



KYOGLÉ COUNCIL

COUNCIL MEETING AGENDA

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

ON MONDAY, 14 DECEMBER, 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, 14 December, 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 14 December 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 NOVEMBER 2015 ORDINARY MEETING

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

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

Attachments

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

ITEM 8 MAYORAL MINUTE

Nil.

ITEM 9 NOTICES OF MOTION

Nil.

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

10.1 QUESTIONS FROM THE LAST COUNCIL MEETING

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:

Councillor Robert Dwyer:

- *Under what circumstances, if any, can a mayor request a councillor, participating in a community activity as a councillor at the request of the organising committee, to remove themselves from that activity?*
- *Under what circumstances, if any, can a mayor request a councillor to remove their name badge, whilst that councillor is participating upon request, in a community activity?*

Response:

Council has been advised by the Office of Local Government that due to other pending matters these questions cannot be answered at this stage.

Councillor Chris Simpson:

- *How does Council stand in relation to the RMS' 80km zone on the Summerland Way on the southern side of Kyogle?*

Response:

The section of pavement near Fairymount Bridge has failed due to differential settlement of the embankment on the northern approach. There is significant deformation and potholing which has resulted in an increased level of risk for road users.

Kyogle Council manages the RMS road assets within the LGA and as such has a responsibility to advise RMS of such situations and take appropriate action to reduce the risk to road users and limit the liability of the road owner (RMS) and the road maintenance contractor (Kyogle Council). The speed limit was agreed by RMS and erected by Kyogle Council.

Stage 1 pavement works are programmed to start in early January, subject to final agreement with RMS. Stage 2 embankment strengthening is yet to be designed.

The cost of Stage 1 works will be around \$300,000.

- *Is there a process the Council can undertake to protect its funds or invest its funds into the community in the case of a forced amalgamation?*

Response:

There has been no information released as to how any new “merged entity” would function. It is envisaged that the assets including investments would become the assets of the merged entity.

Councillor Ross Brown:

- *I am aware the Mayor and General Manager attended a recent Chamber of Commerce meeting, and I am also aware that all councillors got a copy of a somewhat scathing letter from the chamber that was unsigned. Was the issue raised in the letter discussed with the Chamber and why were all Councillors sent an unsigned letter? Can I have the answer in writing?*

Response:

The General Manager answered the question from Councillor Brown at the Council meeting held on Monday 9 November 2015 that no discussion occurred at that meeting in regard to the matter raised in the letter. The Chamber has advised that they didn't want the matter to become public, which is why they sent the letter in a confidential manner to each individual councillor. It is understood that the letter was a representation of the feeling of the chamber.

- *Was the entire chamber aware that the letter had been sent or was it just the executive of the chamber that sent it?*

Response:

The advice of the President of the Chamber of Commerce is that it was the executive of the chamber that was aware of the letter. The President of the Chamber said that he and/or the executive were more than happy to discuss the contents of the letter with Councillors directly if there were any questions in relation to the issues raised.

Councillor Lindsay Passfield:

- *What opportunity exists to expedite the allocation of the unallocated Roads to Recovery Funds identified in the last budget review to those sections of Clarence Way and Kyogle Road most in need?*

Response:

All Roads to Recovery funding has been allocated to the current budget. In some cases this funding was not allocated at a project level, but more broadly to a category of work such as rural sealed roads, rural unsealed roads, etc. The Roads to Recovery funding component therefore had to be allocated to specific projects within that broader category of work. The budget allocations for expenditure are linked to external funding during the process. This means that there is no unallocated funding available for Clarence Way or Kyogle Road. However, there is a total allocation for roadworks on Clarence Way this financial year of \$938,288 and \$950,802 for Kyogle Road.

Recommendation

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

ITEM 11 DELEGATES REPORTS

11.1 DELEGATES REPORT -- NOROC

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: COUNCILLOR DANIELLE MULHOLLAND

Summary/Purpose

The following delegate's report in respect of NOROC has been provided by Councillor Danielle Mulholland for the information of Councillors.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

The report represents the minutes of the Annual General Meeting and general meeting of NOROC held at Ballina on Friday 6 November 2015.

**MINUTES
OF THE NOROC ANNUAL GENERAL MEETING
HELD AT BALLINA COUNCIL CHAMBERS
6 NOVEMBER 2015**

The meeting opened at 11:05am

Members present

*Cr Jenny Dowell (President) Lismore City
Cr David Wright Ballina Shire
Cr Danielle Mulholland (Deputy) Kyogle Council
Cr Ernie Bennett Richmond Valley Council
Cr Katie Milne Tweed Shire
Mr Gary Murphy Lismore City
Mr Ken Gainger Byron Shire
Mr Troy Green Tweed Shire*

In attendance

*Ms Ann Lewis NOROC
Mr Kyme Lavelle Rous Water
Ms Lisa Braid DPC
Ms Lotta Jackson Tenterfield Shire
Ms Carole Schiffemann Tenterfield Shire
Mr Vaughan Macdonald Richmond Valley Council*

Apologies

*Cr Simon Richardson Byron Shire
Mr Paul Hickey Ballina Shire
Mr John Walker Richmond Valley Council
Mr David Tuxford Kyogle Council*

Resolved:

14/15:

AGMR1 That the apologies for the Annual General Meeting on the 6 November 2015 be accepted. (Wright/Mulholland)

Minutes of the previous meeting

Resolved:

14/15:

AGMR2 That the minutes of the Annual General Meeting held on 7 November 2014 be confirmed. (Wright/Mulholland)

President's Report and Executive Officer's Report

Resolved

14/15:

AGMR3

That the President's report (Cr Jenny Dowell) and the Executive Officer's Report (Annie Lewis) be accepted. (Bennett/Mulholland)

Audited Financial Report

Resolved

14/15:

AGMR4

That Thomas Noble Russell be appointed auditors for the year ended 30 June 2016. (Wright/Mulholland)

Resolved

14/15:

AGMR5

The report on the Special Purpose Financial Statements for the year ended 30 June 2015 be noted. (Bennett/Wright)

Returning Officer to conduct the Elections

Gary Murphy, Lismore City Council, adopted the role of Returning Officer.
Councillor Dowell vacated the chair.

Election of President and Deputy President

Resolved:

14/15

AGMR6

That the election of President and Deputy President be by way of open voting. (Wright/Mulholland)

The Returning Officer called for nominations for the position of President and received the following nomination:

- Cr Jenny Dowell

As there were no other nominations Cr Dowell was declared President unopposed.

14/15

AGMR7 The Returning Officer called for nominations for the position of Deputy President and the following nominations were received:

- Cr Danielle Mulholland

Election of Deputy President

As there were no other nominations Cr Mulholland was declared Deputy President of NOROC unopposed.

Resolved

14/15

AGMR8

*There being no further business the meeting closed at 11:14am.
(Mulholland/Wright)*

**Minutes of the NOROC Ordinary Meeting
Ballina Shire Council Chambers
6 November 2015**

The meeting opened at 11:15am.

Members present

Cr Jenny Dowell (President) Lismore City Council

Cr Danielle Mulholland (Deputy) Kyogle Council

Cr David Wright Ballina Shire Council

Cr Ernie Bennett Richmond Valley Council

Cr Katie Milne Tweed Shire Council

Mr Gary Murphy Lismore City Council

Mr Troy Green Tweed Council

Mr Vaughan Macdonald Richmond Valley Council

Mr Ken Gainger Byron Shire Council

Mr Troy Green Tweed Shire Council

In Attendance:

Ms Ann Lewis Small Talk Communications

Mr Kyme Lavelle Rous Water

Ms Lisa Braid DPC

Ms Lotta Jackson Tenterfield Shire Council

Cr Carole Schiffemann Tenterfield Shire Council

1. Apologies:

(15/16:R9)

Cr Simon Richardson Byron

Mr John Walker Richmond Valley

Mr Paul Hickey Ballina

Mr David Tuxford Kyogle

Resolved (Mulholland/Wright)

That the apologies for the meeting on 6 November 2015 be accepted.

2. Minutes

(15/16:R10)

Resolved (Mulholland/Wright)

That the minutes of the meeting held on 7 August 2015 at the Ballina Council Chambers be accepted.

3. Executive Officer's Report

(15/16:R11)

Resolved (Bennett/Mulholland)

That NOROC notes the contents of the Executive Officer's report.

4. Northern Rivers Joint Organisation

(15/16:R12)

Moved (Mulholland/Wright)

1. That this report be noted.

2. When advertised, that NOROC submit an Expression of Interest in being a pilot JO.

3. *The Expression of Interest will be developed with input from the General Managers Group.*

Cr Bennett moved the following amendment.

(15/16:R13)

Amendment Moved (Bennett/Wright)

1. *That this report be noted.*
2. *If advertised, or if the opportunity arises, that NOROC consider submitting an Expression of Interest in becoming a pilot JO.*
3. *The Expression of Interest will be developed with input from the General Managers Group.*

(15/16:R14)

Amendment Carried (Danielle/Wright)- became Motion Resolved (Danielle/Wright)

1. *That this report be noted.*
2. *If advertised, or if the opportunity arises, that NOROC consider submitting an Expression of Interest in becoming a pilot JO.*
3. *The Expression of Interest will be developed with input from the General Managers Group.*

5. Calendar of Regional Events

(15/16:R15)

Resolved (Mulholland/Wright)

1. *That councils' toursims officers, or their equivalents, through the GM Group, explore better ways for shires, particularly those that share a common boundary, to advise each other when major events are planned with the aim of facilitating better coordination and cooperation for mutual benefit.*

6. Lisa Braid – Dept of Premier & Cabinet

(15/16:R16)

Resolved (Bennett/Mulholland)

That Ms Braid's presentation be noted.

7. Executive Officer position

(15/16:R17)

Resolved (Bennett/Wright)

That Annie Lewis be asked to continue her engagement with NOROC until the next NOROC meeting in February after which she be offered monthly extensions if necessary.

8. Meeting dates 2016

(15/16:R18)

Resolved (Mulholland/Wright)

That the report be noted.

9. Financial Report

(15/16:R19)

Resolved (Mulholland/Wright)

That the report be noted.

Meeting closed at 12:02pm.

The next meeting is to be held on Friday 5 February 2016 at Ballina Shire Council Chambers, Ballina to start at 11:00am.

Recommendation

That Council receives and notes the Delegate Report -- NOROC.

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTIONS

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 4 December, 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 4 December, 2015 (separately attached).

12.2 MONTHLY FINANCE REPORT

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 November, 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.

Attachments

1. Finance Reports
2. Report on Councillor Travel

12.3 WORKS PROGRAM PROGRESS REPORT

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Summary/Purpose

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

Community Strategic Plan Item(s)

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

Background Information

This report is intended to present to Council information on progress of the implementation of the annual works programs across all departments of Council, as well as the performance of the quarry and State Highways operations. The information only report will be presented to Council each month on an ongoing basis.

Report

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

1. Capital Works Progress Program

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

2. Plant Acquisition and Sales

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

3. State Highways Ordered Works

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

4. Quarries Report

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

Budget & Financial Aspects

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

Recommendation

That Council receives and notes the information contained in the Works Program Progress Report November 2015.

Attachment

Works Program Progress Report November 2015

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

ITEM 13B PLANNING SERVICES REPORT

13B.1 DEVELOPMENT APPLICATIONS OUTSTANDING AND DETERMINED FOR THE PERIOD 30 OCTOBER, 2015 TO 26 NOVEMBER, 2015

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

Summary/Purpose

This item presents to Council the Development Applications determined and outstanding for the period 30 October 2015 to 26 November 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 30 October 2015 to 26 November 2015 be received and noted.

2. That the information contained in the report Development Applications Determined and Outstanding for the period 30 October 2015 to 26 November 2015 only in relation to DA../... and DA../.... In which Councillors have declared an interest be received and noted.

Attachments

Development applications determined and outstanding November 2015

13B.2 FINALISATION OF LEP AMENDMENT NO. 5 – TEMPORARY EVENTS

REPORT BY: PLANNING AND ENVIRONMENT

CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT MANFRED BOLDY

Purpose

This report presents the results of community and agency consultation on a proposal to amend the *Kyogle Local Environmental Plan (LEP) 2012* (KLEP) to permit temporary events as complying development across all zones within the Kyogle local government area. The report seeks a resolution to make arrangements for the making of the proposed LEP amendment.

Previous Council Consideration

At its ordinary meeting of 13 July 2015 Council resolved:

1. *That Council receives and notes the report on the proposed amendment of its KLEP to change the duration and conditions for complying development 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 One 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.*

Actions relating to points 1-4, inclusively, have been completed; this report is in response to point 5.

Community Strategic Plan Item(s)

- Village Life
- Economic Development
- Environmental and Planning

The proposed amendment to the Council's planning provisions for temporary events is consistent with the strategic intent of its Community Strategic Plan. The proposed amendment represents a practical manifestation of the Council's commitment to the NSW *Small Business Friendly Council's Program*.

Background Information

The proposed amendment to the LEP will permit **temporary events** to be carried out as complying development (i.e. subject to a complying development approval) under the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The provisions, in principle, will apply to all land within the Kyogle local government area that is affected by the KLEP.

Present provisions under Clause 3.2 and Schedule 3 of the KLEP identify single day events as development that is permissible as complying development where it is undertaken for a period of no longer than 16.5 hours. The uses include sporting, cultural and other entertainment events. The proposed LEP amendment changes the terminology for such events (i.e. to 'temporary event') and extends the period over which such development can be undertaken – i.e. generally for up to 3 days including additional time allowed for setting up and removing event structures. The existing complying development conditions that are included within the KLEP are proposed to remain and apply to the new form of temporary events.

Existing exemptions that may apply to aspects of temporary event activities or to locations where they are likely to be undertaken (e.g. certain Crown reserves) will still apply and cannot be affected by the proposed LEP amendment.

Report

Gateway Determination

NSW Department of Planning and Environment (DP&E) provided a gateway determination, by letter dated 10 September 2015. DP&E determined that the proposal should proceed subject to minor alterations to the planning proposal document (i.e. remove drafting amendments and provide plain English explanation of proposed provisions instead), undertake community consultation and consult with the Rural Fire Service.

A formal public hearing was not required to be undertaken. The Minister also delegated plan making powers to Council, meaning that Council can liaise directly with Parliamentary Counsel's Office to arrange making of the plan amendment.

A copy of the Gateway Determination is included in the Attachments for this report.

RFS consultation

Council sought comment from the RFS on the proposed LEP amendment. Formal comment was received by letter dated 29 October 2015. A copy of the letter is included in the Attachments to this report.

RFS raised concerns regarding camping activities that may be undertaken as part of a temporary event where such activities may coincide with bushfire prone land (BPL). Specifically, the RFS had concerns that any such development should not be considered as complying development and instead should be subject to integrated development provisions which require consultation with RFS.

While the original position of RFS was that the LEP amendment should be altered to exclude ancillary camping activity from temporary events where this activity may coincide with BPL, the agency was made aware by Council that existing provisions already exist under section 100B(5)(b) of the *Rural Fires Act 1997* (RF Act) that legislatively preclude any development of BPL for a 'special fire protection purpose' from being considered as complying development under the EP&A Act despite any environmental planning instrument (i.e. which includes the KLEP). Camping in a BPL is considered by RFS to be "other tourist accommodation" which is included in the definition of a 'special fire protection purpose' under section 100B(6) of the RF Act.

Given that legislative provisions already apply to recognise the concerns of RFS, a further amendment to the proposed LEP provisions is not considered necessary. Council has, however, suggested that an additional note in the KLEP bringing the section of the RF Act to the attention of anyone considering undertaking a temporary event that may include camping as a component of the event. RFS agree to this approach.

The proposed note is to read as follows:

"Note: Camping activities can constitute 'other tourist accommodation' which when located on bushfire prone land may not be considered as complying development under section 100B(5) of the *Rural Fires Act 1997*."

Community consultation

Community consultation was undertaken as specified in 5.5.2 of the 'Guide to preparing local environmental plans' and involved:

1. Placing a notice in the 7 October, 2015 edition of the Richmond River Express Examiner.
2. Placing a notice on Council's website.
3. Holding two public meetings; at Kyogle on 15 October, 2015 and Woodenbong on 21 October, 2015.

The period of notification ran from 7 October, 2015 to 3 November, 2015 being a period of 28 days. No written submissions were received. Discussion with attendees at the Woodenbong public meeting indicated general support for the proposal. There were no attendees at the Kyogle meeting.

Proposed Integrated Application Form

In order to assist streamlining of complying development and other approval requirements that may be associated with the proposed holding of temporary events, the Council is proposing a new application form that is intended to assist an applicant to provide necessary information for:

- Complying development approval under the EP&A Act and KLEP
- Additional licences, approvals or permissions (e.g. approvals under section 68 of the Local Government Act 1993, Limited Licence for sale of liquor, Notice of Intention to Hold a Public Assembly, Workcover fireworks licence, permission to use Crown land or private land

Apart from identifying key information to be provided by an applicant, the form will also provide for event management details to be provided which incorporate a risk management framework (i.e. consistent with the NSW Department of Premier and Cabinet 2011 guideline document entitled: “*Developing a Council Community Events Policy – A Toolkit for NSW Councils*”) and enable an application to be considered by a range of agencies in a more integrated fashion. This is expected to be facilitated through the use of the Council’s Development Management Panel arrangements.

The application form represents an administrative document of the Council and does not require public notification. The form may be amended from time to time to further improve its efficiency and effectiveness in keeping with Council’s regular monitoring of its administrative processes.

Conclusion

As no adverse submissions or comments were received it is recommended the proposed amendment to the KLEP are endorsed and finalised.

Budget and Financial Aspects

The approval and finalisation of the KLEP amendment carry no financial implications for Council that cannot be met by existing the Planning and Environment budget.

Recommendation

That Council:

- a) Reiterate its support for the planning proposal to amend the *Kyogle Local Environmental Plan 2012* to permit short term temporary events to be considered as complying development on land affected by the KLEP, subject to inclusion of a note that states: “[Note: Camping activities can constitute ‘other tourist accommodation’ which when located on bushfire prone land may not be considered as complying development under section 100B\(5\) of the Rural Fires Act 1997](#)”.
- b) Pursuant to section 59(1) of the *Environmental Planning and Assessment Act 1979*, request Parliamentary Counsel’s Office to prepare a draft legal instrument.
- c) Upon receiving from Parliamentary Counsel’s Office a draft LEP amendment and an Opinion that the plan can be made, exercise its delegation to make the plan and request NSW Planning and Environment to carry out notification of the making of the plan.

Division:

Under Section 375A of the *Local Government Act 1993*, a division is required to be called whenever a planning decision is put at a Council or committee meeting.

ITEM 13C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 13D CORPORATE SERVICES REPORT

Nil.

ITEM 13E COMMUNITY SERVICES REPORT

13E.1 PRE SCHOOL LEASES

REPORT BY: ADMINISTRATION AND COMMUNITY

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

Summary/Purpose

This report seeks a resolution to sign and apply the seal to lease documents for the Kyogle, Bonalbo and Woodenbong preschool buildings.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Council has previously entered into lease agreements with the Kyogle, Bonalbo and Woodenbong Preschools for three year periods. The existing agreements will expire on 31 December, 2015. The lease agreements provide for no lease rental and for a payment to be made by Council of an annual fee to each preschool for maintenance of the building.

Report

All three preschool buildings are occupied by community preschool operators delivering vital services to the local communities of Kyogle, Bonalbo, and Woodenbong. The current lease arrangements have been in place for many years without any issues. Council's solicitors have drawn up lease agreements, in line with past agreements for approval and execution by all parties.

Budget & Financial Aspects

Provision has been made for the maintenance allocations in the preschools budget area.

Recommendation

That Council;

- a) Authorise the General Manager and Mayor to sign the leases with the Kyogle Preschool and OSHC Association Inc, Jumbunna Community Preschool and Early Intervention Centre Inc and Woodenbong Preschool and Kindergarten Inc.
- b) Authorise the General Manager and Mayor to affix the Council seal to the lease documents with the Kyogle Preschool and OSHC Association Inc, Jumbunna Community Preschool and Early Intervention Centre Inc and Woodenbong Preschool and Kindergarten Inc.

ITEM 13F GENERAL MANAGER'S REPORT

13F.1 ACTING GENERAL MANAGER

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: GENERAL MANAGER DAVID TUXFORD

Summary/Purpose

The purpose of this report is to recommend to Council the appointment of a staff member to the position of Acting General Manager while the General Manager is on a period of planned leave.

Community Strategic Plan Item(s)

- Governance and Community Service

Background Information

Section 351 of the Local Government Act 1993 No 30 provides that:

- (1) If a position (including a senior staff position) within the organisation structure of the council is vacant or the holder of such a position is suspended from duty, sick or absent:
 - (a) the council, in the case of the general manager's position, or
 - (b) the general manager, in the case of any other position,

may appoint a person to the position temporarily.

Report

The General Manager will be on leave from 7 December, 2015 to 15 January, 2016 inclusive, which was arranged prior to his appointment. It will therefore be necessary to appoint a staff member to act in the role of General Manager for that period of time.

At the Council meeting held on 8 December 2014, the following was resolved by Council:

That the Executive Manager Urban and Assets Graham Kennett be appointed as Acting General Manager in the case of an event resulting in the unplanned absence of the General Manager from his duties.

This resolution ensures that Council will have a person acting in the role of General Manager in the General Manager's absence, however it specifies for unplanned absences. Whilst the current period of absence is planned, it seems appropriate in light of the previous resolution of Council that Graham Kennett be appointed to the Acting position of General Manager for the period from 7 December, 2015 to 15 January 2016 inclusive.

In order to formalise this arrangement, a resolution of Council is recommended to cover the absence of the general manager for any reason, whether it be planned or unplanned.

Recommendation

That Council:

- a) Appoint the Executive Manager Urban and Assets Graham Kennett as Acting General Manager for the period from 7 December, 2015 to 15 January 2016 inclusive.
- b) Appoint the Executive Manager Urban and Assets Graham Kennett as Acting General Manager in the case of an event resulting in the absence of the General Manager from his duties.

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

16.1 WRITE OFF OF DEBT

REPORT BY: ADMINISTRATION AND COMMUNITY
CONTACT: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY
CAROL ONEILL

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals

16.2 KYOGLE CARAVAN PARK CONFIDENTIAL

REPORT BY: GENERAL MANAGER'S OFFICE
CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Reason for Confidentiality

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

- (a) personnel matters concerning particular individuals.

16.3 TENDERS FOR SEWER MAIN REPLACEMENT NOROC PANEL CONTRACT

REPORT BY: URBAN AND ASSETS

CONTACT: EXECUTIVE MANAGER URBAN AND ASSETS GRAHAM KENNETT

Reason for Confidentiality

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

- (d) commercial information of a confidential nature

16.4 MILLERS QUARRY AGREEMENT

REPORT BY: GENERAL MANAGER'S OFFICE

CONTACT: ACTING GENERAL MANAGER GRAHAM KENNETT

Reason for Confidentiality

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

- (d) commercial information of a confidential nature

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON MONDAY. 14 DECEMBER, 2015