



KYOGLÉ COUNCIL

ORDINARY COUNCIL MEETING AGENDA

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

ON MONDAY, 13 JULY, 2015

Commencing at 5pm

ACTING GENERAL MANAGER: GRAHAM KENNETT

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Ordinary Meeting to be held at the Kyogle Council Chambers, on Monday, 13 July, 2015, at 5pm.

DECLARATION OF PECUNIARY INTEREST

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

BUSINESS

- Item 1 Apologies
- Item 2 Opening Prayer
- Item 3 Traditional Lands Acknowledgement
- Item 4 Declaration of Interests
- Item 5 Question Time
- Item 6 Public Access
- Item 7 Confirmation of Minutes
- Item 8 Mayoral Minute
- Item 9 Notices of Motion
- Item 10 Questions with Notice from Councillors
- Item 11 Reports from Delegates
- Item 12 Information Reports
- Item 13 Reports from General Manager
 - A Technical Services Section
 - B Planning Services Section
 - C Environmental Services Section
 - D Corporate Services Section
 - E Community Services Section
 - F General Manager's Section
- Item 14 Urgent Business Without Notice
- Item 15 Questions for Next Ordinary Meeting
- Item 16 Confidential Business Paper

GRAHAM KENNETT
ACTING GENERAL MANAGER

COUNCIL PRAYER

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

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

AMEN

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

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

Council acknowledges that this meeting is being held on the Traditional Lands of the Bundjalung people and we acknowledge elders, both past and present.

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

DISCLAIMER

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

(GRAHAM KENNETT),
ACTING 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 13 July 2015

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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 THE 9 JUNE 2015 ORDINARY MEETING

REPORT BY: GENERAL MANAGERS OFFICE
CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

A copy of the Minutes of the Ordinary Meeting held on 9 June, 2015 is 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 9 June, 2015 be adopted.

Attachments

1. Minutes of the Ordinary meeting held on 9 June, 2015 (separately attached).

7.2 CONFIRMATION OF THE MINUTES OF THE 29 JUNE, 2015 EXTRAORDINARY MEETING

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

A copy of the Minutes of the Extraordinary Meeting held on 29 June, 2015 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 29 June, 2015 be adopted.

Attachments

1. Minutes of the Extraordinary meeting held on 29 June, 2015 (separately attached).

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

9.1 NOTICE OF MOTION; CR LINDSAY PASSFIELD -- TENDERING AND QUOTATIONS POLICY

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Lindsay Passfield for the Ordinary meeting to be held on 13 April, 2015.

Community Strategic Plan Item(s)

- Governance and Community Service
- Economic Development

Notice of Motion

A copy of the Notice of Motion and the Councillor Comments is attached as follows;



NOTICE OF MOTION

KYOGLE COUNCIL RECEIVED
29 JUN 2015
Doc. No. 46969Z

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

That Council review the Tendering and Quotations Policy and Local Purchasing Policy with a view to ensuring that local content is given a priority in tender evaluations for Council contracts.

Signed:

Lindsay Passfield

Date:

26 JUN 15

Councillor comments:

There is a desire to ensure that we maximize the benefit to local businesses and contractors in procuring major projects, contract work, and materials to provide a benefit to the local economy.

Staff Comment

The Notice of Motion is well aligned with the individual Council Procurement Road Map developed by staff in 2014/15 as part of a higher level regional approach to procurement across the NOROC footprint facilitated by external consultants ArcBlue. Council staff would look to undertake this review in consultation with the regional procurement group that has been established as a result of this process.

At this stage the intention would be to combine these two separate policies into one, and provide additional information on the key non-price selection criteria to be used when assessing tenders and major purchases, including improved definitions around what is considered to be "local" content. The review would also seek to identify and define other non-price criteria for social, environmental and economic factors such that these can be consistently applied to any tender process where required, and also potentially used for other major purchases below the threshold for tendering prescribed by law.

Recommendation

Not required. Outlined in Notice of Motion.

9.2 RESCISSION MOTION: COUNCILLORS BROWN, BURLEY AND SIMPSON - - REQUEST FOR ROAD CLOSURE UPPER DUCK CREEK

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This report is provided in response to a Rescission Motion from Councillors Ross Brown, John Burley and Chris Simpson received on 6 July 2015.

Community Strategic Plan Item(s)

- Governance and Community Service
- Roads and Infrastructure

Report

A copy of the Rescission Motion follows;



RESCISSION MOTION

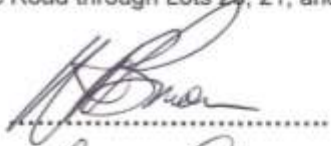


I, Councillors ,Brown, Burley and Simpson

.....
.....
.....

**hereby give notice to rescind
Item 13a.1 Request for Road Closure Upper Duck Creek**

- 4. That, subject to the above, Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating DP751048 at Upper Duck Creek.
- 5. That Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the transfer of the portion of Public Road through Lots 28, 21, and 22 of DP751048 at Upper Duck Creek.

Signed: 

Signed: 

Signed: 

Date: 6th July 2015

Staff Comment

The previous resolution from the June Ordinary Meeting of June 9, 2015 was;

1. That Council receives and notes the report on Request for Road Closure Upper Duck Creek.
2. That Council, subject to there being no objections during public exhibition of this proposal, authorise the closure of the portion of Duck Creek Road from the intersection with Afterlee Road (approximate chainage 18.86) through Lots 28, 21 and 22 of DP751048 to approximate chainage 20.16km as shown on the plan provided in the attachments to this report "Proposed Road Closure Upper Duck Creek 2015" on the basis that the road closure leaves no additional parcels of land without legal access.
3. That Council seek formal agreement with the applicant that all costs associated with the closure are to be borne by the applicant, including subsequent purchase and transfer costs.

4. *That, subject to the above, Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the closing of the portion of Public Road through Lots 28, 21, and 22 of DP751048 at Upper Duck Creek.*
5. *That Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the transfer of the portion of Public Road through Lots 28, 21, and 22 of DP751048 at Upper Duck Creek.'*

The cumulative effect of the resolutions originally passed is that the road closure could be completed without further consideration by the elected Council, provided that there were no objections to the proposed road closure, and the applicant agreed to cover all costs. If an objection was received, the matter would need to come before the elected Council again for consideration.

The effect of the proposed rescission motion would be that the process could not be completed without further consideration by the elected Council, even if there are no objections received to the proposed road closure during advertising.

Recommendation

That Council determine the rescission motion.

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM THE LAST COUNCIL MEETING

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

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

Community Strategic Plan Item(s)

- Governance and Community Service

Report

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

Cr Robert Dwyer:

- Can Councillors be informed of the make-up of the new Kyogle Australia Day Committee?

Response

The membership of the Kyogle Australia Day Committee is: Kyle Thomas, Joan Hayman, Doug Campbell, Geoff McNamarra and Tom Fitzgerald. Kylie Thomas is the Chairperson of the Committee and has also agreed to take on the role of secretary as there were no nominations for the position. Joan Hayman is the treasurer of the committee.

At the 11 May 2015 Ordinary Meeting, Cr Robert Dwyer asked a series of questions in relation to various matters around Ettrick. The questions and the responses given at the June Ordinary Meeting are listed below;

Q. Is Council aware that land clearing appears to have been undertaken on the road verges around Ettrick? The cleared areas have been fenced off with an electric fence and apparently sown with Rhodes grass for grazing cattle? What is Council's position in relation to this?

Response

The Executive Manager Infrastructure Works advised at the meeting that Council had given permission quite some time ago for the removal of some weed species trees from near the Ettrick Hall. Council was not aware that the road verges had been fenced off and sown for grazing. The Executive Manager Infrastructure Works advised that the matter would be investigated and Council would take any necessary action as required.

Subsequent investigations and inspections by Council officers after the meeting found that there was no evidence of sowing road verges with Rhodes grass or fencing off for grazing.

Q. Is the road from Knights Road to Etrick Road a gazetted road and what does Council envisage doing with this road?

Response

The Executive Manager Infrastructure Works advised after the meeting that the road in question is an unformed section of Public Road Reserve shown as "Larkin Street" on the original plan of subdivision. The road is not signposted or maintained by Council, nor is there any future proposal for the road.

The matter was further raised During Question Time at the 9 June 2015 Ordinary Meeting, by Ms Downing who questioned Council about its response to concerns raised by ratepayers and residents that the roadside around Etrick had been cleared and fenced off for grazing purposes. The Acting General Manager took the matter on notice and asked Ms Downing to provide the information she had to Council so the matter could be fully investigated and a response provided to her in writing, with a copy to be provided to all Councillors. To date Council has not received the requested information from Ms Downing.

Cr Michael Reardon

- Can Council inform the residents of Bonalbo when their bridge is going to be repainted?

Response

The Executive Manager Infrastructure Works advises that Council has no plans to paint the bridge over Peacock Creek on the southern side of town in the foreseeable future.

Recommendation

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

ITEM 11 DELEGATES REPORTS

Nil.

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTION

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This report presents to Council a list of Council resolutions requiring action as at 2 July 2015.

Community Strategic Plan Item(s)

- Governance and Community Service.

Report

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

Recommendation

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

Attachments

Council resolutions requiring action as at 2 July 2015 (separately attached).

12.2 MONTHLY FINANCE REPORT - JUNE 2015

REPORT BY: ADMINISTRATION AND COMMUNITY

**CONTACT: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY
CAROL ONEILL**

Summary/Purpose

This report presents financial reports to Council for information.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Legislative Requirements

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

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

Report

The following information is presented for information only.

(A) Finance Reports

Summary reports outlining Council's financial position as at 30 June 2015. The reports presented include:

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

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

2. (B) Councillors Travel Expenses Report

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

Recommendation

That Council receives and notes the information contained in the Monthly Financial Report – June 2015.

Attachments

1. Finance Reports
2. Report on Councillor Travel

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

13A.1 BRIDGE REPLACEMENT PRIORITISATION PROCESS

REPORT BY: INFRASTRUCTURE WORKS

CONTACT: EXECUTIVE MANAGER INFRASTRUCTURE WORKS JEFF BREEN

Summary/Purpose

The purpose of this report is to provide Council with information on a bridge prioritisation model and identify possible changes to the operational plan and delivery program associated with additional external funding and the prioritisation process.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Background Information

At the March 2015 Ordinary Meeting Council resolved the following;

“That a report be provided that outlines Council’s proposed capital works and repair program over the next three years. Such report should include what works will occur with known funding and what proposed works are dependent on as yet unrealised outside funding.”

The April 2015 Ordinary Meeting of Council was presented with a prioritisation methodology. This has been slightly amended to give greater emphasis to load limited bridges. The revised methodology is attached.

Report

The attached spreadsheet provides a prioritised listing of bridges based on condition, community importance, restricted functionality for industry and safety.

This list needs to be viewed as a guide only and not as a definitive, unalterable prioritisation of bridge replacements.

In addition to the factors considered in the prioritisation process, the following factors must be considered when allocating budgets and programming of works for bridge replacements;

- the prioritisation is based on the weighted criteria and is sensitive to changes in weighting;

- prioritisation will most likely change following annual bridge condition assessments and/or if load limits are applied;
- higher priority bridges may not be a best fit with funding criteria resulting in a possible funding application for lower priority bridge;
- the ADF bridges are stored free of charge for three years only. It would be preferable to install all of these bridges within that time;
- bridge to culvert replacement will continue to be a strategy to reduce ongoing maintenance costs;
- timely refurbishments will be undertaken to extend the life of some bridges thereby smoothing out the expenditure peak;
- there may be instances where a higher priority bridge replacement project requires other lower priority bridges to be replaced on the same road to allow transport of components and equipment to facilitate the replacement of the higher priority bridge where these loads are required to pass over other structures;
- the condition rating is derived from a bridge asset management program which calculates the score based on a variety of factors. Which are usually, but not always the most determinant factors of condition in practice;
- Affordability may be the determining issue e.g. a multi span replacement is unaffordable in a particular year but two or three lower ranked bridge to culverts are.

Budget & Financial Aspects

The operational plan funding for the next four years is depicted in the table below. The numbers in bold are the calculated priority rankings plus 1 to allow for Minneys Bridge being the highest priority bridge as resolved by Council. Additional external funding has been announced since the adoption of the current Operational Plan and Delivery Program. An allocation of \$250,000 has been announced by the Local MP specifically for Minneys Bridge, and an extra \$680,000(total) for 15/16 and \$1.95 million (total) for 16/17 through the Roads to Recovery program has also been announced.

Partial funding for Minneys Bridge was included in the 2014/15 budget with a total allocation of \$300,000 with assumed external funding of \$150,000 identified. It is expected that this funding will be included in the revotes to be considered by Council at their August Ordinary Meeting.

It is proposed to include a separate report to the August Ordinary Meeting to provide a review of the current Operational Plan and Delivery Program around the bridge priorities and the additional external funding.

The following potential changes have been identified for inclusion in the report to the August Ordinary Meeting:

- McIntosh Bridge on Lions Road (179-586) to be changed from a timber bridge to concrete bridge, to a timber bridge to concrete culvert construction, with a potential cost saving of \$200,000 subject to further design development currently underway;

- Boyles Bridge on Gradys Creek Road (59-13985) to have its budget adjusted to cover the full replacement cost estimated at \$600,000;
- Minneys Bridge to have its budget adjusted to cover the full replacement cost estimated at \$600,000, including revotes from 2014/15;
- The two timber bridge to concrete pipe replacements on Duck Creek Road (138-16506 and 138-14117) to be deferred to 2016/17 and Barretts Bridge on Duck Creek Road (138-9785) to be added to the 2015/16 budget at an estimated cost of \$400,000, to be confirmed subject to design. This is primarily due to the fact that this bridge is located closer to the start of the road and the weight limit on Barretts Bridge means that it would be difficult and not cost effective to transport materials required for the other two bridges to pipe projects past this bridge.

Project/Item	Priority Rank	2015/16	2016/17	2017/18	2018/19
Gradys Creek - Boyles Bridge 59-13985	6	310,000	0	0	0
Causeway Replacements and Improvements		55,000	0	0	0
Duck Creek Road - timber bridge to concrete 138-16506	61	190,000	0	0	0
Ettrick Road - widen concrete box culvert 45-1634		125,000	0	0	0
Duck Creek Road - timber bridge to pipes 138-14117	175	80,000	0	0	0
Lions Road - timber bridge to concrete 179-586 (subject to Federal Timber Bridge Program Funding)	10	500,000	0	0	0
Lynches Creek Box Culvert Replacement		140,000	0	0	0
Bingeebeebra Road - timber bridge to pipes 19-5977	23	0	60,000	0	0
Mills Road - Causeway 178-335	39	0	90,000	0	0
Sawpit Creek - timber bridge to concrete 120-20	7	0	250,000	0	0
Gradys Creek - Murrays Bridge 59-10535	2	0	360,000	0	0
Hayes Road 163-48	9	0	120,000	0	0
Afterlee Road - timber bridge to pipes 2-20386	20	0	0	70,000	0
Gradys Creek Davis Bridge 59-6565	4	0	0	420,000	0
Gradys Creek 59-5604	11	0	0	310,000	0
Old Dyraba Road - timber bridge to concrete 87-11949	148	0	0	150,000	0
Bridge Replacement Unallocated (no external funding)	N/A	0	0	0	978,240
Bridge Replacements Unallocated (subject to Federal Timber Bridge Replacement Program funding)	N/A	2,180,000	555,330	521,552	530,450
Total		3,580,000	1,435,330	1,471,552	1,508,690
Federal Timber Bridge Program Funding		1,340,000	250,000	257,500	265,225
Roads To Recovery Funding		670,902	335,451	335,451	345,515
Total External Grants		9,170,902	3,456,111	3,536,055	3,628,120

Recommendation

1. That Council receives and notes the report on the Bridge Replacement Prioritisation Process.
2. That the bridge replacement prioritisation methodology and the other factors that must be considered when allocating budgets and programming of works for bridge replacements listed in this report be included in the next revision of the Road Network Management Plan.

Attachments

1. Revised bridge replacement prioritisation methodology.
2. Timber Bridge Prioritisation.

13A.2 BORDER RANGES SHORT COURSE RALLY 2015

REPORT BY: INFRASTRUCTURE WORKS

CONTACT: EXECUTIVE MANAGER INFRASTRUCTURE WORKS JEFF BREEN

Summary/Purpose

This report presents a submission from the Gold Coast Tweed Motorsporting Club seeking Council's support and approval for the 2015 Border Ranges Short Course Rally.

Community Strategic Plan Item(s)

- Roads and Infrastructure
- Economic Development

Report

The Gold Coast Tweed Motorsporting Club has run the Border Ranges Rally out of Woodenbong for a number of years before expanding it in 2013 and 2014 to include stages based around Kyogle and a service park at the Kyogle Showgrounds.

The proposed 2015 event does not include the expended areas and will be conducted in the Woodenbong and Urbenville areas only, on 31st October 2015.

As outlined in the attached submission, the Gold Coast Tweed Motorsporting Club requests that Council supply traffic control services. Attached is the draft Event Overview.

There appear to be no significant issues with the route proposed. Approval of the event is an operational process subject to consultation with NSW Police and other agencies which will be done through the Local Traffic Management Committee and under staff delegations.

Budget & Financial Aspects

As part of its Financial Assistance/ Donations budget for 2015/16 Council has allocated an amount of \$10,000 for traffic control and establishment for special events.

Due to the reduced nature of the proposed 2015 event, it is estimated that the costs to provide traffic control services for the event are in the order of \$4,500. This leaves sufficient budget remaining to cover the traffic control services for the Billycart Bonanza (\$3,500) and Anzac Day events (\$2,000).

Recommendation

1. That Council receives and notes the report, Border Ranges Short Course Rally 2015;
2. That Council agree in principle to the holding of the 2015 Border Ranges Short Course Rally;
3. That Council provide traffic control services associated with the 2015 Border Ranges Short Course Rally.
4. That Council's maintenance program ensures each of the rally roads have a patch grade up to four weeks prior to the event.

Attachments

1. Border Ranges Short Course Rally 2015 Event Overview
2. Letter of application to conduct Rallysprint Event
3. Border Ranges Short Course Rally 2015 Map

ITEM 13B PLANNING SERVICES REPORT

13B.1 DEVELOPMENT APPLICATIONS DETERMINED AND OUTSTANDING FOR THE PERIOD 29 MAY, 2015 TO 3 JULY, 2015

**REPORT BY PLANNING AND ENVIRONMENT
CONTACT ACTING EXECUTIVE MANAGER PLANNING AND ENVIRONMENT LACHLAN BLACK**

Summary/Purpose

This item presents to Council the Development Applications determined and outstanding for the period 29 May to 3 July, 2015.

Report

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

1. Development Applications Outstanding

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

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

2. Development Applications Determined

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

Recommendation

1. That, with the exception of the following items in which Councillors and have declared an interest,

- Cr..... 13B.1 Development Applications Determined and Outstanding DA.../... - Reason for Declaration -
- Cr.....13B.1 Development Applications Determined and Outstanding DA.../... - Reason for Declaration -

The information contained in the report Development Applications Determined and Outstanding for the 29 May to 3 July, 2015 be received and noted.

2. That the information contained in the report Development Applications Determined and Outstanding for the period 29 May to 3 July, 2015 only in relation to DA./... and DA./.... In which Councillors have declared an interest be received and noted.

Attachments

1. Development applications determined June 2015
2. Development applications outstanding June 2015

13B.2 DEVELOPMENT APPLICATION 2015-18

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

Summary/Purpose

This report aims to present to Council a recommendation for determination of a development application for the construction of a shed at Kyogle Council's depot at Tooloom Street, Woodenbong.

Community Strategic Plan Item(s)

- Environmental and Planning

Background Information

Council received Development Application No. 2015/18 on 13 April, 2015 for the construction of a shed at Council's Woodenbong Depot. The proposed shed is 12 metres x 12 metres, with the height being approximately 4.5 metres.

Report

DA No:	2015/18
Date received:	13 April, 2015
Applicant:	All Steel Garages & Sheds
Owner:	Kyogle Council
Property:	Lot 9 DP 705597
Zone:	RU1 Primary Production
Locality:	Tooloom Street, Woodenbong
Proposal:	Shed

Site Description and Planning Provisions:

- Zone: RU1 Primary Production
- Overlays: Partially within 200m buffer to cattle tick dip site.

The site has frontage to unconstructed road reserve on 4 sides. The site is accessed via Tooloom Street and a watercourse at the rear. The site is approximately 1.54ha in area and currently accommodates the Kyogle Council depot. The site is adjoined on its southern boundary by a mix of residential and commercial buildings fronting Unumgar Street.

Legislative requirements:

Council is required when assessing and determining any development application to have full regard to the provisions of the EP&A Act including the objects as contained in Section 5 and the heads of consideration as contained in Section 79C.

Agency Referral:

The development application was not referred to any government agencies.

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

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

(1) Matters for consideration - general

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

(a) the provisions of:

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

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

Kyogle Local Environmental Plan 2012

Zone: RU1 Primary production

Objectives of Zone RU1:

The proposed development is not considered to be inconsistent with the Objectives of Zone RU1 given the site is not situated within a rural context and is the site of an existing depot.

Land Use Table:

Zone: RU1 Primary production – Depots are prohibited.

The depot has been established on this site for many years and is therefore considered to be an 'existing use' in accordance with Section 106 of the *Environmental Planning and Assessment Act 1979*.

Approval of the shed relies on Clause 43 of the *Environmental Planning and Assessment Regulation 2000* which allows for the expansion or extension of existing uses and buildings with development consent.

(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

See section below

Kyogle Development Control Plan 2014

Chapter 1 Development in rural Zones RU1, RU2 and RU4

Although Chapter 1 of the DCP deals with development in rural zones, there are no specific provisions for depots, or buildings associated with this type of use. Part 3 of Chapter 1 applies to 'rural sheds' however, this building is not considered to be in a rural context or for an agricultural purpose. Furthermore, the site's context would more properly be described as a village context and the provisions applying to development in rural areas are not considered applicable.

Chapter 6 Public Notification of Development Applications

Chapter 6 of DCP 2014 contains guidelines for public notification of development applications. Table C6.1 provides that for development of business premises in Zone RU5, notification of adjoining owners may be undertaken. Given the location of the shed and its significant separation from adjoining properties, and given the site is already used for the purposes of a depot, notification of adjoining owners is not considered warranted.

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

Not applicable

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

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

Not applicable

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

The site is considered suitable for the development as it is currently used for the purposes of a depot.

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

No public notification undertaken.

(e) the public interest

The proposal has no significant adverse impacts which would be contrary to the public interest. Development of the shed will improve the ability of Kyogle Council to deliver public services.

Conclusion

The proposal is to construct a covered area for use as a shed. Having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* as amended, it is recommended that the application as submitted be approved subject to conditions.

Recommendation

1. That the Development Application No. 2015/18 for construction of a shed at Kyogle Council's Woodenbong Depot report be received and noted.
2. That pursuant to Section 80(1) of the *Environmental Planning and Assessment Act 1979*, Council approve the application subject to conditions as contained in Attachment 2.

Attachments

1. DA 2015/18 Site plan & elevations
2. DA 2015/18 Conditions

13B.3 DEVELOPMENT APPLICATION 2015-19

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

Summary/Purpose

This report aims to present to Council a recommendation for determination of a development application for the construction of a shed addition at Kyogle Council's depot at Highfield Road, Kyogle.

Community Strategic Plan Item(s)

- Environmental and Planning

Background Information

Council received Development Application No. 2015/19 on 13 April, 2015 for the construction of shed additions at Kyogle Depot. The proposed shed addition is 12 metres by 4.5 metres with a height of approximately 4 metres.

Report

DA No:	2015/19
Date received:	13 April, 2015
Applicant:	All Steel Garages & Sheds
Owner:	Kyogle Council
Property:	Lot 1 DP 415822
Zone:	IN2 Light Industrial
Locality:	106 Highfield Road, Kyogle
Proposal:	Shed addition

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

Site Description & Planning Provisions

- Zone: IN2 Light industrial
- Overlays: Nil

The site has frontage to Highfield Road on 2 sides. The site is approximately 1ha in area and currently accommodates the Kyogle Council depot.

The site is adjoined on its northern and eastern boundaries by residential development. On the opposite side of Highfield Road is rural land utilised for grazing purposes.

Legislative Requirements:

Council is required when assessing and determining any development application to have full regard to the provisions of the EP&A Act including the objects as contained in Section 5 and the heads of consideration as contained in Section 79C.

Agency Referral:

The development application was not referred to any government agencies.

Kyogle Local Environmental Plan 2012

Zone: IN2 Light industrial.

a) Objectives of Zone IN2:

The proposed development is not considered to be inconsistent with the Objectives of Zone IN2, especially given the site is an existing depot.

b) Land Use Table:

Zone: IN2 Light industrial- Depots are Permitted with consent.

(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

See section below

Kyogle Development Control Plan 2014Chapter 7 Development in Zones IN1 and IN2

The proposal meets the Acceptable Solutions other than A8.1 in relation to front boundary setback.

A8.1 requires a front boundary setback of at least 6 metres. The proposal is for almost zero front boundary setback. The existing shed has a front boundary setback of approximately 4.5m, another shed located further along the same boundary has zero setback to the same boundary.

Performance Criteria A8 states that setback of buildings and structures to the primary road frontage is consistent with that of adjoining buildings and does not compromise the function of the road.

Chapter 6 Public Notification of Development Applications

Chapter 6 of DCP 2014 contains guidelines for public notification of development applications. Table C6.1 provides that for development in Zone IN2, notification of adjoining owners may be undertaken. Given the proposed development is a minor addition to the existing depot, and is not located near any boundaries with adjoining residential properties, notification of adjoining owners is not considered warranted.

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

Not applicable.

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

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

Not applicable.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

No adverse impacts anticipated.

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

The site is considered suitable for the development as it is currently used for the purposes of a depot.

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

No public notification undertaken.

(e) the public interest.

The proposal has no significant adverse impacts which would be contrary to the public interest. Development of the shed will improve the ability of Kyogle Council to deliver public services.

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

The development will not place additional demand on public facilities and infrastructure. Therefore, no requirement for payment of s94 developer contributions.

Section 64 of the *Local Government Act 1993*

The development will not place additional demand on the stormwater drainage system as the shed is being erected on an existing hard stand area. Therefore, no requirement for payment of s64 charges.

Conclusion

The proposal is for the construction of a shed at Council's Kyogle Depot.

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

Recommendation

1. That Council receives and notes the report, Development Application 2015-19.
2. That pursuant to Section 80(1) of the *Environmental Planning and Assessment Act 1979*, Council approve the application subject to conditions as contained in Attachment 2.

Attachments

1. DA 2015/19 Site plan & elevations
2. DA 2015/19 Conditions

13B.4 PLANNING PROPOSAL TO AMEND THE KYOGLE LEP 2012 AND KYOGLE DCP TO PERMIT ADDITIONAL TOURIST AND VISITOR ACCOMMODATION

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

Summary/Purpose

The purpose of this report is to present to Council a proposed amendment to the *Kyogle Local Environmental Plan 2012* (KLEP) to permit additional tourist and visitor accommodation development opportunities within the RU1 Primary Production zone (RU1 Zone) and the RU2 Rural Landscape zone (RU2 Zone).

The proposed amendments are consistent with permissible land uses within the broader rural zones across other council areas and represent development that is likely to be particularly suited to Kyogle's economic development needs and opportunities.

Community Strategic Plan Item(s)

- Village Life
- Economic Development
- Environmental and Planning

The proposed amendment to the Council's planning provisions for rural tourist accommodation are consistent with the strategic intent of its Community Strategic Plan which is also supportive of its commitment as part of the NSW *Small Business Friendly Council's Program*, of which the Council is a participant.

Previous Council Consideration

Council previously considered this matter as part of its consideration of Item 13B.4 of its Ordinary Meeting on 9 December 2013 where it resolved:

- 1. That Council receive and note the preliminary report to amend Kyogle Local Environmental Plan to permit eco-tourist facilities specified tourist and visitor accommodation and camping grounds in certain rural zones.*
- 2. That Council investigate the application of (or need for both) Zones RU1 and RU2 as part of the planning proposal process that will be required following the completion of the E zone review.*

Background Information

Council has previously considered the need to review the tourist accommodations provisions that apply to its RU1 Zone in particular.

At the time, the matter was deferred on the basis that the zoning was also relevant to the review of the State Government of the E Zones across the North Coast of New South Wales, including the Kyogle local government area (LGA).

The E Zone review considers a range of environmental issues that do not, in principle, affect the proposed LEP Amendment.

Presently, the proposed E Zone areas are deferred from the Council's KLEP and do not represent a significant area compared to the remainder of RU1 and RU2 zoned land.

Appropriate land use and permissibility allocations can be proposed at the time the E Zone areas are resolved by the State Government. In the event that these locations are to revert to one of the existing rural zones within the KLEP, the relevant development permissibility can be automatically transferred to the land with the new zoning.

A review of rural tourist accommodation opportunities for Kyogle is considered warranted at this stage since it will not prejudice the review of the E zone and it is likely to:

- 1) Ensure greater consistency across the region through more effective alignment of Kyogle's KLEP with other local government LEP provisions across the region
- 2) Potentially assist Kyogle in facilitating further sustainable economic development opportunities that are compatible with existing and future agriculture within the LGA
- 3) Provide scope for the area to better leverage off its existing economic and natural assets and proximity to existing and emerging tourist markets

Although the LEP amendment has the potential to facilitate significant economic benefits to Kyogle's rural areas, it represents a relative minor form of amendment (i.e. with no mapping changes required) and with only minor inclusions to the wording of the LEP document as well as corresponding amendments in the *Kyogle Development Control Plan 2014* (DCP).

Report

The following outlines some of the key points that relate to the proposed LEP Amendment. A Planning Report for a Gateway determination by the State Government would incorporate the information contained in this report.

1. Rural Tourism Opportunities in Kyogle

The growth of global populations, notably within nearby Asian regions is likely to result in not only a marked increase in demand for agricultural products but also tourism which is likely to increasingly include visits to rural areas and associated working farming communities.

Proximity to large urban centres, such as Brisbane, are also likely to contribute to increased tourism demand both from within the urban centres but also through their gateway role for interstate and international tourists.

The scale of population increase is dramatic with estimates of the global population increasing to 9.6 billion people by 2050¹ from the existing population of approximately 7.2 billion people in 2014².

The 2010 Intergenerational Report by the Australian Government, Department of Treasury estimated that the Australia's population would grow to almost 36 million³ people during the same period.

In addition to agricultural food production, many working agricultural areas also serve as an 'escape' for people from nearby urban areas and interstate and international tourists. Kyogle is located in reasonable close proximity to South East Queensland (SEQ), being less than 1 hour by road from the region's outskirts and approximately 2.5 hours from the capital centre – Brisbane.

Kyogle is also in reasonable close proximity to two international airports (Brisbane and Gold Coast) which can act as key entry points for interstate and international tourists, through linked coach charter or self-drive travel from the urban centres. The area is also well located for north-south and east-west road travellers with the Summerland Way-Mount Lindesay Highway and the Bruxner Highway respectively. The Kyogle Road is also an important route connecting to the Tweed coast and the Gold Coast.

The population of SEQ is already estimated to be 3.27 million⁴ persons with Brisbane estimated to account for 1.3 million of that figure in 2013. Population growth in the SEQ region is expected to reach 4.4 million people by 2031⁵. The likely demand for visits to nearby rural areas, especially those that have added natural scenic attractions, is likely to significantly increase with population growth – including from nearby urban, regional and overseas locations.

Road travel is likely to continue to be a major potential source of visitors to the Kyogle. The Summerland Way – Mount Lindesay Highway route in particular forms part of a major route for 'grey nomad' travellers. Grey nomads, alone, form approximately 30% of the Australian domestic tourist market and form the largest sector of the tourist market for many Australian regions and individual locations.

The grey nomads form a large part (bulk) of the recreational vehicle (RV) market which includes the use of camper vans, caravans and mobile homes. The Campervan Motorhome Club of Australia (CMCoA) in its "2013 Snapshot – The Growth and Value of the RV Market – Key Facts"⁶ estimated that Australia had in excess of 500,000 registered RV vehicles during 2013 with a further 120,000 expected to be registered over the subsequent 5 years.

¹ United Nations, 2014; http://www.un.org/apps/news/story.asp?NewsID=45165#.VZS_SnlxmUk

² United Nations, 2014; <http://www.un.org/en/development/desa/population/publications/pdf/trends/Concise%20Report%20on%20the%20World%20Population%20Situation%202014/en.pdf>

³ Australian Government, Treasury, 2010; http://archive.treasury.gov.au/igr/igr2010/Overview/pdf/IGR_2010_Overview.pdf

⁴ Queensland Government, 2015; <http://www.qgso.qld.gov.au/products/reports/pop-growth-highlights-trends-reg-qld/pop-growth-highlights-trends-reg-qld-2015.pdf>

⁵ Queensland Government, 2011; <http://www.qgso.qld.gov.au/products/reports/qld-govt-pop-proj-qld-sd/qld-govt-pop-proj-2056-qld-sd-2011.pdf>

⁶ Campervan Motorhome Club, 2013; <http://www.segra.com.au/segra13ConfProc/presentations/Day3-RVFuturesForum-GrowthAndValue.pdf>

CMCoA further estimated that the sector represented an approximate contribution of \$6.5 Billion to the Australian economy in 2013. The sector has consistently been the fastest growing domestic tourist sector nationally.

Approximately 67% of the estimated 67.8 million site nights were spent in caravanning and camping sector in 2012 (i.e. 45.3 million) in caravan parks with 40 or more sites⁷.

Although RV based rural tourism is likely to have increased potential within Kyogle, there is also potential for increases in the amount and diversity of small-scale 'niche' accommodation through bed and breakfast and farm stay accommodation. This is particularly the case with an ever increasing market in SEQ.

While the Council recognises the potential for increased tourism in the area, the provisions of its LEP should reflect this strategic intent for its rural areas in a way that recognises the need for balance between the needs of the tourist markets (and the potential economic benefits to the area), sustainable agricultural production and environmental management outcomes.

This should include contemporisation of its land use permissibility and development standards for rural-based tourist accommodation, including in light of other accepted approaches and demonstrated beneficial outcomes in some nearby and further afield areas.

Apart from supporting primary agricultural production on rural land, sustainably located rural tourist development can also help support other cultural activities in the area through the supporting arts and other cultural activities.

2. Existing Affected Rural Zones

Two rural zones in the KLEP are principally affected by the proposed LEP Amendment, being:

RU1 Primary Production – primarily intended as the principal agricultural zoning. The RU1 Zone represents a large part of the Kyogle LGA and significantly contributes to the area's landscape, social and economic character principally through the range of agricultural production that is undertaken on the affected land.

RU2 Rural Landscape – The RU2 Zone recognises the agricultural potential of affected land as well as the contribution to the natural and scenic landscape of the area. The RU2 Zone generally provides for a greater range of uses that are still compatible with a rural setting and rural uses that need not be directly related to rural activity in all instances (e.g. crematoria, certain forms of recreational activity and eco-tourist facilities).

There are a number of other rural Zones in the KLEP that would primarily be affected by proposed changes to the B&B provisions.

⁷ Unsealed 4x4 Magazine, 2015; <http://www.unsealed4x4.com.au/just-big-rv-industry-australia/>

RU4 Primary Production Small Lots – The RU4 Zone is intended to facilitate more intensive forms of agricultural production on smaller lots combined with rural lifestyle opportunities.

RU5 Village Zone – The Village Zone provides an englobo zoning for much of the areas occupied by the small villages and hamlets within the Kyogle LGA. The zone permits a mix of urban uses including, residential, retail, commercial and small scale industrial, as well as various tourist and visitor accommodation developments such as; camping grounds, caravan parks and hotel and motel accommodation.

RU3 Forestry Zone- The RU3 Forestry Zone is a specialist zone primarily for forestry and quarry purposes only under the LEP and is not included in this assessment of rural tourist accommodation opportunities.

3. Existing Forms of Rural Tourist Accommodation and Standards

The KLEP provides for a range of tourist and visitor accommodation development that may be applicable to a rural setting within the Kyogle LGA. Development standards for the different forms of development vary across the Far North Coast Region and Australia generally. Such development, in the Kyogle LGA is regulated through building standards under the BCA and largely clause 5.4 of the KLEP.

The approach to the regulation of development standards for bed and breakfast accommodation facilities (B&Bs) and farm stay accommodation varies from council to council with some focusing on the number of permissible rooms, the number of occupants, permissible floor area or combinations thereof.

The different types of tourist accommodation and relevant standards that are applied within the Kyogle LGA are summarised as follows:

Camping grounds – This type of development represents the least intensive form of tourist accommodation for tents or temporary mobile forms of accommodation (e.g. camper vans) with communal facilities (e.g. for cooking, showers, toilets and lightweight shelters). It does not include a caravan park.

Development standards for camping grounds are generally applied through the *Local Government (Manufactured Home Estates, Caravan Parks and Camping Grounds) Regulation 2005* which includes development standards, and approval is also required under s68 of the *Local Government Act 1993* to operate a camping ground. .

The definition of a camping ground appears to be a legacy of a period from many decades ago. The definition stems reflects a time when caravans in particular were restricted to highways and accommodation parks characterised by a high level of service – e.g. water, power and even sewer connections. Changes in the quality, size and travel capability of recreational vehicles and the different forms of trailer accommodation has meant that there are increasing amounts of caravans and caravan-like vehicles that are able to be towed to more remote locations for camping purposes as a preferred substitute to tents by many people. This is not necessarily adequately reflected in the current definition of a camping ground within the LEP.

Camping grounds are permissible with consent in the RU2 and Village zones but not in the RU1 or RU4 zones.

Caravan parks – This can include a camping ground and cater for caravans and other moveable dwellings. It can also include the installation of prefabricated cabins. The development standards for caravan parks are generally applied through the Building Code of Australia (BCA) provisions.

Caravan parks are permissible in the Village zone but not any of the other rural zones (i.e. RU1, RU2 or RU4 zones).

Bed and breakfast accommodation – B&Bs are currently limited to principal dwelling houses with no more than 3 bedrooms only for B&B purposes. The premises must be occupied by the owners at all times. The use is permissible with consent in the RU1, RU2, RU4 and Village zones.

DCP restrictions presently apply to the length of stay (i.e. 'a maximum continuous period of 42 days with an interval of at least 14 days and no more than 100 days occupancy in any 12 month period'). Additional restrictions apply to the number of guests that can be accommodated at any time (i.e. no more than 12).

The operator of a B&B must be a permanent occupant of the premises at all times (i.e. no clear option for any separate management other than where the management coincides with residency at the same time).

B&Bs and farm stays have been in existence across Australia for many decades without any noticeable adverse impacts on rural areas or their supporting urban centres. The growth of many of the signature tourist locations across Australia shows that an increased number and diverse range of tourist accommodation options is, in more instances than not, likely to be complimentary and facilitating of tourism growth, visitor interest and result in a greater number of recurring visits to an area.

Modern housing design has surpassed the earlier 'standard' 3 bedroom design providing a more diverse range of design and sleeping accommodation options. Anecdotal demonstration of B&B markets across other prime B&B locations shows that successful regions include those that provide a range of accommodation options that tailor to the market's needs while also maintaining design and functional compatibility with the location and surrounding area.

The KLEP notes that an increase in the number of occupants may be a reason for the application of different building standards. The decision to escalate the level of applicable building standard should be as much a commercial decision as it is a statutory one, where such standards do not also introduce other planning considerations that cannot be effectively addressed (i.e. the application of building standards should not be used as a tool to regulate strategic land use decisions).

Farm stay accommodation – This development type is restricted to working farm properties only, by virtue of its definition; '

'Farmstay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production'.

While it can include B&B style accommodation, in principle, it also permits with consent, separate accommodation including cabin or other style accommodation provided there is a maximum of 3 bedrooms. The restriction on the number of bedrooms effectively makes the development of multi-bedroom cabins unfeasible.

Farm stays are permitted with consent in the RU2 and RU4 zones but not in the RU1 zone which forms the principal farming areas within the LGA by area and the number of working farming properties within the LGA.

The development standards for farm stay accommodation are similar to that of B&Bs (i.e. under KLEP and DCP) and similar design and market characteristic comments apply.

Eco-tourist facilities – This form of development is only permitted in the RU2 and Village zones (i.e. included in the ‘tourist and visitor accommodation’ definition as permissible use with consent within the Village Zone). The development is not permitted in the RU1 or RU4 zones. The likely scale of such development is expected to make it incompatible with the scale of other development and lot sizes in the RU4 Zone.

The restrictions are likely to unduly limit opportunity to locate such facilities on RU1 zoned land that may include or be located adjacent to other land that has significant ecological value or attraction and that may be suitable educational or personal recreational/well-being purposes for visitors who may also prefer accommodation within proximity to such features to enhance convenience and the overall experience.

The development standards for this form of development are referred to in Clause 5.13 of the KLEP. Apart from being required to comply with general standards and requirements regarding compatibility with the general environment and need for appropriate services, design and other standards are also dealt with through general provisions in the DCP and BCA related matters.

Eco-tourist facilities, in principle, potentially have the least restriction over built form options and can include free-standing units or multiple unit accommodation designs as well as more basic accommodation (e.g. tent cabins).

Hotel and motel accommodation – This form of development is, appropriately, restricted to urban areas including the Kyogle town area and village centres (i.e. included as part of ‘tourist and visitor accommodation’ definition). There is no demonstrated need for any such facilities outside of these areas.

Development standards for this form of development are primarily BCA related.

4. Other Forms of Tourist Accommodation

A range of other forms of tourist accommodation, that does not include hotels and motel accommodation, may also, in principle, be permitted in rural zoned locations.

This can include cabins and ‘chalets’ (i.e. often regarded as a more permanent form of detached development). Cabins may also form a part of a caravan park. Cabins and chalets may also form a part of a farm stay. Associated and Ancillary Development

Associated and ancillary forms of development that may support or compliment tourist accommodation, include eating establishments such as restaurants and cafes, function centres and interpretative facilities. Eating facilities that are for guests only are generally regarded as ancillary and are considered to be a part of the principal guest accommodation development. Facilities that intend to cater for people other than those that are accommodated guests are not ancillary development and are regarded as separate development.

Presently, restaurants, cafes and function centres are permitted with development consent in the RU2, RU5 and Village zones but not in the RU1 zone. This approach, applied to other premier rural tourist destinations in Australia (e.g. many of the viticulture and wine districts), would have precluded some of the country’s most well-known restaurants from establishing or being operated. The need, or otherwise, for function facilities within the RU1 Zone is a matter that is unlikely to be the same as the potential for additional accommodation and supporting eating facilities and can be further investigated on a case-by-case basis through individual request to amend the LEP, or could be considered as part of a future Council initiated LEP amendment.

Comparison with other Council Locations

A comparison of permissibility, or otherwise and key development standards between Kyogle and other locations is provided in Table 1.

Table 1 - Rural Tourist Accommodation Comparison with other Regional Agriculture/Tourist Locations

	Kyogle	Lismore	Byron Bay	Richmond Valley	Bega Valley	Margaret River, WA	Whitsundays Qld
Camping areas	Not permitted in RU1; permitted in RU2 zones	Permitted in RU1 and other rural zones	Permitted in RU1 and other rural zones	Permitted in RU1; no other large area rural zone applies to council area	Permitted in RU1 and other rural zones	Not permitted in General Agriculture and Priority Agriculture zones; specific tourist zones apply including for camping	Not preferred in Rural Zone; specific tourist zones apply
Caravan parks	Not permitted in RU1; permitted in RU2 zones	Permitted in RU1 and other rural zones	Not permitted in RU1; permitted in small rural village zones and other urban zones	Permitted in RU1; no other large area rural zone applies to council area	Not permitted in RU1; permitted in small rural village zones and other urban zones	Not permitted in General Agriculture and Priority Agriculture zones; specific tourist zones apply including for caravans	Not preferred in Rural Zone; specific tourist zones apply
Bed and breakfast	Permitted in RU1 and	Permitted in RU1 and	Permitted in RU1 and	Permitted in RU1; no	Permitted in RU1 and	Permitted in General	Permitted in Rural Zone;

	Kyogle	Lismore	Byron Bay	Richmond Valley	Bega Valley	Margaret River, WA	Whitsundays Qld
	other rural zones and urban zones; 3 br. max	other rural zones and urban zones; 5 br. max	other rural zones and urban zones; 2 br. max	other large area rural zone applies to council area; 3 br. max	other rural zones and urban zones; 4 br. max	Agriculture and Priority Agriculture zones; 2 br. max	5 br. max
Farm stay	Not permitted in RU1; permitted in RU2 zones; 3 br. max	Permitted in RU1 and RU2 zones; 5 br. max	Permitted in RU1 and RU2 zones; 12 br. max	Permitted in RU1; no other large area rural zone applies to council area; 10 br. max	Permitted in RU1 and RU2 zones; 6 br. max	Farm stays not identified – included as 'guest house' which is permitted in General Agriculture and Priority Agriculture zones; 4 br. Max for less than 20 ha. or 12 br. for 20 ha or greater	Farm stay included in definition of 'bed and breakfast'
Eco-tourist facility	Not permitted in RU1; permitted in RU2; no specific density standards	Permitted in RU1 and RU2 zones; no specific density standards	Not permitted in RU1; permitted in RU2; no specific density standards	Permitted in RU1; no other large area rural zone applies to council area	Not permitted in RU1; permitted in RU2; no specific density standards	Included in definition of guest house or other tourist facilities; generally not permitted in Agriculture zones; specific tourist zones apply for this form of development	Generally included in definition of integrated resort'; not preferred in Rural Zone; specific tourist zones apply
Hotels and motels	Not permitted in RU1 or RU2 zones	Not permitted in RU1 or RU2 zones	Not permitted in RU1 or RU2 zones	Not permitted in RU1 Zone	Not permitted in RU1 or RU2 zones	Not permitted in Agriculture zones	Not preferred in Rural Zone; urban and tourist zones apply
Restaurants and cafes	Not permitted in RU1 Zone; permitted in RU2 Zone	Permitted in RU1 and RU2 zones	Permitted in RU1 and RU2 zones	Permitted in RU1; no other large area rural zone applies to council area	Permitted in RU1 and RU2 zones	Permitted in Agriculture zones	Not preferred in Rural Zone; urban and tourist zones apply
Function centres	Not permitted in RU1 Zone; permitted in RU2 Zone	Not specifically permitted in RU1 or RU2 zones	Not permitted in RU1 or RU2 zones	Not permitted in RU1 Zone	Permitted in RU1 and RU2 zones	Permitted in Agriculture zones	Not preferred in Rural Zone; urban and tourist zones apply

5. Exempt and Complying Development

The *State Environmental Planning Policy (Exempt and Complying Development) Codes 2008* include development that is either exempt or complying development, notwithstanding any other provisions that may be contained within an LEP.

The exemptions include minor alterations or additions to buildings, outdoor recreation features, fencing and some signage.

Complying development provisions exist for certain minor works and variations to buildings and other structures, including variations for heights and setbacks for buildings, landscaping car parking, earthworks and site requirements. Specific provisions apply to B&B development with no more than 4 guest bedrooms (i.e. B&Bs with up to 4 guest bedrooms may be complying development – requiring no development consent, subject to other provisions).

6. E Zone Review

The Department of Planning and Environment notes, on its webpage, that the Environmental Zone (E Zone) Review is being conducted by consultants. The review applies to E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living zones in the Ballina, Byron, Lismore, Tweed and Kyogle local government areas.

The review was initiated to inform planning decisions on the application of environmental zones on the Far North Coast so that a balance is achieved between allowing agriculture and rural uses to continue while protecting important environmental values.

Pending the outcome of this review, areas with environmental zones and overlays are being deferred as councils proceed with their local environmental plans (LEPs). The current zoning of the land will continue to apply to these deferred areas.

The extent of affected areas in the Kyogle LGA is minor compared to the overall area of other rural (i.e. non-urban) land.

The continuation of E zoned land and its formal inclusion in the KLEP is not expected to adversely or affect the use of other rural zoned land or prejudice, in principle, its use for tourist accommodation purposes, subject to compliance with other development controls in the LEP and DCP.

In the event that the E zones were to revert to an existing rural zoning, the provisions of that zone would also automatically apply once the zone is confirmed through an amendment of the KLEP zone maps.

Based on the above, it is considered that deferment of any necessary LEP amendments that do not necessarily compromise the outcomes of the E Zone Review is not warranted and should not unduly impede the Council's proper planning for its area including strategic and economic development planning and preparation of supporting statutory frameworks.

7. Description of Proposed Amendments to KLEP

While it would be preferable to have other sections of the KLEP amended to bring it more in line with current tourist practices, tourism accommodation and expectations, restrictions regarding the content of the LEP which are based on the State's standard LEP format, make this impractical at this stage.

This particularly applies to the dictionary definitions of different forms of development – e.g. definition of camping grounds and caravan parks and references to cabins and chalets.

Regardless of the above, there are a number of amendments which can be undertaken to better align the KLEP with other LEPs in the region and, in principle, more effectively facilitate the Council's economic development objectives for its area.

The proposed amendments to the KLEP are summarised as follows:

- 1) *Amend RU1 Zone to include 'farmstay accommodation', 'camping grounds' and 'eco-tourist facilities' as development that is permissible with consent*
- 2) *Amend Clause 5.4(1) of KLEP (i.e. in reference to B&B development) to state that "the accommodation that is provided to guests must consist of no more than 5 bedrooms, subject to compliance with all other requirements of the LEP"*
- 3) *Amend Clause 5.4(5) of KLEP (i.e. in reference to farm stay development) to state that:*
"The accommodation that is provided to guests must consist of:
 - a. *No more than 5 bedrooms where forming part of the principal farm dwelling house; or*
 - b. *No more than 1 separate cabin or chalet-style unit for each 10 hectares of the total land area of the allotment on which the development is to be located with no more than 12 bedrooms in total; and*
 - c. *Subject to compliance with all other relevant requirements of the LEP"*

There are no changes proposed to the mapping of the KLEP.

8. Objectives of Proposed KLEP Amendments

The proposed amendments to the KLEP are intended to:

- Better align the Council's planning controls for rural tourist accommodation with the existing complying development provisions (i.e. the state provisions already permit more bedrooms than the KLEP in many instances)
- Provide for more responsive recognition of commercial requirements for the provision and operation of rural tourist accommodation opportunities in the area
- Provide incentive for quality design and service delivery

- Provide, in principle, for greater tourist accommodation diversity and experiences
- Maintain complimentary land use objectives between tourist accommodation and agricultural production opportunities
- Ensure that best-practice sustainable development and environmental management practices are maintained

9. Description of Proposed Amendments to Kyogle Development Control 2014

At present, the general provisions under Part 4 of Chapter 1 do not apply to 'tourist and visitor accommodation', eco-tourist facilities and camping grounds. Specific provisions for B&B and farm stay development are contained in *Chapter 9 Bed and Breakfast Accommodation and Farm Stay Accommodation*.

DCP Chapter 9 - Sections 2.1 and 3.1

Sections 2.1 and 3.1 for B&Bs and farm stays respectively in the DCP identifies temporary and short term accommodation as generally considered to comprise:

- 1) A maximum continuous period of occupancy for guests of 42 days with an interval of at least 14 days between stays and;
- 2) A total of not more than 100 days occupancy in any 12 month period.

The provision is likely to be unduly restrictive in that it limits the total occupancy period of any establishment to no more than 100/365 days (i.e. 27.4%) for any given year. This may represent a potentially inadequate return on investment for tourist accommodation operations and may serve as a deterrent for this form of development which may otherwise have significant benefits to the area, provided all other development control concerns can be addressed.

Part 1 of the Section 2.1 and 3.1 requirements are also potentially difficult to interpret and to enforce by the Council and can be just effectively substituted with plainer English.

It is recommended that Sections 2.1 and 3.1 be replaced with the following:

Temporary or short stay accommodation is generally considered to comprise accommodation that:

1. *Is advertised to the general public; and*
2. *Involves the making of a booking for guests and involves a payment for bed and breakfast accommodation services and facilities; and*
3. *Is only short term and temporary for any guest – i.e. the duration is irregular or intermittent and is generally less than a 1 month period*

DCP Chapter 9 - Section 2.4 Development Guidelines (Bed and Breakfast Accommodation)

Performance criteria P2 of the table contained in the section requires that:

“The principal function of the building is a dwelling house for use by a single household group”

The current acceptable solutions for the P2 performance criterion are:

- A2.1 Accommodation for guests is located within an existing dwelling house
- A2.2 Development provides a maximum 3 bedrooms for accommodation of guests
- A2.3 Development provides accommodation for no more than 12 guests

The following changes to Section 2.4 of the DCP are proposed:

- 1) Acceptable solutions for the P2 performance criterion is replaced with the following:
 - A2.1 *Accommodation for guests is located within an existing dwelling house – this can include attached or separated rooms provided that such rooms are attached to a central common dwelling area with weatherproof access*
 - A2.2 *Development provides a maximum 5 bedrooms accommodation of guests*
 - A2.3 *Bedrooms may include spas and ensuite facilities but do not include facilities for the cooking of any meals – all meals on the premises are to be solely provided within common eating areas*
 - A2.4 *Development provides for no more than 12 guests*

The proposed provisions maintain the indicative number of maximum guests while providing greater flexibility in dwelling design and accommodation of couples or separate guests – all of which are intended to facilitate greater B&B diversity including establishment of ‘niche’ market premises.

The existing performance criteria and acceptable solutions are proposed to remain the same within the table contained in section 2.4 of the DCP other than the acceptable solutions identified above.

DCP Chapter 9, Section 3.3 Development Guidelines (Farm Stay Accommodation)

Performance criteria P1 of the table contained in the section requires that:

“The farm stay accommodation business is secondary to the agricultural enterprise of the property”

The current acceptable solutions for the P1 performance criterion are:

- A1.1 No more than 3 bedrooms are provided for accommodation of guests
- A1.2 Accommodation is not provided for more than 12 guests

The following changes to Section 3.3 of the DCP are proposed:

- 1) Performance criteria P1 is to be amended to read:

- P1 The farm stay accommodation business is, at all times, to be operated in conjunction with an agricultural enterprise on the property that forms the intended dominant use of the land*
- 2) The acceptable solutions for performance criterion P1 are to be replaced with the following:
- A2.1 Guest accommodation consists of:*
- a) No more than 5 bedrooms where forming part of the principal farm dwelling house; or*
 - b) No more than 1 separate cabin or chalet-style unit for each 10 hectares of the total land area of the allotment on which the development is to be located, with no more than 12 bedrooms in total; and*
 - c) An overall total of no more than Subject to compliance with all other relevant requirements of the LEP”*
- A2.1 Guest accommodation within the principal dwelling consists of:*
- a) No more than 5 bedrooms – this can include attached or separated rooms provided that such rooms are attached to a central common dwelling area with weatherproof access; and*
- A2.2 No more than 1 separate cabin or chalet-style unit for each 10 hectares of the total land area of the allotment on which the development is to be located, and*
- A2.3 The overall development for guest accommodation, including that which part of the principal dwelling or separate cabins or chalets has no more than 12 bedrooms in total; and*
- A2.3 Bedrooms may include spas and ensuite facilities but do not include facilities for the cooking of any meals – all meals on the premises are to be solely provided within common eating areas*

Section 4.1 to 4.3 inclusively

Section 4.1 to 4.3, inclusively, of Part 4 of Chapter 1 is to apply to camping grounds as no such provisions currently exist.

This is to provide an appropriate local environmental assessment framework for the assessment of such development.

There are no other changes that affect general or specific provisions affecting farm stay accommodation as contained in the DCP.

10. Conclusion

The proposed changes to rural tourist accommodation in rural zoned land and the accompanying amendments to the DCP provisions, in principle, provide for a greater diversity of accommodation design and guest/visitor experience that is compatible with surrounding agriculture and the environmental qualities of the location.

While the proposed amendments have the potential to complement existing agriculture activity and help support economic development and growth within the Kyogle local government area, any such development will still be required to undergo thorough development assessment requirements to demonstrate general land use, environmental and infrastructure/services compatibility, based on other existing requirements within the Council's KLEP and DCP.

Budget & Financial Aspects

There are no major Budget implications for the proposed LEP and DCP amendments.

The proposed amendments are to be undertaken utilising existing Council staff resources only and will fall within existing staff and administrative budget allocations.

Recommendation

1. That Council receives and notes the report, Planning Proposal To Amend The Kyogle LEP 2012 And Kyogle DCP To Permit Additional Tourist And Visitor Accommodation.
2. That Council resolves to amend the *Kyogle LEP 2012* (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in section 10 of this Report.
3. That Council authorise the Acting General Manager to finalise the Planning Proposal consistent with the contents of the report to Council and submit the Planning Proposal to the Department of Planning and Environment (the Department) for review and Gateway Determination.
4. That on receipt of a Gateway Determination to proceed with the LEP amendment, the Acting General Manager be authorised to make any necessary changes to the Planning Proposal in accordance with the requirements of the Department and proceed with the LEP amendment process in accordance with the provisions of Part 3 Division 4 of the EPAA, including public consultation of the LEP amendment.
5. That a further report is presented to the Council regarding the review of submissions resulting from the public consultation phase, should the LEP amendment be enabled to proceed through a favourable Gateway Determination.
6. That the Council prepare a draft development control plan generally in accordance with the changes outlined in Section 10 of this Report.
7. That public exhibition of the Draft DCP is carried out in accordance with the requirements of the EP&A Reg. 2000.
8. That the draft DCP is to be reviewed in light of any submissions made during public exhibition.
9. That a further report is to be presented to the Council following conclusion of the public consultation stage and consideration of any submissions that have been received.

Division

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

13B.5 PLANNING PROPOSAL TO AMEND THE KYOGLE LEP 2012 TO CHANGE THE COMPLYING DEVELOPMENT PROVISIONS FOR TEMPORARY EVENTS

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

Summary/Purpose

The purpose of this report is to present to Council a proposed amendment to the *Kyogle Local Environmental Plan 2012* (KLEP) to permit events on land, other than on land that is residential zoned land (i.e. R1 General residential, R3 Medium density residential and R5 Large lot residential zones), as complying development in certain specified circumstances. The amendment is proposed to facilitate a more streamlined approach to the approval of special recreational and entertainment events over weekend and holiday periods where other administrative requirements can be met.

The events that are the subject of the LEP amendment do not include events that are held more than two times per year, such as markets; these types of regular events will require development consent to be obtained through the DA process.

Community Strategic Plan Item(s)

- Village Life
- Economic Development
- Environmental and Planning

The proposed amendment to the Council's planning provisions for rural tourist accommodation are consistent with the strategic intent of its Community Strategic Plan which is also supportive of its commitment as part of the NSW *Small Business Friendly Council's Program*, of which the Council is a participant.

Background Information

Kyogle has a history of successfully holding a number of events during the year which bring much needed economic activity and regional exposure to the area – notably within many of the smaller rural communities. Past events have included a range of recreational, sporting and cultural entertainment activities – e.g. Woodenbong Dirt Trail Event, other bike events and annual markets.

Apart from economic benefits, such events (which are also sometimes referred to as 'ephemeral events') also have the potential to add to an area's cultural diversity and well-being. Events, more recently are being recognised as an important component of 'place-making', including at a small, local level as well as for larger centres and areas.

Events can often extend over a weekend or long weekend period, bringing large numbers of visitors and much needed economic boosts to the smaller towns and the area as a whole.

The events are often focused on the use of public land (e.g. showgrounds, road reserves, parks and other Crown reserves) as well as some adjoining private land.

Council, community interests and event organiser have expressed a need to ensure that positive effects of such events can be facilitated, ongoing, while also providing effective mechanisms to ensure that appropriate event and environmental management processes, including those that may be subject to licensing provisions, are in place. Special issues affecting event management with respect to adjoining land should also be accounted for in any such processes.

Presently, events that are held over a single day (i.e. 16.5 hours) may be approved as 'complying development' under the KLEP, subject to compliance with other provisions. Complying development is a streamlined approval process whereby, if a proposed activity meets certain criteria, Council must issue a Complying Development Certificate (a type of development approval). The current LEP does not identify any direct or implied significant differences that may be expected between an event that extends for a "single day" or one which goes for a full weekend or holiday long weekend period.

The stated timeframe is generally regarded as being unnecessarily restrictive insofar that the issues that would otherwise exist over a 16.5 hour period (and which may represent complying development) are likely to be just as effectively dealt with for a full weekend or long weekend period, without the need for a development application. This is particular the case as most of the issues that are likely to be of significance are matters that are also dealt with as licence requirements under different legislation.

The proposed amendment intends to complement the existing exempt and complying development provisions, ensuring that all other appropriate approvals must be obtained to address any environmental or social concerns, while still maintaining the need for development consent in situations where a more detailed assessment process is warranted.

Report

1. Approval Requirements for Event Activities

Events may include a range of development activities that may constitute 'exempt development', 'complying development' or development for which a development consent must first be obtained.

In addition, many of the actual other activities associated with the running of the event (e.g. driving of vehicles, sporting activity or general crowd activities) may represent exempt or complying development while others may require a development consent.

Events that cannot meet the requirements of complying development may still be considered by the Council as development that requires development consent (i.e. submission of a development application).

In addition to complying development and development with consent requirements under the KLEP, there are also other general provisions that affect exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

This includes exemptions for temporary uses and structures such as:

- Scaffolding, hoardings and temporary structures
- Filming
- Temporary structures and alterations or additions to buildings for filming purposes
- Tents or marques used for filming and private functions
- Stages or platforms for community events

There are no specific complying development provisions affecting temporary events under the state environmental planning policy.

Generally, the KLEP does not have any exemptions for temporary event development, but does, in principle, enable some temporary events to operate as complying development where they are open to the public for not more than a single day (i.e. over a duration of no more than 16.5 hours).

The proposed LEP amendment is intended to extend the current KLEP complying development provisions relating to temporary events to include the following additional circumstances:

- A single day (as currently allowed for as complying development under Schedule 3 of the KLEP; or
- A full weekend (i.e. Saturday and Sunday combined); or
- Long weekend where a public holiday falls either directly before or after a weekend; or
- Another 3 day or less period during a public holiday period (e.g. Easter or Christmas)

There are presently no relevant development control provisions contained in the *Kyogle Development Control Plan 2014* (DCP) and no additional approvals are proposed.

This is generally consistent with the character and nature of such events as many of the issues are also dealt with through other approval requirements, including:

- Food licencing requirements
- Use of temporary toilet facility Council Works Approvals
- Police approvals for traffic management
- Noise emission compliance requirements
- Approval to use Crown land

Separate permission from the owner of private land is also required to hold an event on the land.

The use of both private and public land (i.e. the latter including Crown and Council managed land) may also be subject to separate agreements which may require payment and or agreement to special conditions (e.g. reinstatement of the site after use).

2. Current and Proposed KLEP Complying Development Provisions for Events

Complying development in addition to the State provisions is identified in Schedule 3 of the KLEP.

The requirements that presently apply to ‘single day events’ that comprise complying development and the proposed changes for events under Schedule 3 of the KLEP are summarised in **Table 2**.

Table 2. Comparison of Existing and Proposed Schedule 3 Provisions of KLEP for Events

Item	Current KLEP Provisions	Proposed KLEP Provisions
Heading	Single day events	Heading to be changed to: “ <i>Short term, temporary events</i> ”
Notations	<p>Note 1. In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development is carried out on the land.</p> <p>Note 2. Under section 68 of the <i>Local Government Act 1993</i>, certain activities require approval from the local council.</p> <p>Note 3. The <i>Protection of the Environment Operations Act 1997</i> contains provisions regulating noise and pollution control.</p> <p>Note 4. The use of caravans, campervans and tents is regulated under the <i>Crown Lands Act 1989</i>, <i>Forestry Act 1916</i>, <i>National Parks and Wildlife Act 1974</i> and the <i>Local Government Act 1993</i>.</p>	<p>Include additional notes as follows:</p> <p>Note 5. A complying development event includes an additional period of 2 days directly before and/or after the event, which is not open to the general public but which may be required to organise and reinstate the grounds – this is consistent with the existing provisions of the KLEP for ‘single day events’.)</p> <p>Note: Reference to 16.5 hours is to be deleted.</p>
Clause (1)	Does not apply to residential zones.	No change – requirement to remain
Clause (2)	Must not exceed 16.5 hours in duration.	<p>Must not exceed 2 days where held over a normal weekend (i.e. Saturday and Sunday only); or</p> <p>Must not exceed 3 days where held over a weekend which coincides with a public holiday either on the Friday directly before or the Monday directly after and the event is to include the public holiday; or</p> <p>No more than 3 days where the event includes a period of public holidays during the week and including any weekend day; or</p> <p>Must not exceed a duration of 1 day for any other time</p>
Clause (3)	Must not be an event that is, or is to be, held on a biennial or more regular	Must not be an event that is, or is to be, held more than bi-annually.

Item	Current KLEP Provisions	Proposed KLEP Provisions
	basis.	Note: Reference to biennial or more regular basis to be deleted.
Clause (4)	Must have an approved vehicular access point to a public road constructed to Council's design and construction specifications.	No change – requirement to remain
Clause (5)	Does not exist	Include the following additional Clause: (5) Must have a Council endorsed Event Management Plan for which must include the following details: Description of event activities over the full duration of the event Site details including land that is to be used for event activities Compliance with Conditions (1) to (13) for the requirements of a Complying Development Certificate for this type of development Traffic management Crowd behaviour management Noise management Environmental health (food licensing, toilets, other services) Public safety and incident control and reporting Environmental management and rehabilitation Stakeholder consultation Licences and other approvals
Heading	Part 2 Complying development certificate conditions	No change proposed
Notation	Note. Complying development must comply with the requirements of the Act, the regulations under the Act and this Plan	No change proposed
Heading and provisions	General conditions	No change proposed to heading or general conditions (i.e. reference to conditions set out in Schedule 6 of the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> – does not affect events development
Heading	Conditions applying to a complying development certificate for a single day event	Conditions applying to a complying development certificate for temporary, short term events
Conditions for complying development	Conditions (1) to (13) regarding general amenity and environmental management requirements.	Conditions (1) to (13), inclusively, to be retained, other than Condition 3 which requires amendment to refer to the Exempt and Complying Development SEPP provisions (i.e. to maintain statutory consistency)

The controls proposed as part of an Event Management Plan are consistent with the existing level of controls identified for single day event complying development.

The preparation of an Event Management Plan is expected to collate much of the information that event organisers already provide to authorities and assist the processing of the information for approval purposes as well as assisting the management and compliance of events.

There are a number of existing examples of similar and successful approaches to that proposed for Kyogle in other councils across Australia. An Event Management Plan template is proposed to be finalised for the Council to make available to prospective event organisers and the community, subject to final adoption of the proposed LEP amendment.

All complying development is required to obtain a Complying Development Certificate from the Council under the provisions of the *Environmental Planning and Assessment Act 1979* (EPAA) and the *Environmental Planning Assessment Regulation 2000* (EPAR). Where a proposed event does not meet the requirements for complying development, the event may still be able to proceed subject to obtaining development consent.

3. Consultation

The proposed LEP amendment has not been the subject of any formal consultation but is generated as a result of informal discussion with councillors and senior Council staff. This report seeks a resolution to prepare a planning proposal to amend the KLEP as described, and to submit the planning proposal to the NSW Department of Planning and Environment for a Gateway Determination. Subject to an affirmative Gateway Determination by the State, formal public consultation will be required to take place. It is proposed that Council Planning and Environment staff will include a number of targeted discussions with community interest groups as well as potential event organisers.

While the proposed Event Management Plan template does not represent a statutory document (i.e. it is to be an administrative tool for the use of Council and interested event organisers), it is proposed that a draft template will be made available for consideration as an adjunct to the public consultation period.

Event Approvals and Conditions Coordination

Council has an established Development Management Panel (DMP) framework which is an administrative forum consisting of senior staff to assist the Council's development assessment operations. While this forum has been inoperative for a period, it has recommenced and is able to act as the coordinating forum to discuss event proposals.

Scope also exists within the DMP framework to invite other agency representatives to meetings to discuss and coordinate the provision of landowner/manager authority to use public land, setting of conditions and issuing of approvals for proposed events. This includes providing coordinated access to authority representatives for event organisers to discuss details.

4. Proposed Amendments to KLEP

The proposed amendments to the KLEP are identified in Table 1 in Section 2 of this report.

Budget & Financial Aspects

There are no additional Budget implications for the proposed amendment to the KLEP. The work is to be wholly undertaken through the use of existing Council staff resources and existing Budget allocations.

Recommendation

1. That Council receives and notes the report, Planning Proposal To Amend The Kyogle LEP 2012 To Change The Complying Development Provisions For Temporary Events.
2. That Council resolves to amend the *Kyogle Local Environmental Plan 2012* (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in Table 2 of this report.
3. That Council authorise the Acting General Manager to prepare a Planning Proposal consistent with the contents of this report and submit the Planning Proposal to the Department of Planning and Environment (the Department) for review and Gateway Determination.
4. That on receipt of a Gateway Determination stating that Council may proceed with the LEP amendment, the Acting General Manager be authorised to make any necessary changes to the Planning Proposal in accordance with the requirements of the Department and undertake the necessary administrative procedures of the LEP amendment process in accordance with the provisions of Part 3 Division 4 of the EPAA, including public consultation.
5. That on conclusion of public consultation, a further report is presented to Council outlining the outcomes of consultation, including submissions received.

Division

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

ITEM 13C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 13D CORPORATE SERVICES REPORT

13D.1 CODE OF MEETING PRACTICE

REPORT BY: ADMINISTRATION AND COMMUNITY

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

Summary/Purpose

This report presents to Council the Code of Meeting Practice following the period of public exhibition.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Section 361 of the Local Government Act 1993 provides as follows:

- (1) Before adopting a code of meeting practice, a council must prepare a draft code.
- (2) The council must give public notice of the draft code after it is prepared.
- (3) The period of public exhibition must not be less than 28 days.
- (4) The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.
- (5) The council must publicly exhibit the draft code in accordance with its notice.

Previous Council Consideration

At the meeting held December 8, 2014 Council resolved:

1. That starting from the June 2014 Ordinary Council Meeting, in accordance with clauses 11.1 and 11.2 of the Code of Meeting Practice, an official audio recording be taken of all Ordinary, Closed and Extraordinary meetings of Council.
2. That these audio recordings (with the exception of recordings of Closed Meetings) be made available upon request to:
 - Councillors
 - Council staff
 - The public (a minimal charge may apply)

3. That Council identify a way to make these audio recordings available electronically within one week of each meeting.

Report

Following on from the above resolution, Section 11.2 of the Code of Meeting Practice was amended to reflect this change.

11.2 Tape Recording (Council Policy resolution 140414/05)

1. *The unofficial tape recording of all meetings be prohibited without the express permission of council.*
2. *An official audio recording will be taken of all Ordinary, Closed and Extraordinary Meetings of Council.*
3. *That these audio recordings (with the exception of recordings of Closed Meetings) be made available upon request to:*
 - *Councillors*
 - *Council staff*
 - *The public (\$5 charge to cover cost of CD)*

The amended Code of Meeting Practice was adopted for public exhibition. The document was advertised in the Richmond River Express Examiner on February 18, 2015 with a closing date of April 1, 2015.

During the display period no submissions were received.

Recommendation

1. That Council receives and notes the report, Code of Meeting Practice.
2. That Council adopt the Amended Code of Meeting Practice dated December 8, 2014.

Attachment

Amended Code of Meeting Practice from Ordinary Meeting held December 8, 2014.

13D.2 FEES AND CHARGES REVIEW

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

Summary/Purpose

This report is to advise Council of the review of Council's current and proposed Fees and Charges to include the principles used in deciding a fee or charge and the costs involved if a further detailed review was to be conducted.

Community Strategic Plan Item(s)

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

Previous Council Consideration

Council's resolved on 25th May 2015,

"That Kyogle Council conduct a detailed review of fees and charges on the basis of what it costs Council to provide the service or information in the first instance. These fees and charges should be set on a basis of cost recovery, plus a percentage, with a report coming back to a full Council meeting."

Report

Under the Section 608 of the Local Government Act, Council can charge and recover an approved fee for any service it provides other than a service it provides on an annual basis such as water, sewer, domestic waste. A service provided by Council can include the supply of a service, commodity or product, providing information, performing inspections, etc.

The following pricing principles are used and it is proposed that information outlining these principals will be included as an introduction into the Fees and Charges document in future years, to show the basis on which a particular fee or charge has been set.

FEES AND CHARGES FOR GOODS AND SERVICES

In accordance with Section 608 of the Local Government Act, 1993 and other relevant legislation, Council levies a range of fees and charges as contained within this document.

The general intention of the fees and charges is to cover the following contingencies:

- *Supply of a product, service, or commodity.*
- *Giving of information.*
- *Providing a service in connection with the Council's regulatory functions, including receiving an application for approval, granting an approval, making an inspection and issuing a certificate.*
- *Allowing admission to any building or enclosure.*

Kyogle Council's general policy in determining fees for goods and services takes into account the following factors:

- *The cost of providing the service.*
- *The importance of the service to the community.*
- *Prices fixed by the relevant industry body/ies.*
- *Any factors specified in the Local Government regulations.*
- *Equity factors.*
- *User pays principle.*
- *Financial objectives.*
- *Customer objectives.*
- *Resource use objectives.*
- *Cross subsidisation objectives.*

Council reviews all fees and charges, not subject to statutory control, on an annual basis, prior to finalisation of Council's annual operating budget.

The predominant consideration in reviewing those fees and charges is full cost recovery on a fee for service (user pays) basis. However, this principle only applies where the cost of the service provision and the end users can be accurately determined.

For details of the various methods of pricing which Council has implemented see below. Those pricing methods range from partial cost recovery through to the recovery of an amount greater than the full cost of providing the service.

CODE	PRICING BASIS	PRICING PRINCIPLE INCLUDES
1	Partial Cost Recovery	(a) the benefits from provision of the service accrue to the community as a whole as well as individual users; (b) charging prices to recover full cost may result in widespread evasion; (c) the service is targeted to low income users or a differential service fee is charged according to the classification of users to maximise access to the service; and/or (d) the service promotes or encourages local economic activity.
2	Full Cost Recovery	a) the service benefits particular users, making a contribution to their individual income, welfare or profits or a private benefit being provided without any broader benefits to the community; and (b) Council has a monopoly over the provision of the service and there are no community service or equity obligations. The fee or charge is calculated on the full recovery of annual and maintenance costs, on-costs and overheads. This would also include any debt servicing costs associated with the provision of the service.
3	Market Competitive	(a) the service provided is in competition with that provided by another Council or agency (private or public) and there is pressure to set a price which will attract adequate usage of the service; and/or (b) the service is a profit making activity and the price paid by users should recover an amount greater than the full cost of providing that service.
4	Statutory	(a) the service is a regulatory or statutory service and where the fee is determined by Council in accordance with a pricing principle prescribed in regulations (eg a maximum price). (b) the amount of the fee is prescribed in regulations or determined by the Director General of the Department of Local Government or another authorised authority. Council has no discretion to determine the amount of the fee for a service when the amount is fixed by regulation or by another authority.
5	Demand Management	The fee or charge is determined at a level greater than the direct cost of the service to provide a disincentive, or to recognise indirect costs associated with the provision of the service.
6	No Charge	The service is provided at No Charge or has been specifically excluded from any cost recovery.

Note: The attached schedule identifies those goods and services subject to the Goods and Services Tax (GST). The fees/charges shown for those goods and services are inclusive of GST.

Credit Card Surcharge is levied where Customers pay for Council Services with a credit card. The credit card fee is inclusive of GST, if the underlying Council service being paid for also attracts GST, otherwise GST is not charged on the credit card fee.

A re-formatted version of the current Fees and Charges Schedule is attached that includes this introduction and the pricing principles. Pricing codes have been added to the attached document against each individual charge based on the principles espoused in the introduction. Most of the current fees and charges have been categorised as a Code 1 (Partial Cost Recovery) or Code 2 (Full Cost Recovery). All regulatory fees are categorised as Code 4, which were the highlighted fees in the current schedule, and any fees listed as nil or no charge were categorised Code 6. The majority of the balance were categorised as Code 3 (Market Competitive) which included fees or charges that could be sourced from other providers and covered such services as copy charges, gravel supplies, hire items, etc. It is intended to adopt this format for the Fees and Charges document in future years.

Investigations into appropriate software tools to assist in the mechanical process of determining the cost of providing a service or product have been undertaken and only one product has so far fulfilled the requirements to comprehensively complete a fees and charges review. The software was developed, and is supplied, by Orion Consulting out of Brisbane with a one-off licence fee of \$5,000. Training of an internal staff member would be required in the use of the software at a cost of up to \$2,000 dependent upon the experience of the officer who would project manage the review. Once the model results were finalised, and the full cost of providing the product or service are known, a pricing decision could then be made based on the knowledge of what it costs Council to provide the service.

The timing for any further review would need to ensure that is completed prior to the 2016/2017 budget process commencing. To achieve this timeline, the project would need to be commenced no later than November 2015 and completed by February 2016.

Should Council wish to proceed with a project to determine the full cost of providing the products and services that are currently charged through the Fees and Charges Schedule, an adjustment will need to be made to the budget in a quarterly budget review. It is not proposed to undertake such a process at this point in time.

Recommendation

1. That Council receives and notes the report, Fees and Charges Review.

Attachments

1. Fees and Charges Schedule Including Pricing Principles

ITEM 13E COMMUNITY SERVICES REPORT

13E.1 FINANCIAL ASSISTANCE POLICY

REPORT BY: ADMINISTRATION AND COMMUNITY

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

Summary/Purpose

This report results from the adoption of the Long Term Financial Plan and Delivery Program 2015/2019 and Operational Plan 2015/2016 and the resultant changes that required a review of the Financial Assistance Policy and, in particular, changes to the Futures Funding Program.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Economic Development

Background Information

Council resolved in March 2015:

“That Council requires the Financial Assistance Policy be reviewed in line with the direction of the report to ensure Futures Funding is directed to promoting community economic development activity.”

This review is required due to the revised level of funding now available through the Futures Funding program and to also make the necessary amendments to a Policy that has not been amended since 2009.

Report

The Policy has been reviewed in line with Council's adoption of the Long Term Financial Plan that impacted on the level of funding available for distribution for the Futures Funding program. The review also takes into account discussion around the targeting of scarce Council resources for economic development projects.

The Policy also required updating in numerous areas due to references to changed position titles and document name changes, and also streamlining of the wording of both the document and attachments to enhance the Policy's readability.

A copy of the revised policy document is attached to this report showing tracked changes from the previous version.

Recommendation

1. That Council receives and notes the report, Financial Assistance Policy.
2. That the amended Kyogle Council Financial Assistance Policy be adopted.

Attachments

1. Amended Financial Assistance Policy dated July 7, 2015 with Track Changes from the June 15, 2009 version

ITEM 13F GENERAL MANAGER'S REPORT

13F.1 KYOGLE MUSEUM BUILDING PROPOSAL

REPORT BY: ACTING GENERAL MANAGER

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This report is to provide Council with information relating to the proposed construction of a new building to house the Kyogle Museum operated by the Kyogle and District Historical Society.

Community Strategic Plan Item(s)

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

Background Information

The Kyogle and District Historical Society (KDHS) and Museum currently occupy the old Fire Station building next to the Kyogle Pool Complex on a rent free basis.

The building has long been identified as not meeting the needs of the KDHS or Museum functions. Despite this, the KDHS has continued to deliver a valuable service to the community of Kyogle and surrounding areas, preserving and showcasing the history of the township and surrounding district. This service is recognised and appreciated by all.

The KDHS worked with Council and other stakeholders on the development of a concept for a multi-purpose cultural hub located between the library and Kyogle Memorial Hall buildings in the period 2008 to 2012, which culminated in approval being granted for the building concept under Development Application 2011-22. Since this time, funding has been applied for to construct the building on a number of occasions without success.

Previous Council Consideration

At its Ordinary Meeting of October 13, 2014 Council resolved;

- 1. That Council receives and notes the report, Kyogle Museum Building Proposal*

2. *That Council approves the submission of applications for external grant funding for the staged construction of the building concept approved under Development Application 2001/22 to facilitate the construction of the Museum component of the Cultural Hub building as per the plans attached to this report for Stage 1 Museum, dated October 1, 2014.*
3. *That should applications for external grant funding be approved, Council submits a formal project proposal to the Office of Local Government to enter into a Public Private Partnership with the Kyogle and District Historical Society Inc for the construction of the Cultural Hub Stage 1 Museum, in accordance with Part 6 of Chapter 12 of the Local Government Act.*

Report

The KDHS made representations to Council on September 22, 2014, requesting that Council make available portions of Lot 269/270 DP 4517 for the KDHS to construct a single purpose building to service their needs. After a series of meetings and discussions, a report was presented to Council's October 2014 Ordinary Meeting in relation to the proposal to stage the construction of the Cultural Hub building approved conceptually under DA 2011/22. The resolutions of Council supporting this proposal are provided in the Previous Council Consideration section of this report.

Since these resolutions were passed, a revised proposal has been prepared in consultation between Council and the KDHS. The revised proposal is for the construction of a new Museum building primarily from materials recycled from the demolition of the Horseshoe Creek Hall and Cedar Point Halls. The proposed building design is based on that of the Horseshoe Creek Hall in size and appearance, with variations incorporated to suit the site layout and to maximise the potential for reuse of materials with minimal modifications and alterations.

The proposed new Museum building provides an opportunity to showcase the architectural style of the period around 1915 to 1940. The building design provides the fabric of the simple weatherboard clad halls found at various locations throughout the Kyogle Local Government Area. The extensive use of timber for these building types reflects the local abundance of timber and the importance of the local forestry industry. The design incorporates a gable roofed main hall structure, and a skillion roofed wing extending along one full side of the main hall, and a smaller covered veranda at the main entrance. These features are typical of the various community halls and structures built in the early years of settlement.

The building design combined with the recycling of materials from the two existing halls also provides a positive outcome in relation to the disposal of these other buildings, as well as a sustainable use of recycled building materials. This provides an opportunity to preserve the architecture associated with the early settlement of the region, in a prominent central location, whilst at the same time significantly reducing the cost of building the new Museum.

The proposed building has a footprint of 14m by 24m with a small 3m by 9m front veranda area. The building area is 363m². The available budget would require that the building cost be kept to an average of \$771/m².

This can be achieved by maximising the reuse of materials, including fixtures and fittings from the two halls, and initial investigations have shown that there is considerable opportunity for this to occur.

Budget & Financial Aspects

The project Business Plan provided by the KDHS shows that they have an amount of \$280,000 available for the project. This consists of \$150,000 of their funds, a \$60,000 NSW Government Grant, and \$70,000 of donations from two separate benefactors. Evidence has been provided confirming the availability of these funds for the project.

With the revised proposal which includes the reuse of the building materials from the Horseshoe Creek Hall and the Cedar Point Hall, an additional \$40,000 will be added to the total project amount. This will come from Councils 2015/2016 budget for Community Buildings Capital Works, which was allocated to the disposal of these two halls.

The Business Plan submitted by the KDHS identifies an ongoing level of support from Council of a similar nature to that provided at present.

This includes Council not charging any rent for the building, and Council covering the costs associated with rates, water, sewer, electricity, insurances, and security services. The KDHS would be responsible for building maintenance, cleaning and repairs.

There has also been a request for Council to waive any fees associated with the project. The fees applicable for a Development Application and associated construction works have been quoted at \$5,748.50.

Of this, all except \$1,159 are fees payable to Council. The remaining \$1,159 consists of a Long Service Leave Fee of \$980 and a Plan First Levy of \$179, both of which are paid to external organisations and cannot be waived by Council.

As mentioned in previous reports, the nature of the project is such that it would be considered a Public Private Partnership under Part 6 of Chapter 12 of the Local Government Act.

As such, before any works could proceed on the building, the requirements of the *Guidelines on the Procedures and Processes to be followed by Local Government in Public-Private Partnerships* published by the Department of Local Government in September 2005 would need to be followed. This process can run concurrent to the lodgement of the Development Application for the proposed project.

Recommendation

1. That Council receives and notes the report, Kyogle Museum Building Proposal.

2. That Council authorises the submission of an application for Development Approval for the proposed building in accordance with the plans attached to this report titled "New Museum Building at Lots 269 and 270 DP4517, 55 Roxy Lane, Kyogle NSW 2474" dated July 1, 2015
3. That Council waives all fees payable to Council for the Development Application and associated construction works for the proposed new Museum building.
4. That Council submits a formal project proposal to the Office of Local Government to enter into a Public Private Partnership with the Kyogle and District Historical Society Inc for the construction of the proposed New Museum building as outlined in this report, in accordance with Part 6 of Chapter 12 of the Local Government Act.

Attachments

1. Kyogle and District Historical Society Inc. Business Plan for proposed new Museum building June 1, 2015
2. Drawings of the proposed new Museum building titled "New Museum Building at Lots 269 and 270 DP4517, 55 Roxy Lane, Kyogle NSW 2474" dated July 1, 2015 three drawings Southern Streetscape, Site Plan and South and East Elevations.

13F.2 COUNCILLOR NUMBERS Sec 224 LG Act

REPORT BY: ACTING GENERAL MANAGER

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This report is to provide Council with information regarding the determination of Councillor numbers.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

The Local Government Act 1993, Section 224(2), requires Council to determine the number of its councillors for the following term of office, not less than 12 months before the next ordinary election. If Council wishes to change the number of Councillors, or resolve to have a popularly elected mayor, it must obtain approval of the change/s at a constitutional referendum. The changes would not take effect until the next ordinary election after the referendum.

The requirements for compliance with Section 224 of the Act are listed below:

- (1) *A council must have at least 5 and not more than 15 councillors (one of whom is the mayor).*
- (2) *Not less than 12 months before the next ordinary election, the council must determine the number, in accordance with subsection (1), of its councillors for the following term of office.*
- (3) *If the council proposes to change the number of councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum.*

Under Section 224A (9) of the Local Government Act for a Council area that is divided into wards, each ward must have a minimum of three councillors.

The due date for advising the Office of Local Government of the number of councillors that are required to be elected at the September 2016 ordinary election is 9th September 2015.

Similarly, the requirements of Section 228, which relates to how it is decided that the mayor be elected by the electors, is also listed below:

- (1) *It may be decided at a constitutional referendum that the mayor be elected by the electors.*
- (2) *A decision that the mayor be elected by the electors takes effect in relation to the next ordinary election after the decision is made.*

Assuming that Council wishes to change either the current number of councillors, or the method for election the mayor, the required constitutional referendum could be held either in conjunction with an ordinary election, or as a stand-alone referendum. Due to cost considerations, it is unlikely that a separate referendum would be held under normal circumstances. Therefore, if Council wishes to change either the number of councillors or the method for election of the mayor, a constitutional referendum would need to be held in conjunction with the September 2016 ordinary election.

Subject to the results of the referendum, any changes would then not take effect until the 2020 ordinary election, i.e. the election of a greater or lesser number of councillors and/or the election of the mayor by the community for a four year term. The additional cost of holding a referendum in conjunction with the 2016 elections would be around \$6,000. If the referendum were to occur in conjunction with the 2016 elections, a final decision would need to be made by the May 2016 Ordinary Meeting.

Based on community consultation on this issue over recent years, there is a high level of support for a popularly elected Mayor (78% in 2009, 75% in 2012, 67% in 2013). In relation to a reduction in Councillor numbers the level of community support is marginal (49% in 2007, 43% in 2009, 49% in 2012, and 42% in 2013). In relation to the abolition of wards the level of community support is low (34% in 2013).

If a popularly elected Mayor is put in place, candidates for the Mayoral role can also nominate to be ward councillors. The system of election would see voters in each ward vote for their ward councillors, and all voters vote for separately for the Mayor. The successful Mayoral candidate would then be removed from the ward councillors and their votes distributed as prescribed by the regulations.

If the premise is that Council wishes to have a popularly elected Mayor and retain the ward system there are essentially only two options;

Option 1: Retain three wards, with three councillors in each ward, and a popularly elected Mayor making ten councillors in total

Option 2: Change to a two ward system, with three councillors in each ward, and a popularly elected Mayor making seven councillors in total.

Option 1 results in an increase in the number of councillors and an even number of councillors. This system would not likely be supported as the cost of governance would increase, and the Mayor would in effect have two votes where a decision was divided, due to the casting vote.

Option 2 results in a reduction in the number of councillors, whilst retaining an odd number of councillors. This option would see a reduction in governance costs, and require a redistribution of the ward boundaries to reduce to a two wards.

A map of the current ward boundaries is included in the attachments to this report. The current ward boundaries split the township of Kyogle into two areas being parts of Ward A and Ward B.

If the ward system were to be changed to a two ward system, the logical boundary would be to have the south east corner of the LGA including the entire township of Kyogle in one ward, with the remainder of the LGA in another.

Exact boundaries would need to be developed using recent census data to ensure the population difference in each ward was no more than 10%.

If Council wishes to take the opportunity to consider any change to either councillor numbers or the method of election of the mayor, the decision would need to be taken soon to ensure adequate community consultation on the proposals and adequate time given to the NSW Electoral Commission to include referendum questions as part of the ordinary election.

As such the recommendations to this report include a recommendation to advertise that Council proposes to resolve to hold a referendum in conjunction with the 2016 election that would allow the voters to determine if they agree to the implementation a system as described for Option 2. By resolving this, Council does not commit to the referendum, or the form of the question that would be asked at a referendum. What this does do is flag that this is being considered, and allows ample time for the community to consider the issue, and for Council to consider feedback from the community on the issue. Once the period for feedback from the community was completed, a further report would be presented to Council for further consideration of this matter.

Recommendation

1. That the report on the Determination of Councillor Numbers be received and noted.
2. That the number of councillors for the 2016 ordinary election remain at nine councillors with three councillors in each of three wards.
3. That Council advertises for a period of no less than 90 days that it proposes to resolve to hold a referendum in conjunction with the 2016 ordinary election on a reduction of the number of councillors to seven, with a popularly elected Mayor, and a system of two wards with three councillors in each ward, and that a map of proposed ward boundaries for a two ward system be developed and displayed with the advertisement of the proposed resolution.

Attachments

1. Current Ward Boundary map

13F.3 NORTHERN RIVERS JOINT ORGANISATION DISCUSSION PAPER

REPORT BY: GENERAL MANAGERS OFFICE
CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

This report is to provide information to Council on the Northern Rivers Joint Organisation Discussion Paper dated June 2015.

Community Strategic Plan Item(s)

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

Background Information

As part of the NSW Governments Fit For The Future local government reform process, a new entity called a Joint Organisation of Councils is proposed. For the Northern Rivers, the Joint Organisation boundary proposed would cover the Councils of Tweed, Ballina, Byron, Kyogle, Lismore, Richmond Valley and the three existing County Councils.

The NOROC Councils lodged an expression of interest with the Office of Local Government to be included in the Pilot JO process, but this was not accepted by the OLG. At its meeting of June 6, 2015 NOROC resolved the following when considering the Northern Rivers Joint Organisation Discussion Paper;

- 1. That the Northern Rivers Joint Organisation Discussion Paper be placed on each member council's meeting agenda and the resolutions from each council be forwarded to the Executive Officer.*
- 2. The Executive Officer will compile all resolutions into a report to be placed on the agenda for the August NOROC meeting (7 August 2015).*

At the same meeting NOROC resolved the following in relation to the County Councils;

- 1. That NOROC notes the individual councils support the amalgamation of the existing county councils.*
- 2. The General Managers and Kyme Lavelle prepare a discussion paper on the future of services, including those currently provided by the county councils, and this be presented at a future NOROC meeting.*

Report

The Northern Rivers Joint Organisation Discussion Paper was prepared at the request of NOROC at their meeting in February 2015.

The discussion paper provides a broad brush overview of the issues associated with the establishment of the proposed JO, and offers options, and in some cases preferences, for the structure and scope of the JO for this region. There are a few issues of concern for Kyogle Council in the discussion paper;

1. The County Councils

There is already agreement across the NOROC footprint for the merging of the three County Councils into a single entity. This entity would be focused on the delivery of a range of services across local government boundaries, as was the case for the three County Councils. The Independent Local Government Review Panel recommended that these County Councils become a subsidiary of the JO. The discussion paper does not make any specific recommendation in relation to the County Councils, instead it highlights that Councils will need to consider where and how the County Council/s fit in, and that services such as those delivered by the County Councils now could potentially be delivered by the JO in the medium term. It would seem more prudent to include these services as part of the core functions of the JO right from the start, as recommended by the Independent Local Government Review Panel.

2. Existing Shared Services

There are a range of services delivered across more than one local government boundary within the NOROC footprint at present. They have varying memberships, governance structures, and fee arrangements. These include the North East Weight of Loads Group (NEWLOG), two separate regional libraries, regional Rural Fire Service support, amongst others. There are also a number of common interest groups that operate across the region. The discussion paper does not specifically address these shared services or groups, other than to suggest that these services could be potentially delivered by the JO in the medium term, in addition to those shared services delivered by County Councils at present. Again, it would seem more prudent to include these services as part of the core functions of the JO right from the start. This will provide economies of scale and scope for the JO in the delivery of services, as well as consolidating all services that cross local government boundaries within a single entity, thereby reducing duplication and the need for shared administration between the general purpose councils.

3. Administration and Governance

The discussion paper puts forward a budget and fee structure based on a stand-alone entity that is not involved in the delivery of any shared services, other than those of regional advocacy and strategic planning. However, the core functions identified in the discussion paper include Regional Service Delivery, and the discussion paper identifies services that could be potentially delivered by the JO in the medium term. The preference would be for the inclusion of these services as part of the core functions of the JO from the beginning.

This will allow an entity to be created with the appropriate governance structure and organisational capability to deliver these services into the long term. The primary advantage of this would be avoiding the need for a separate entity to perform the regional advocacy and strategic planning roles, and the associated administrative costs associated with a separate entity. This is one of the main reasons for unanimous support for the merging of the three County Councils, to reduce the unnecessary additional administration burden associated with these separate entities.

There is an ideal opportunity to effect structural change that would see the merger of the three County Councils and the establishment of the JO undertaken as one process, resulting in a single new entity that would take on the role of regional advocacy and shared service delivery. This shared service delivery model can then take in all other shared services, so that an economy of scope is created for the new entity. This would effectively result in a governance structure that replaced four existing entities (3 County Councils and NOROC) with one new entity (the JO). This would avoid the need for additional administration costs and provide a single regional entity controlled by the Councils in the region, potentially at a reduced cost.

Budget & Financial Aspects

There is particular concern with the fee structure and administrative budget put forward in the discussion paper. The discussion paper sees the administrative costs essentially double, and proposes a fee structure where each Council pays an equal share. This would see the Kyogle Council contribution increase from around \$10,000 per year to around \$50,000 per year. However, this is based on a structure for the JO that would create an additional governance body, separate from the other Councils, essentially the same as NOROC. There is no consideration in this structure of potential costs savings in administration if the JO were to also deliver regional shared services.

The main concern here for Kyogle Council is that we will be paying an increased administrative fee to an entity similar to the existing NOROC entity, as well as continuing to pay user fees for the weeds services, and administrative fees to other Councils for supporting the existing shared services.

There is an opportunity with the establishment of the JO to consolidate the County Councils, and create an entity that is specifically focused on the delivery of services that cross local government boundaries.

This would provide economies of scale and scope, and avoid duplication of this role and the additional administration costs which exist under the current arrangements.

Recommendation

1. That Council receives and notes the report, Northern Rivers Joint Organisation Discussion Paper.

2. That Council supports the establishment of the Northern Rivers Joint Organisation of Councils on the basis of centralising all existing shared services within the Joint Organisation of Councils including the existing County Councils, regional libraries, NEWLOG, regional emergency services co-ordination, and any future commercial entities established by the Councils, and distribution of fees on a user pays agreed service level basis, or population based apportionment where user pays fees cannot be determined.
3. That Council supports the winding up of NOROC upon the creation of the Northern Rivers Joint Organisation of Council, with any assets of NOROC to be transferred to the new entity.

Attachments

1. Northern Rivers Joint Organisation Discussion Paper

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

**16.1 TENDERS FOR CONTRACT 2014/15-003 DESIGN AND SUPPLY OF ROCK
FILLED GABION & MATTRESSES**

REPORT BY: INFRASTRUCTURE WORKS

CONTACT: INFRASTRUCTURE WORKS ENGINEER DERRYN NIX

Reason for Confidentiality

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

- (d) commercial information of a confidential nature

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON MONDAY, 13 JULY, 2015