools throughout NSW.

The new requirements extend beyond just the regulation and installation of barriers, to include a more robust registration, inspection and certification process, mandatory three-yearly inspections for “high risk” pools and spas (tourist, visitor and multi-occupancy developments), packaging and labelling requirements, ongoing maintenance responsibilities for swimming pool and spa barriers, certificates of compliance for rental properties attached to leases and significant increases in fines and penalties for non-compliance.

Further, a range of additional responsibilities for pool owners and Council’s were also incorporated into the legislation.

The development of a Swimming Pool Inspection Management Plan in consultation with its communities was but one requirement placed on Councils.

Report

In accordance with the above resolution, the draft Kyogle Swimming Pool Inspection Management Plan 2013, was publicly exhibited from 23 August – 20 September 2013 with submissions being received up to 4 October 2013.

There were no submissions received during the public exhibition or submission period, nor has there been any further comment received from staff or Councillors.

The preparation and adoption of a Swimming Pool Inspection Management Plan is one of the many amendments and requirements of the Swimming Pools Amendment Act 2012 imposed on Council.

In summary, the Kyogle Swimming Pool Inspection Management Plan 2013 provides for all registered swimming pools being inspected once every three years or as requested by landowners and from April 2014, prior to any new residential lease being entered into where a swimming pool exists on the property.

The Plan outlines the procedures to be implemented for the notification and inspection of registered swimming pools and the process that Council will follow for both compliant and non-compliant swimming pools.

Procedures have also been identified as to how Council will deal with unregistered pools as well as unauthorised pools, ie constructed or installed without the prerequisite approvals if an approval was required.

Council has adopted in its fees and charges, an inspection and reinspection fee for swimming pools. The adopted fees are \$150 for the first inspection and if a subsequent follow-up inspection is required, the subsequent inspection (once only) is \$100.

The final draft Kyogle Swimming Pool Inspection Management Plan 2013 is attached.

Budget and Financial Aspects

The 2013/14 budget identifies an estimated income of \$20,000 from inspection fees, with inspections proposed to be undertaken in-house with existing staff.

Recommendation

1. That the report on the exhibition of the draft Kyogle Swimming Pool Inspection Management Plan 2013 be received and noted.
2. That the Draft Kyogle Swimming Pool Inspection Management Plan 2013 be adopted.

Attachments

Draft Kyogle Swimming Pool Inspection Management Plan 2013

ITEM 13C ENVIRONMENT SERVICES REPORT

13C.1 INSTALLATION OF WEIGHBRIDGE AND OTHER IMPROVEMENTS AT THE KYOGLE WASTE MANAGEMENT FACILITY – DEVELOPMENT APPLICATION

Summary/Purpose

This report outlines the proposed/conceptual improvements to be undertaken at the Kyogle Waste Management Facility which will be included in a Development Application.

The main purpose of this report is to seek Council's endorsement to lodge the Development Application and engagement of an external Town Planning Consultant to assess the application to overcome any perceived conflicts of interest, as well as the calling of Tenders for the weighbridge and associated infrastructure.

Previous Council Consideration

Since at least 2009, Council has considered numerous reports through the Waste and Water Committee, Planning and Environment Committee and Ordinary meetings of Council.

In addition, the Councillor workshop held on 26 August have all related to the ongoing improvements in Waste Management and operations at each of the landfill and transfer station sites.

At the Planning and Environment Committee Meeting held on 12 March, 2012 it was resolved:-

1. *That the Waste Management Report be received and noted.*
2. *That Council prepare documents including the floor plan layout on SK5 and the landfill site plan as indicated on concept design April 2011 for the inviting of tenders to undertake the works as outlined.*
3. *That the Director Planning and Environmental Services report back to the Committee upon receipt and processing of tenders.*
4. *That Council staff prepare a report to Council on the concerns they have with regards the NSW State Government Waste Strategy and levy as a precursor to Councillors holding discussions with State Government and Local Members for changes.*

Community Strategic Plan Item(s)

- Governance and Community Service
- Waste and Water
- Environmental and Planning

Background Information

Council has taken positive steps towards improved Waste Management throughout the shire and since the introduction of the Waste Levy, Kyogle Council has investigated a number of options and strategies to minimise the amount of levy required to be paid to the State Government.

One of the options identified and agreed to was the installation of a weighbridge at the Kyogle Waste Management Facility, which will provide a more accurate account of waste entering and leaving the facility and the amount going to landfill which is what the levy is based on.

The former Director Environment and Planning engaged the services of Stephen P McElroy and Associates Pty Ltd to undertake a review of operations at the Kyogle Waste Management Facility and also Stephen Fletcher and Associates to prepare a Statement of Environmental Effects and Development Application for the following:

- Installation of a weighbridge,
- Use of Existing Shed for Handling of Batteries, Fluorescent Lights and Various Chemicals,
- Waste Processing and Recovery Shed,
- Stormwater Retention Ponds, and
- Access Upgrade

Whilst Waste Management Facilities are provided for in the State Environmental Planning Policy – Infrastructure (ISEPP), it does not permit development to be undertaken without the consent of the local authority.

Council is now in receipt of the Draft Statement of Environmental Effects and site plans to accompany the formal lodgement of the Development Application.

The application will be for the staged development of the site in 3 stages (subject to funding) as outlined below:

Stage 1

- Installation of weighbridge;
- Widening of the existing entrance and new sealed internal access ways and manoeuvring areas;
- Sealing of the current public access and drop off area to the existing general waste, green waste and recyclables waste bins;
- Use of an existing shed for the receipt and handling of batteries, ChemClear chemicals and compact fluorescent lights (CFLs);
- Use of the new storage shed for the undercover parking of the loader used on site.

Stage 2

- New covered waste processing and recovery shed (480m²) constructed on a concrete floor (subject to grant funding).

Stage 3

- Construction of two (2) additional stormwater retention ponds and relocation of three (3) existing stormwater retention ponds.

Council's endorsement is sought to proceed to submit the Development Application as well as proceed to finalise Tender Documents to publicly advertise for Tenders to install and commission the weighbridge. Endorsement is also sought for the engagement of an external Town Planning Consultant to undertake the Assessment of the Development Application to maintain transparency with the lodgement and assessment of the application.

A further report will be presented to Council following the exhibition and assessment of the application for Council determination. Similarly, a further report will be presented to Council following the receipt of and assessment of the Tenders for the installation and commissioning of the weighbridge.

Budget and Financial Aspects

Funds have been provided and are in reserves for the weighbridge and other improvements at the Kyogle Waste Management Facility.

Once costings are finalised for each component, the extent of works to be undertaken will align with current allocated funds and any additional future funding will be considered in future budget deliberations.

Recommendation

That Council,

1. Receive and note the report on the installation of a weighbridge and other improvements at the Kyogle Waste Management Facility and the lodgement of a Development Application for the proposed works.
2. Authorise the General Manager to sign and lodge the Development Application for the staged improvements at the Kyogle Waste Management Facility as outlined in this report.
3. Authorise the calling of public Tenders in accordance with Council's procurement policies for the supply, installation and commissioning of a computerised weighbridge and associated infrastructure (60,000kgs, 18m long X 3m wide clear width carriageway, equipped gatehouse and ancillary access and road works).
4. Authorise the General Manager to engage the services of an external Town Planning Consultant to undertake the Assessment of the Development Application and prepare a report for Council's determination of the application.
5. Authorise the General Manager to establish a Tender Assessment panel for the consideration of the tenders.
6. Receive a report following the calling and assessment of tenders for the weighbridge and associated infrastructure for the purpose of appointing a contractor.

Circularised Documents:

The draft Statement of Environmental Effects and Site Plan are circularised to Council as Controlled documents (confidential).

ITEM 13D CORPORATE SERVICES REPORT

13D.1 SEPTEMBER 2013 QUARTERLY BUDGET REVIEW

Summary/Purpose

This report arises out of the statutory requirement to conduct a review of budget following the close of each quarter.

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure
- Village Life
- Economic Development
- Environmental and Planning
- Waste & Water

Background Information

Legislative Requirements

Clause 203 of the Local Government (General) Regulation 2005 requires that:

- (1) Not later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.
- (2) A budget review statement must include or be accompanied by:
 - (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and
 - (b) if that position is unsatisfactory, recommendations for remedial action.
- (3) A budget review statement must also include any information required by the Code to be included in such a statement.

Section 407 of the Local Government Act 1993 which previously required the General Manager to report to Council on the extent which performance targets set by the Management Plan have been achieved during that quarter has been repealed.

Report

A quarterly budget review should act as a barometer of council's financial health during the year.

It needs to adequately disclose council's overall financial position, provide sufficient information to enable informed decision making while ensuring transparency in decision making. It is also a means by which councillors can ensure that council remains on track to meet its objectives, targets and outcomes as set out in its management plan/operational plan.

The Division has developed a set of minimum requirements and sample templates to assist councils in meeting their obligations as set out in legislation. The templates will facilitate progress reporting against the original and revised annual budgets at the end of a quarter.

The budget review documentation provided to Council will consist of a combination of the new Quarterly Budget Review Statement (QBRS) as issued by the DLG. This will include;

Statement by the responsible accounting officer on council's financial position at the end of the year based on the information in the QBRS;

Budget Review Income and Expenses Statement

Budget Review Capital Budget

Budget Review Cash and Investments position

Budget Review Key Performance Indicators; and, Budget Review Contracts and Other Expenses

Councillors have also been provided with a document showing a report on the budget Management Plan. The document incorporates any adjustments made in previous reports to Council (eg. Revotes)

At the February 2012 Ordinary Meeting Council considered the Minutes of the Internal Audit Committee. One of the recommendations was in relation to the way the Quarterly Budget Review information is presented. Council resolved that:

1. That a written report be submitted with the Quarterly Budget Review when year to date Actuals vary from Original Budget by 10% or more.
2. That all Financial Reports presented to Council show:
 - a. the Original Budget figure as including revotes;
 - b. both Original and amended Budget figures; and
 - c. variances, both by period and cumulative, to Original Budget.

This information has again been incorporated into this review.

The documents for this quarterly review have again been presented in an amended format in accordance with this resolution.

A Summary of bank account balances is attached to the Budget review report.

Conclusion:

The revised financial position of Council is considered to be satisfactory.

Recommendation

1. That the September 2013, Quarterly Budget/Management Plan Review Statement was received and noted.
2. That Council approve the variation of estimates contained in the table below:

STATEMENT OF SIGNIFICANT VARIANCES SEPTEMBER QUARTER BUDGET REVIEW

DETAILS	QUARTERLY ADJUSTMENT	
	INCOME	EXPENSES
Governance - Recoveries		(15,148)
Admin & Community Administration - Office Expenses		50,000
Admin & Community Administration - Recoveries		76,394
Admin & Community Administration - Records Management		(275,000)
Personnel - Recoveries		(79,846)
Finance - General Rates Income	51,500	
Finance - Interest & Sundry Income	50,000	
Finance - Revenue Sharing Grant	(37,039)	
Finance - Valuation & Auditors Fees		20,000
Finance - Recoveries		3,084
Community Services - Grants	4,990	
Community Services - Grant Projects		4,990
Crown Reserves - Operating Costs		5,000
Community Buildings - Public Halls		(7,367)
Community Buildings - Construction		150,000
Town Planning - Employment		(4,494)
Environmental Health - Recoveries		8,070
Building Control - Building Inspections		3,821
Regulatory Control - Regulatory Expenditure		(689)
Commercial Waste Management - Collection & Depots		415,532
Commercial Waste Management - DWM Contribution		(438,469)
Commercial Waste Management - Improvements		23,387
Regional Roads - Flood Damage Grant	196,000	
Regional Roads - Flood Damage Works		196,000
Regional Roads - Roads 2 Recovery Grants	88,000	
Regional Roads - Roads 2 Recovery Works		88,000
Regional Roads - Capital Expenditure		97,000
Urban Roads - Roads 2 Recovery Grant	60,000	
Rural Roads - Financial Assistance Grant	61,110	
Rural Roads - Flood Damage Grant	687,000	
Rural Roads - Flood Damage Works		687,000
Rural Roads - Maintenance		105,043
Rural Roads - Roads 2 Recovery Grant	(148,522)	
Rural Roads - Guardrail Grant	30,000	
Rural Roads - Construction		(72,000)
Bridges - Financial Assistance Grant	10,305	
Bridges - Roads 2 Recovery Grant	522	
Infrastructure Works Administration - Recoveries		15,557
Swimming Centres - Kyogle Operating Costs		(5,086)
Parks & Gardens - Kyogle Operating Costs		(4,964)
Parks & Gardens - Public Toilets		17,520
Public Cemeteries - Kyogle Cemetery		(5,555)
Urban & Assets Administration - Recoveries		13,606
Water Fund - Management Expenses		(13,812)
Sewerage Fund - Operating Costs		17,859
Domestic Waste Management - Collection & Depots		(416,511)
Domestic Waste Management - CWM Contribution		438,469
Domestic Waste Management - Improvements		(27,500)
Domestic Waste Management - Loans		(4,781)
Plant Operations - Income	480,000	
Plant Operations - Sales	100,000	
Plant Operations - Purchases		580,000
Totals	1,633,866	1,645,110
	Net Adjustment	(11,244)

Attachments

1. September 2013 Budget/Management Plan Review (attached separately)

Summary/Purpose

This report serves to present Council's Financial Statements for the 2012/2013 year to the public.

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure
- Village Life
- Economic Development
- Environmental and Planning
- Waste & Water

Background Information

Relevant sections of the Local Government Act 1993 are:

419 Presentation of the council's financial reports

- (1) As soon as practicable after a council receives a copy of the auditor's reports:
 - a) it must fix a date for the meeting at which it proposes to present its audited financial reports, together with the auditor's reports, to the public, and
 - b) it must give public notice of the date so fixed.
- (2) The date fixed for the meeting must be at least 7 days after the date on which the notice is given, but not more than 5 weeks after the auditor's reports are given to the council.

Note. Unless an extension is granted under section 416, the meeting must be held on or before 5 December after the end of the year to which the reports relate.

- (3) The public notice must include:
 - a) a statement that the business of the meeting will include the presentation of the audited financial reports and the auditor's reports, and
 - b) a summary, in the approved form, of the financial reports, and
 - c) a statement to the effect that any person may, in accordance with section 420, make submissions (within the time provided by that section and specified in the statement) to the council with respect to the council's audited financial reports or with respect to the auditor's reports.
- (4) Copies of the council's audited financial reports, together with the auditor's reports, must be kept available at the office of the council for inspection by members of the public on and from the date on which public notice of the holding of the meeting is given and until the day after the meeting (or any postponement of the meeting).

419 Presentation of the council's financial reports

- (1) A council must present its audited financial reports, together with the auditor's reports, at a meeting of the council held on the date fixed for the meeting.
- (2) The council's auditor may, and if so required in writing by the council must, attend the meeting at which the financial reports are presented.

420 Submissions on financial reports and auditor's reports

- (1) Any person may make submissions to the council with respect to the council's audited financial reports or with respect to the auditor's reports.
- (2) A submission must be in writing and must be lodged with the council within 7 days after the date on which those reports are presented to the public.
- (3) The council must ensure that copies of all submissions received by it are referred to the auditor.
- (4) The council may take such action as it considers appropriate with respect to any such submission, including the giving of notice to the Director-General of any matter that appears to require amendment of the council's financial reports.

Report

Council adopted the Financial Statements for the 2012/2013 year and authorised the signing of the Council Statements at the Extraordinary Meeting held 28 October 2013.

The Audit of the financial statements has resulted in Council receiving an "Unqualified" audit report for the year ended 30 June 2013.

Council has nominated 11 November, 2013 as the date on which the Audited Financial Statements will be presented to the public.

The Audited Financial Statements have been previously distributed to Councillors under separate cover.

It is important to note that Section 420 of the Local Government Act, 1993 allows any person to make a submission to Council with respect to the Council's audited financial reports. Submissions must be in writing and lodged with Council within 7 days after the date on which the report was presented to the public.

Council must forward copies of all submissions to the Auditors, and may take such action as it considers appropriate with respect to any such submission, including the giving of notice to the Director-General of any matter that appears to require amendment of the Council's financial reports.

To date no submissions were received during the exhibition period.

Recommendation

That in accordance with the Local Government Act 1993, the Audited Financial Reports for the year ended 30 June 2013, and the Independent Audit Reports be presented to the public.

Attachment

A hard copy has previously been provided to Councillors. The document is available on the website and a hard copy will be produced for members of the public upon request at Council's Administration Office.

Summary/Purpose

This report presents the 2012/2013 Annual Report to Council for adoption.

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure
- Village Life
- Economic Development
- Environmental and Planning
- Waste & Water

Background Information

Council is required to prepare an Annual Report to the community on the achievements and key issues, as prescribed in the Local Government Act.

ReportLegislative Requirements

Section 428 of the Local Government Act, states “within 5 months after the end of each year, a council must prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year.”

The content of the report is prescribed by the Act, with the view of ensuring greater accountability of the Council.

Section 428(3) of the Local Government Act states that “copies of the council’s annual report must be furnished to the Minister and to such other persons and bodies as are required by the regulations to be furnished with the report”.

The Annual Report for Kyogle Council for the 2012/2013 year addresses all the requirements of the Local Government Act and General Regulations. The document also provides additional information on the activities of council over the financial year.

It is proposed that summary details of the Annual Report be included in Council’s Newsletter.

Recommendation

That the Kyogle Council Annual Report for the 2012/2013 reporting period be adopted.

Attachments

A hard copy Annual Report has been provided as a separate attachment to Councillors.

To minimise the use of paper a hard copy has not been provided with every public copy of the business paper. The document is available on the website, and copies will be made available to anyone who makes a request at Council's Administration Office.

Summary/Purpose

This report presents to Council Fees and Charges for the use of the footpath following a period of public exhibition.

Community Strategic Plan Item(s)

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

Previous Council Consideration

At the Council meeting held on August 12, 2013 Council considered a Notice of Motion from Cllr Mulholland and resolved the following:

1. That Council withdraw the fees and charges associated with the lease/use of footpath area including alfresco footpath dining.
2. That Council provide 28 days public notice in accordance with s610F(3) of the Local Government Act 1993 .

CARRIED

Report

An advertisement appeared in the Richmond River Express Examiner and the Council Newsletter advising of the public exhibition period with the closing date for submissions being October 2, 2013.

During the period of exhibition there were no submissions received.

Discussions have been held with the Kyogle Chamber of Commerce regarding the display of stock on the footpath, A frame signs, dining areas and associated insurance and liability issues.

There is no blanket cover for the display of goods by shop operators on the footpath. All shop operators must have their own public liability cover for this activity. This policy needs to specifically state what area is covered by the policy, eg. one metre from the front of the building.

A blanket policy is available to cover A frame signs and tables and chairs on the footpath on the following basis.

- A frame signs must be to the insurer's standard. The sign must be a portable, self-supporting sign with a maximum width of 650 mm and a maximum standing height of 1 metre.
- A frame must be placed adjacent to the building, not on the kerb.
- Table and chairs are to be placed one table width from the building, not on the kerb.
- Cost of A Frame policy is \$25.00 per sign to be covered with a minimum policy cost of \$500.00
- Cost of Outdoor dining policy is \$25.00 per table (which included four chairs) with a minimum policy cost of \$500.00
- Limit of liability \$10 million
- Policy excess \$500.00

The Kyogle Chamber of Commerce are now discussing this matter with their members to ascertain whether or not there is any interest in pursuing a blanket policy for A frame signs and tables and chairs or if each business that uses the footpath intends to maintain their own cover.

Budget & Financial Aspects

As reported to the August 2013 Council meeting, the level of income expected to be received from this fee is not expected to be significant in terms of Council's overall income (estimated to be around \$2,000 to \$5,000).

Recommendation

That the fees relating to the lease/use of footpath area including Alfresco Footpath Dining (Footpath Lease per annum for premises 32.90/m² useable area) be removed from Kyogle Council adopted Fees and Charges 2013/2014.

Summary/Purpose

This report presents to Council proposed changes to the Ward Boundaries for Kyogle Council.

Background Information

Section 211 of the Local Government Act states:

- (1) The council of an area divided into wards must keep the ward boundaries under review.
- (2) If:
 - (a) during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and
 - (b) that difference remains at the end of the first year of the following term of office of the council, the council must, as soon as practicable, alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area.
- (3) Nothing in subsection (2) prevents a council that has become aware of the discrepancy referred to in subsection (2) (a) from altering its ward boundaries before the end of the first year of the following term of office of the council.

Report

Legislation

Section 210A Local Government Act 1993 details the processes that must occur in relation to consultation, public notice and exhibition of proposals regarding ward boundaries.

210A Consultation, public notice and exhibition of proposals regarding ward boundaries

- (1) Before dividing a council's area into wards or altering a council's ward boundaries, the council must:
 - (a) consult the Electoral Commissioner and the Australian Statistician to ensure that, as far as practicable, the proposed boundaries of its wards correspond to the boundaries of appropriate subdivisions (within the meaning of the *Parliamentary Electorates and Elections Act 1912*) and census districts, and to ensure that the proposed boundaries comply with section 210 (7), and
 - (b) prepare and publicly exhibit a plan detailing the proposed division or alteration (the "ward boundary plan").
- (2) The council must give public notice of the following:
 - (a) the place at which the ward boundary plan may be inspected,

- (b) the period for which the plan will be exhibited (being a period of not less than 28 days),
 - (c) the period during which submissions regarding the ward boundary plan may be made to the council (being a period of not less than 42 days after the date on which the ward boundary plan is placed on public exhibition).
- (3) The council must, in accordance with its notice, publicly exhibit the ward boundary plan together with any other matter that it considers appropriate or necessary to better enable the plan and its implications to be understood.
- (4) Any person may make a submission to the council regarding the ward boundary plan within the period referred to in subsection (2) (c).
- (5) The council must consider submissions made in accordance with this section.

Review of Wards

A review of the Ward Boundaries has been undertaken and the current numbers in each ward as at August 27, 2013 are as follows:

Ward A	2294
Ward B	2286
Ward C	2013

The number of electors in Wards A and C differ by more than 10%, and accordingly the ward boundaries must be altered for the next election.

As the difference remains at the end of the first year of the term it is now necessary to commence the process of developing options to adjust the boundaries to achieve the required distribution of voters. Wards boundaries must be drawn around existing Census Collector Districts.

Over the past 8 years the population of registered voters in Ward C had continually been the lowest. There were changes made to the boundaries in 2010 that applied for the first time to the 2012 election, and already this requires further revision.

To enable the changes to have maximum life, it is necessary for the three wards to be as close as possible. Three options are presented for Council's consideration. All changes to the collector districts (CD) are summarised in the table that has been separately attached for Councillors. There are also maps of the collector districts that are proposed to be changed

Option 1 – Involves moving CD 1060105 from Ward B to Ward C, moving CD 1060108 from Ward B to Ward C, moving CD 1060204 from Ward A to Ward B and moving CD 1060301 from Ward B to Ward A.

This option involved the most change, but achieves the best result in terms of the distribution of numbers, as there is only a spread of 12 voters between the highest and lowest population.

Option 2 – Involves moving CD 1060302 from Ward B to Ward C, this only impacts 116 voters but means there is still a variance of 165 voters between the highest and lowest (7%) and leaves Ward C (which has been showing trends of decreasing) as the lowest number of voters.

Option 3 – Involves moving CD 1060105 from Ward B to Ward C, this only impacts 116 voters but means there is still a variance of 165 voters between the highest and lowest (7%) and leaves Ward C (which has been showing trends of decreasing) as the lowest number of voters.

Budget & Financial Aspects

Advertising costs for public exhibition will be covered from the existing advertising budget.

Recommendation

1. That Council adopts Option 1 for the alteration of ward boundaries within Kyogle Council
2. That the Electoral Commission be advised of the proposed ward boundaries amendment and approval be sought.
3. That the appropriate public notice be given in accordance with section 210A of the Local Government Act 1993 and Option 1 be placed on public exhibition.

Summary/Purpose

This report presents to Council the details of the 2013-14 Grant Calculations.

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure
- Village Life
- Economic Development
- Environmental and Planning
- Waste & Water

Report

The Commission has a policy of providing information to councils about the way it calculates financial assistance grants and have recently provided a detailed summary and requested that the circular be tabled at the next Council meeting.

The document is provided as a separate attachment for Council.

Recommendation

That the details of the 2013-14 Local Government Grants Commission calculations be received and noted.

Attachments

1. Local Government Grants Commission 2013-14 Calculations – separate attachment for Councillors.

ITEM 13E COMMUNITY SERVICES REPORT

13E.1 FUNDING REQUEST WOODENBONG HALL

Summary/Purpose

This report presents a request received from the Woodenbong Public Hall Trust to reallocate the pledged donation for the digital projector to maintenance works on the hall.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Economic Development

Previous Council Consideration

At the Ordinary Meeting held May 13, 2013 Council resolved the following:

That as part of the 2013/2014 Operational Plan Council donate \$10,000 to Kyogle Community Cinema and \$5000 to Woodenbong Public Hall Reserve Trust to help each community organisation to purchase their own digital projector.

Report

Correspondence was sent to both the cinemas advising of Council's resolution and stating that when the remainder of the funds were raised, the pledged amount from Council would be provided.

The Hall Committee has since provided correspondence (see below) which advised that the purchase of the digital projector will not be proceeding and requesting that the funds be made available for the painting of the hall.

The original allocation was specifically for the purpose of the projectors and was an additional amount included in the 2013/2014 budget. It is not considered appropriate to change the purpose and allow for the painting works.

The Hall Committee is encouraged to apply for Financial Assistance or Futures Funding, although no Futures Funding for Woodenbong will be available until 2014/15.

WOODENBONG PUBLIC HALL RESERVE TRUST

38 MacPherson St, Woodenbong 2476

14th October 2013

The General Manager,
Kyogle Council
P.O.Box 11
KYOGLE 2474

Dear Sir,

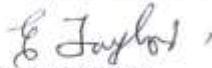
Your letter of the 31st July 2013, advising the Trust of an allocation of \$5,000.00 towards the cost of a Digital Projector for the hall, was received and we wish to extend our appreciation of Councils generosity in this matter.

However as you can see by the attached notice we are not proceeding with the installation of digital equipment for obvious reasons.

As you can see we will be hard pressed to maintain our buildings without the movie money, we were wondering if it would be possible for the allocation to be redirected towards the painting of the buildings and roofs and other maintenance.

We look forward to a favourable reply.

Yours faithfully,



Eric Taylor, Secretary

WOODENBONG PUBLIC HALL TRUST

Budget & Financial Aspects

As a result of the Council resolution an additional \$15,000 was included in Council's donation budget.

Recommendation

That the request from the Woodenbong Public Hall Trust to reallocate the funding allocation of \$5,000 as a contribution to the digital projector be declined.

Summary/Purpose

This report presents to Council a Futures Funding application from Kyogle Together and a request for financial report.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

The information provided by Kyogle Together states “ is a not for profit organisation that continues to develop Grove House as a community centre which provides education and training facilities through the Community Technology Centre (CTC), a community garden, a venue for meetings, conferences, job network providers and other agencies. We also provide an office for Council’s Community Development Officer. We have envisaged our activities as key aspects of Kyogle Council’s Social Plan, Community Strategic Plan and Community Engagement Plan”.

Kyogle Council has an Occupation Licence in place with Kyogle Together until April 2015 for Grove House at a cost of \$550 per month inc GST. This rent has remained the same since 2009.

Previous Council Consideration

Council considered a Futures Funding application at the October 14, 2013 Council meeting and resolved:

1. That Council defer making a decision on the application from Kyogle Together until further information is received in relation to the total financial assistance sought from Council.
2. That Council hold a workshop on the funding for Kyogle Together.

A workshop was held on October 28, 2013 and information which had been provided by Kyogle Together was discussed.

Report

In response to the request for information Kyogle Together provided:

1. Audited financial statements for 2012-2013
2. Budget Summary for 2013-2014
3. Summary of media exposure and events for 2011-2013
4. Letter to the General Manager 26 August 2013
5. Transcript of address to Council Meeting September 2013
6. Futures Funding Application

Kyogle Together requested for “ Kyogle Council to demonstrate a tangible partnership and support for Kyogle Together Inc. in the following ways:

- Effectively waive the rent we pay to Council for the use of Grove House to a nominal peppercorn amount.
- Provide Kyogle Together Inc. with monetary support to assist us in meeting some of our costs, particularly in relation to services required to keep Grove House operational.
- Work with Kyogle Together Inc. to identify opportunities and grants that Council and Kyogle Together can work collaboratively to secure.
- Make a cash donation to Kyogle Together Inc. to offset short term cash shortfalls in this period of restructure and change of management.”

In response to the requests shown above:

- There is a current Occupation Licence in place until April 2015. The amount charged only covers the rates and building and contents insurance that are charged to the building, and incidental maintenance costs. It is not recommended that any change be made to this agreement.
- The Community Funding Committee recommended that “Kyogle Together Inc funding of \$5,000 as gap funding until other funding sources are found”.
- The Community Development Officer currently works, and will continue to work with Kyogle Together to identify opportunities and grants.
- In relation to a cash donation, this could be made as a \$5,000 payment from Futures Funding from the Kyogle allocation as recommended by the Community Funding Committee.

Budget & Financial Aspects

Income of \$6,000 is included in the budget as rental income for Grove House. The \$5,000 Futures Funding recommended by the Community Funding Committee is covered within the existing allocation for Kyogle projects.

Recommendation

1. That the report on Kyogle Together be received and noted.
2. That Futures Funding of \$5,000 from the Kyogle Projects allocation be provided as gap funding until other funding sources are found.
3. That the request for an amendment to the rental charge be denied.

Attachments

1. Correspondence from Kyogle Together was distributed to Councillors prior to the workshop.

ITEM 13F GENERAL MANAGER'S REPORT

Nil.

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

Nil.

APPENDIX / ATTACHMENTS

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON MONDAY 11 NOVEMBER 2013