



KYOGLÉ COUNCIL

COUNCIL MEETING AGENDA

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

ON MONDAY, 10 MARCH, 2014

Commencing at 5.00 p.m.

GENERAL MANAGER: ARTHUR PIGGOTT

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Ordinary Meeting to be held at the Kyogle Council Chambers, on Monday, 10 March, 2014, at 5.00 p.m.

DECLARATION OF PECUNIARY INTEREST

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

BUSINESS

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

ARTHUR PIGGOTT
GENERAL MANAGER

COUNCIL PRAYER

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

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

AMEN

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

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

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

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

DISCLAIMER

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

(ARTHUR PIGGOTT),
GENERAL MANAGER.

5.7 Question Time (Council Policy)

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

Each speaker has a maximum allowable time of 5 minutes.

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

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

Speakers are not to debate answers.

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

The maximum duration of this session is 30 minutes.

5.8 Public Access (Council Policy)

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

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

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

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

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

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

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

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

COUNCIL MEETING AGENDA

Monday 10 March 2014

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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

- Lynette Zito – In support of the Village Hall Players' application for Futures Funding Assistance.
- Ron Allen – Seeking Council's in principal support (subject to prescribed and required approvals) for Billy Cart Bonanza.

ITEM 7 CONFIRMATION OF MINUTES

**7.1 CONFIRMATION OF THE MINUTES OF THE 10 FEBRUARY 2014
ORDINARY MEETING**

Summary/Purpose

A copy of the Minutes for the Ordinary Meeting held on 10 February, 2014 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 10 February, 2014 be adopted.

Attachments

1. Minutes of the Ordinary meeting held on 10 February, 2014 (separately attached).
-

ITEM 8 MAYORAL MINUTE

Nil

ITEM 9 NOTICES OF MOTION

**9.1 NOTICE OF MOTION -- COUNCILLOR DANIELLE MULHOLLAND,
CONDUCT OF QUESTION TIME**

Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Danielle Mulholland for the Ordinary meeting on 10 March, 2014.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

A copy of the Notice of Motion follows:



NOTICE OF MOTION



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

That during question time, questions on any given topic will be limited to two. Additional questions may be submitted to the minute taker for response by Council staff.

Signed:

Date:

24/02/14

Councillor comments:

During question time, sometimes a number of questions are asked by the same, or different persons but relating to one topic. To facilitate more informed responses to concerned residents, it is proposed that questions on the same topic be limited to two and the remainder handed to the minute taker for consideration and later response by Council staff or Councillors where relevant.

Staff Comment

Staff are in agreement with the proposal. It will assist in the efficient use of meeting time.

Recommendation

For Council determination

ITEM 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

Nil.

ITEM 11 DELEGATES REPORTS

11.1 DELEGATE'S REPORT -- NORTHERN RIVERS REGIONAL ORGANISATION OF COUNCILS

Summary/Purpose

The following delegate's report in respect of the Northern Rivers Regional Organisation of Councils (NOROC) has been provided by Councillor Danielle Mulholland for the information of Councillors.

Community Strategic Plan Item(s)

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

Background Information

The report represents the minutes of the Ordinary Meeting of NOROC held at Ballina on Friday 7 February 2014.

Report

***Minutes of the NOROC Ordinary Meeting
Ballina Shire Council Chambers
7 February 2014***

The meeting opened at 11:10am.

Members present

<i>Cr Barry Longland (President)</i>	<i>Tweed Shire</i>
<i>Cr Danielle Mulholland (Deputy President)</i>	<i>Kyogle</i>
<i>Cr Simon Richardson</i>	<i>Byron Shire</i>
<i>Cr David Wright</i>	<i>Ballina Shire</i>
<i>Cr Ernie Bennet</i>	<i>Richmond Valley</i>
<i>Cr Jenny Dowell</i>	<i>Lismore City</i>
<i>Mr Troy Green</i>	<i>Tweed Shire</i>
<i>Mr John Walker</i>	<i>Richmond Valley</i>
<i>Mr Arthur Piggott</i>	<i>Kyogle</i>
<i>Mr Ken Gainger</i>	<i>Byron Shire</i>

Mr Gary Murphy Lismore City
Mr Paul Hickey Ballina Shire

In Attendance:

Ms Ann Lewis Small Talk Communications
Mr Kyme Lavelle Rous Water
Mr Wayne Franklin Rous Water

1. Apologies:
(13/14:R27)

Cr Richie Williamson Clarence Valley
Mr Scott Greensill Clarence Valley

Resolved (Dowell/Mulholland)

That the apologies for the meeting on 7 February 2014 be accepted.

2. Minutes
(13/14:R28)

Resolved (Mulholland/Dowell)

That the minutes of the meeting held 1 November at the Ballina Shire Council Chambers be accepted.

3. Executive Officer's Report
(13/14:R29)

Resolved (Longland/Mulholland)

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

4. Casino to Murwillumbah Rail Trail Study
(13/14:R30)

Resolved (Dowell/Wright)

- 1. That the report on the Casino to Murwillumbah Rail Trail Study be noted.*
- 2. That it be noted that community linkages with the concept of the Casino to Murwillumbah Rail Trail are gaining traction particularly with groups such as the Australian Long Forest Association (ALFA).*

5. ILGRP Report

The two recommendations were considered separately.

(13/14:R31)

Resolved (Dowell/Mulholland)

1. That NOROC provide a submission to the ILGRP on the Revitalising Local Government report. This submission will be developed with input and guidance from the General Managers group.

(13/14:R32)

Resolved (Mulholland/Dowell)

1. That in the submission to the ILGRP, NOROC submits an Expression of Interest to the NSW Government in relation to being a pilot Joint Organisation involving the Tweed, Byron, Ballina, Lismore, Richmond Valley and Kyogle LGAs, subject to the State Government's response to the report and further negotiation.

**6. Northern Rivers Regional Transport Plan
(13/14:R33)**

Resolved (Longland/Mulholland)

1. That the report be noted.
2. That NOROC write to the Minister for Transport and the Minister for Roads:
 - expressing its deep concern about the lack of consultation in formulating the plan;
 - requesting the Minister deem this plan to be a draft only and engage in further consultation with local government, key stakeholders, big business and infrastructure lobby groups to ensure the final plan reflects the needs of the Northern Rivers region;
 - Seeking clarification and a timeframe for the Implementation and Delivery Plan and a budget for the proposed works;
 - That through the NSW Minister for the North Coast, the Transport Minister be invited to the Northern Rivers to meet with NOROC to discuss the Northern Rivers Regional Transport Plan.

**7. Mt Lindesay Highway
(13/14:R34)**

Resolved (Mulholland/Dowell)

That the report be noted.

**8. Northern Rivers Bulk Water Supply Strategy
(13/14:R35)**

Resolved (Dowell/Richardson)

That a workshop on the Northern Rivers Bulk Water Supply Strategy be organised for the Mayors on Friday 4 April at 10:00am at the Lismore Council Chambers.

9. Northern Rivers Affordable Housing Strategy

(13/14:R36)

Resolved (Dowell/Mulholland)

That any further discussion about the issues arising from the Northern Rivers Regional Affordable Housing Strategy be discussed at the General Managers' meetings.

**10. Northern Rivers Aging Strategy
(13/14:R37)**

Resolved (Dowell/Mulholland)

That the report be noted.

**11. Clarence Valley Council Resignation
(13/14:R38)**

Resolved (Bennett/Mulholland)

- 1. That this report be noted.*
- 2. That NOROC President, Barry Longland, write to Clarence Valley Council acknowledging its contribution to NOROC.*

**12. Financial Report
(13/14:R39)**

Resolved (Dowell/Mulholland)

That NOROC notes the contents of the financial report for the period ending 31 December 2013.

The next meeting is to be held on Friday 2 May 2014 at Ballina Shire Council Chambers, Ballina to start at 11:00am.

Meeting closed at 1:15pm

Recommendation

That the delegates report provided by Councillor Danielle Mulholland in respect of NOROC be received and noted.

ITEM 12 INFORMATION PAPERS

12.1 COUNCIL RESOLUTIONS REQUIRING ACTION

Summary/Purpose

This report presents to Council a list of Council resolutions requiring action as at 28 February, 2014.

Community Strategic Plan Item(s)

- Governance and Community Service.

Report

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

Recommendation

That the Council resolutions requiring action report be received and noted.

Attachments

1. Council resolutions requiring action as at 28 February, 2014 (separately attached).

12.2 FINANCIAL REPORT FEBRUARY 2014

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 26 February, 2014. The reports presented include:

Rates Statement and Graph
Statement of Bank Balances
Summary of Investments

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

2. (B) Councillors Travel Expenses Report

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

Recommendation

That the information contained in the Monthly Finance Report – February 2014 be received and noted.

Attachments

1. Councillors Travel
2. Financial reports.

ITEM 13 GENERAL MANAGER'S REPORT

ITEM 13A TECHNICAL SERVICES REPORT

13A.1 FUNDING REALLOCATION -- RURAL LOCAL ROADS

Summary/Purpose

The purpose of this report is to inform Council and seek endorsement of a reallocation of funding from Wiangaree Back Road to Ettrick Road and the reseal program.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Report

Council has allocated \$150,000 in its Rural Local Roads Capital Works budget to Wiangaree Back Road from Baileys Bridge north. This section of Wiangaree Back Road is narrower than the adjoining sections of road at 4.5m wide and was planned to be widened to create a consistent width along Wiangaree Back Road.

However this section has a straight alignment and the adjoining section, which has been previously widened, is exhibiting significant failures in the widening. The proposed works will do very little to improve the service level of this section of road nor will it provide any real safety benefits to road users.

It is therefore proposed that this funding be reallocated to provide more beneficial outcomes on other projects.

The Ettrick Road project is composed of works funded by Kyogle Council and Blackspot-funded works. The \$140,000 of Blackspot-funded work is assigned to two discrete sections of Ettrick Road with an 800m gap in between the work sites.

The \$200,000 allocated by Council to Ettrick Road construction works has been utilised in this 800m gap in the Blackspot works, however these funds are insufficient to complete the full length of "gap" works and further improve the road alignment.

It is proposed to reallocate \$100,000 to complete this project and extend the works approximately 400m to the north east. This will ensure no gap between the works and improvements to a narrow downhill section of the road.

The remaining fund of \$50,000 is proposed to be reallocated to the reseal program.

As reported to Council at the February 2014 meeting of Council there is a significant funding shortfall for resealing. This is an activity that increases asset life and reduces maintenance.

Budget & Financial Aspects

The proposal is for a reallocation of funds which will not affect the overall budget.

Recommendation

That Council approves the reallocation of \$150,000 from the 2013/2014 budget from Wiangaree Back Road to;

1. Etrick Road - \$100,000
2. Reseal program - \$50,000

Summary/Purpose

This report presents a submission from the Gold Coast Tweed Motorsporting Club seeking Council's support for their annual Border Ranges Rally.

Community Strategic Plan Item(s)

- Roads and Infrastructure

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 to include stages based around Kyogle and a service park at the Kyogle Showgrounds. The proposed 2014 event will reflect the 2013 event closely. The changes proposed from the 2013 event are as follows:

1. Moving the media day from Baileys Bridge Road to Hillyards Road
2. Two super special stages at the Kyogle Showground; one on Friday night and one on Saturday night.
3. Moving the event finish from Stratheden Street to the Kyogle Showground

As outlined in the attached submission, the Gold Coast Tweed Motorsporting Club requests that Council supply traffic control services and assistance with the preparation of the Hillyards Road Spectator Site. Also 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 Emergency Management Committee.

Budget & Financial Aspects

As part of its Financial Assistance/ Donations budget in 2013/14 Council allocated an amount of \$10,000 for this item. Council provided traffic control services and some preparation of the Hillyards Road Spectator Site for the 2013 event with this budget. Due to the similar nature of the proposed event, it is expected that costs to provide this support will not have changed significantly.

Recommendation

1. That the report on the proposed 2014 Border Ranges Rally be received and noted.
2. That Council agree in principal to the holding of the 2014 Border Ranges Rally.

3. That Council consider the inclusion of a \$10,000 budget for costs associated with the 2014 Border Ranges Rally as part of the development of the 2014/15 budget.
4. That Councils maintenance program be developed to ensure that each of the rally roads have a patch grade in the four weeks prior to the event.

Attachments

1. Letter from the Gold Coast Tweed Motorsporting Club Inc (GCTMC Inc) seeking permission and support from Council to conduct the Border Ranges Rally 2014 dated 7th February, 2014.
2. Event overview for proposed Border Ranges Rally 2014.

Summary/Purpose

The purpose of this report is to inform Council of a proposed construction of a telecommunications link and the proposed methodology for granting an easement over the site.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Background Information

Late last year TransGrid representatives made a presentation to Council regarding a proposed telecommunications tower to provide telemetry control on its electricity network between Bonshaw and Parrots nest.

The location for the proposed development is within the road reserve of the Richmond Range Road at Mallanganee. (Site plan attached)

Report

TransGrid is proposing to construct a telecommunications link between Bonshaw and Parrots Nest to provide telemetry control of its electricity network.

A site has been identified within the Richmond Range Road road reserve at Mallanganee.

The site is favoured for the following reasons;

- a) There is a line of sight between Parrots Nest to the east and Girard State Forest to the west which can be maintained without the future need for lopping or trimming vegetation.
- b) No vegetation clearing is required for construction.
- c) The elevation of the site requires a 15 metre pole compared to an alternative site at Mallanganee which would require a 65-70 metre pole.
- d) Good road access
- e) Minimal cost for power connection.

The development is permitted without consent as evidenced by the following excerpt from the SEPP.

“STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) - 2007.

41 Development permitted without consent

Development for the purpose of an electricity transmission or distribution network may be carried out by or on behalf of an electricity supply authority or public authority without consent on any land.”

TransGrid is requesting Council provide an easement over the subject site for which TransGrid is offering a consideration.

The Roads Act provides the road authority, in this case Kyogle Council, with the power to, inter alia, consent to the erection of structures within a public road reserve and with certain provisos, lease out an unused public road.

It is unclear whether this provision applies to the whole of a public road or if it can be applied to an unused portion of the public road.

It is proposed that a legal opinion be sought, at TransGrid’s cost, to clarify Council’s authority in this matter and, if the advice is favourable, that any consideration for the provision of the requested easement is to be determined by independent valuation at TransGrid’s cost.

The General Manager has the delegated authority to negotiate a resolution on behalf of Council.

Budget & Financial Aspects

A minor amount of income may be derived from the lease but is not quantifiable at this stage.

Recommendation

That Council receives and notes the Simpkins Creek Radio Repeater Report.

Attachments

1. Proposed acquisition of easement Simpkins Creek Radio Repeater site
2. Site plan
3. Site elevation
4. Example of 25m concrete pole structure & antennas
5. Proposed Deed of Agreement for Easement

ITEM 13B PLANNING SERVICES REPORT

13B.1 DEVELOPMENT APPLICATIONS RECEIVED, DETERMINED AND OUTSTANDING FOR THE PERIOD 1 FEBRUARY, 2014 TO 28 FEBRUARY, 2014

Report

2011/20

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

2012/39

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

2012/43

Property: Lot 2 DP 709493 Capeen Parish, Rous County.
Address: Duck Creek Road Duck Creek
Applicant/Owner: Riordans Consulting Surveyors / SR Barrett
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting additional information from applicant

2012/69

Property: Lot 13 DP 1013228 Fairy Mount Parish, Rous County.
Address: Green Pigeon Road Green Pigeon
Applicant/Owner: PC & WL Poussart
Proposal: Ecotourism / Health Retreat
Received: Referred To DMP For Comment
Status: In abeyance pending determination of E zones

2013/6

Property: Lot 20 DP 755744 Toonumbar Parish, Rous County.
Address: Crossleys Road Afterlee
Applicant/Owner: Riordans Consulting Surveyors / BK Perry
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Referred to RFS for assessment

2013/10

Property: Lot 92 DP 755706 Etrick Parish, Rous County.
Address: Brown Knob Road, Eden Creek
Applicant/Owner: Newton Denny Chapelle / R & JJ Hibbens

Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Referred to RFS for assessment

2013/16

Property: Lot 2 DP 210310 Hanging Rock Parish, Rous County.
Address: Lilly Pilly Lane, Barkers Vale
Applicant/Owner: GM Louttit / GM Louttit
Proposal: Dwelling Additions
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/56

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

2013/68

Property: Lot 1 DP 8406 Runnymede Parish, Rous County.
Address: Runnymede Road, Kyogle
Applicant/Owner: Kyogle Council
Proposal: Waste Disposal Facility
Received: Referred To DMP For Comment
Status: Approved by Council

2013/69

Property: Lot 18 DP 1172403 Fairy Mount Parish, Rous County.
Address: Andrew Street, Kyogle
Applicant/Owner: LJ Roy
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2013/70

Property: Lot 164 DP 755734 Runnymede Parish, Rous County.
Address: Summerland Way, Kyogle
Applicant/Owner: Newton Denny Chapelle / Lake Noorinbee Pty Ltd
Proposal: Multi Dwelling Housing
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2013/72

Property: Lot 68 DP 781944 Fairy Mount Parish, Rous County.
Address: Summerland Way, Kyogle
Applicant/Owner: Newton Denny Chapelle / A & MP Smith
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting additional information from applicant

2014/1

Property: Lot 40 DP 872533 Boorabee Parish, Rous County.
Address: Boorabee Creek Road, Boorabee Park

Applicant/Owner: SH & SS Fletcher
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2014/2

Property: Lot 11 DP 858528 Boorabee Parish, Rous County.
Address: Boorabee Creek Road, Boorabee Park
Applicant/Owner: M Monteith / Cast-A-Stone Pty Ltd
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/3

Property: Lot 1 DP 14550 Fairy Mount Parish, Rous County.
Address: Wyangarie Street, Kyogle
Applicant/Owner: GK Duley
Proposal: Shed
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/4

Property: Lot 19 DP 1172403 Fairy Mount Parish, Rous County.
Address: Howard Court, Kyogle
Applicant/Owner: SE Clarke
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/5

Property: Lot 10 DP 1162964 Boorabee Parish, Rous County.
Address: Lindsay Road, Larnook
Applicant/Owner: Perry Homes (Aust) Pty Ltd / GA Wolstenholme & CA Perrett
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/6

Property: Lot 50 DP 1144934 Fairy Mount Parish, Rous County.
Address: Howard Court, Kyogle
Applicant/Owner: WA Bolden
Proposal: Relocatable Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/7

Property: Lot 3 DP 1172403 Fairy Mount Parish, Rous County.
Address: Colin Street, Kyogle
Applicant/Owner: TS Cooper & JM Lamond
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/8

Property: Lot 7007 DP 1124508 Wiangaree Parish, Rous County.
Address: Summerland Way, New Park

Applicant/Owner: Dept of Trade & Investment
Proposal: Demolition of dwelling
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/9

Property: Lot 9 DP 843715 Runnymede Parish, Rous County.
Address: Carrabeau Court, Kyogle
Applicant/Owner: SJ Brosnan / TP & F Wales
Proposal: Dwelling additions
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2014/10

Property: Lot 15 DP 1024441 Wiangaree Parish, Rous County.
Address: Collins Creek Road Fawcetts Plain
Applicant/Owner: MB Darragh / GC & MB Darragh
Proposal: Dwelling additions
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/11

Property: Lot 256 DP 4517 Fairy Mount Parish, Rous County.
Address: Bloore Street, Kyogle
Applicant/Owner: Scream Visual / Casino Investments Pty Ltd
Proposal: Advertising sign
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2014/12

Property: Lot 1 DP 123437 Fairy Mount Parish, Rous County.
Address: Fawcetts Plain Road, Fawcetts Plain
Applicant/Owner: Newton Denny Chapelle / KJ & VL Mazzaracca
Proposal: Multiple Occupancy
Received: Referred To DMP For Comment
Status: Awaiting DMP comments

2014/13

Property: Lot 20 Sec B DP 6798 Runnymede Parish, Rous County.
Address: Hale Street, Kyogle
Applicant/Owner: TN Twaddell
Proposal: Shed
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2014/14

Property: Lot 334 DP 793186 Hanging Rock Parish, Rous County.
Address: Williams Road Barkers Vale
Applicant/Owner: R Pearson / R Pearson & S Irving
Proposal: Dwelling additions
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2014/15

Property: Lot 7 Sec C DP 10036 Robertson Parish, Buller County.

Address: Oak Street Bonalbo
Applicant/Owner: EFG Romano / E Romano & K Wilkinson
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

CDC 2014/1

Property: Lot 13 Sec 4 DP 7628 Geneva Parish, Rous County.
Address: Pratt Street, Geneva
Applicant/Owner: JD Breen / JD Breen & FJ Keneally
Proposal: Dwelling additions
Received: Referred To DMP For Comment
Status: Approved

Recommendation

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

The information contained in the report Development Applications Received, Determined and Outstanding for the period 1 February, 2014 to 28 February, 2014 be received and noted.

2. That the information contained in the report Development Applications Received, Determined and Outstanding for the period 1 February, 2014 to 28 February, 2014 only in relation to DA.../... and DA.../.... In which Councillors have declared an interest be received and noted.

13B.2 DEVELOPMENT APPLICATIONS STATUS REPORTING IN BUSINESS PAPER

Summary/Purpose

This report is to seek Council consideration and endorsement for a more efficient way of presenting the monthly Development Applications Received, Outstanding and Determined for the respective period.

Previous Council Consideration

No previous resolution

Community Strategic Plan Item(s)

- Governance and Community Service
- Environmental and Planning

Report/Assessment

Normally the first report from the Planning and Environment section within the monthly Council business paper is the report providing Council with an update on the status of Development Applications.

It is not a required report that must be presented to Council. It is more an information report and many Councils have deleted such information reports from their business paper due to the dangers of inadvertently breaching the "Conflicts of Interest" provisions if the information presented does not enable them to declare; detailed discussion arising regarding an application which may be under detailed assessment; a perception that Council has supported all applications contained in the report even though it is for information only.

The current report is a manually prepared report from Council's electronic register. It is copied and pasted from one month to the next and then added to, deleted, amended as appropriate. The preparation of this particular report takes approximately 1-1.5 hrs to prepare and format.

In an attempt to be more efficient, Council is asked to consider several options in this matter:

Option 1. Keep the report noting the time taken to prepare and present the report for information.

Option 2. Delete the report from the business paper all together as it is an operational matter and for information only and generally no resolutions other than to note and receive are generated.

Option 3. Alter the report to simply indicate the number of outstanding applications, the number of applications determined and the number of applications received during the reporting period.

Option 4. Alter the format and presentation to include the electronically produced reports directly from Council's electronic register as per the attached format (middle and bottom parts). This can be produced in less than 10 minutes.

.

The attached table is in three parts Top – Outstanding DA' in the raw unformatted data, the Middle – Determined Applications (formatted) and the Bottom - Received Applications (formatted).

If Council selects Option 4 (as per the attached sheet) it is proposed that all three components would be presented in the formatted versions which provide Councillors sufficient information to determine if they may have an interest in a particular application.

Budget and Financial Aspects

The current report requires 1-1.5 hrs. Each of the other three options have significantly reduced preparation times which would provide for efficiency gains as compared to monetary benefits.

Recommendation

1. That Council receive and note the report proposing alternative options for the status of development applications.
2. That Council alter the format for the status of development applications report as outlined in Option 4 of this report.

Attachments

Draft new format for the Development Applications Received, Outstanding and Determined report.

Summary/Purpose

This report provides an overview of Council's current Developer Contribution Plans under Section 94 of the Environmental Planning and Assessment Act 1979 (EP&A Act), which are imposed for certain developments within the Shire.

The current options for imposing Developer Contributions pursuant to the Act are outlined in the report and several options are provided for the most appropriate means of applying developer contributions within the Kyogle LGA based on the development potential.

The process for subsequent review of existing Plans as well as an option for the development of a Section 94A Contributions Plan instead of individual Plans are also included in the report.

This report does not include Contributions required for Water Supply, Sewerage or Stormwater as these contributions are covered under Council's adopted Development Servicing Plan pursuant to Section 64 of the Local Government Act 1993.

The current Development Servicing Plan was adopted by Council on 28 March 2011.

Previous Council Consideration

Council currently has two outstanding resolutions in regard to a review of its Section 94 Developer Contribution Plans. Specifically in regard to its existing Heavy Haulage Contributions Plan (October 2012 resolution), and all other Plans (May 2013 resolution).

Community Strategic Plan Item(s)

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

Background Information

Section 94 of the EP&A Act has traditionally been the principal method enabling councils to levy contributions for public amenities and services required as a consequence of development.

This may be the provision of new facilities for a new area, or may be the expansion of existing facilities where a developed area is growing.

Section 94 contributions are imposed by way of a condition of development consent or complying development, and can be satisfied by:

- dedication of land*
- a monetary contribution*
- material public benefit*
- a combination of some or all of the above.*

Since 1993 councils have been able to levy s94 contributions only if they have prepared and exhibited a development contributions plan which has allowed the system to be made more transparent. Reforms to s94 maintain the power to levy a contribution as a consequence of development provided a development contributions plan is in place.

However, reforms have widened the scope of the contributions system to include new provisions under s93 and s94A of the EP&A Act, which provide greater flexibility as to the means of levying a contribution.

The amendments provide for the following methods of funding local infrastructure by a consent authority:

- s94 development contributions*
- s94A levy*
- planning agreements.*

The various methods of funding local infrastructure are collectively known as the development contributions system.¹

Potential application of development contribution methods¹

METHOD	APPLICATION/ISSUES
<i>Section 94 development contributions</i>	<p>Application:</p> <ul style="list-style-type: none"> <i>• Optimum where growth is faster and higher levels of contributions are able to offset the considerable administration costs, financial risks and inefficiencies of managing money amongst and within the funds</i> <i>• Areas with multiple owners who are unable to co-ordinate in offering dedications or works in-kind</i> <p>Key issue:</p> <ul style="list-style-type: none"> <i>• Substantial work required to satisfy statutory requirements against potential benefits</i>
<i>Section 94A levy</i>	<p>Application:</p> <ul style="list-style-type: none"> <i>• Little growth and slow accrual of funds in established urban areas or rural areas, or where provision of facilities benefits a dispersed set of contributors</i> <i>• Areas with multiple ownership with little scope for land dedications or works-in-kind</i> <i>• Costs of needed infrastructure are relatively low and spread over time</i> <p>Key issue:</p> <ul style="list-style-type: none"> <i>• Lower level of contributions but greater flexibility in expenditure agreements</i>
<i>Planning Agreements</i>	<p>Application:</p> <ul style="list-style-type: none"> <i>• One or few owners that have an incentive to fund infrastructure</i> <i>• More successful where major growth or development occurs in a distinct</i>

	<p style="text-align: center;"><i>area</i></p> <ul style="list-style-type: none"> • <i>Can offer different and better outcomes through efficiencies in the process or through innovation by the parties</i> <p>Key issue:</p> <ul style="list-style-type: none"> • <i>Are the outcomes worth the substantial effort required to implement a satisfactory agreement</i>
--	---

¹ *Development contributions Practice Notes – July 2005 – Department of Infrastructure, Planning and Resources]*

In 2010, the State Government intervened and imposed requirements and limits on the amount of contributions imposed for new residential allotments on a “Greenfield site” being a maximum of \$30,000 and \$20,000 in all other areas.

The Independent Pricing and Regulatory Tribunal (IPART) were included in the new requirements to review contribution plans to provide greater transparency and accountability to the contributions system.

Report

Council’s current suite of S94 Contribution Plans are outlined in Table 1 below with their original commencement date and most recent review date:

Table 1

Plan Name	Application/Area	Commencement date	Last Review Date
Section 94 Contributions Plan 1992	All land within LGA	**Resolution 92/G1083 will have to check date	28/03/11
Section 94 Contributions Plan Urban & Rural Roads	All Urban (town or village zone) and Rural Land (non-urban) within the shire. Amdt 2009 exclude all 1(c) zoned land	01/03/02	23/04/09
Section 94 Contributions Plan, 2008	All land identified in map under section 2.2. (all LGA)	6/05/09	

Each of the above identified plans are now of some age and the 1992 plan does not necessarily comply with current “best practice”, whilst the body of the other two Plans are acceptable.

Notwithstanding, the review of the population or growth figures in conjunction with the “Works Schedule” are the critical components for each plan as it provides the justification or “NEXUS” for additional demand and need for improved public services. The works schedule is used to determine the level of contributions applied against a development on a per additional allotment of land, or per additional unit, or per m³ or tonne for extractive materials. As such, the Works Schedule must be regularly reviewed which generally has been the case, however not in comparison with revised population figures.

The Works Schedule is used as the basis for the identification and allocation for the expenditure of levied Contributions.

This identification should be part of the annual delivery plan to provide for transparency and accountability for the expenditure of funds. Council's current practice needs to be refined to clearly identify where and when the collected funds are to be expended as it sets its operational and delivery plan.

The population figures [estimated] used in the relevant S94 Plans are derived from several sources – Census, Department of Planning and Infrastructure estimates and Council's own estimates. The 2008 Plan provided detailed estimates and how they were derived, whilst the 1992 Plan does not. The Urban and Rural Roads Plan utilises traffic usage generated by new development which may or may not impact upon or be impacted by population growth.

With the static/declining population for the Kyogle LGA, relying upon Population growth or statistics does provide some difficulty in establishing a "Nexus" between the application of contributions tied to demand by the increased number of residents.

The following Table 2 outlines the population projections used in the 2008 Plan, actuals from census data and the current projections.

Table 2

	2008 S94 Plan	Actuals/estimates*	DoPI Revised Estimates#	Kyogle Council 2013 Estimates^
2001 Census		9159		
2006 Census		9256		
2008	9620			
2011 Census		9228	9700	
2013 KC				9389
2016			9600	
2018	11675			
2031	15056		9500	
2036			9100	

**Actual Census Data*

Department of Planning and Infrastructure revised estimates 2010

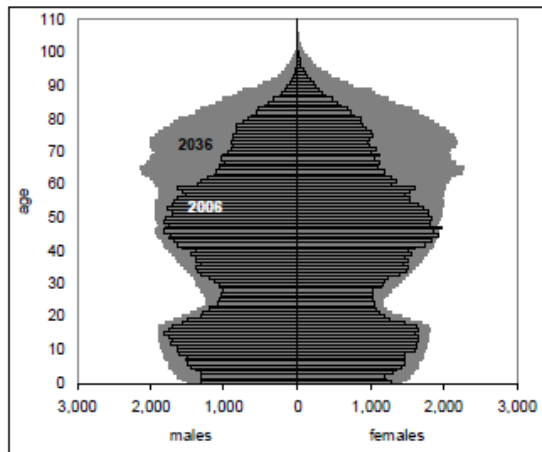
^Kyogle Council 30/06/2013 estimates based on Construction Certificates for new dwellings/units from 10/8/11 to 30/6/13

In addition to, and to complement population figures, new lots and/or new dwellings are also used to demonstrate need and demand.

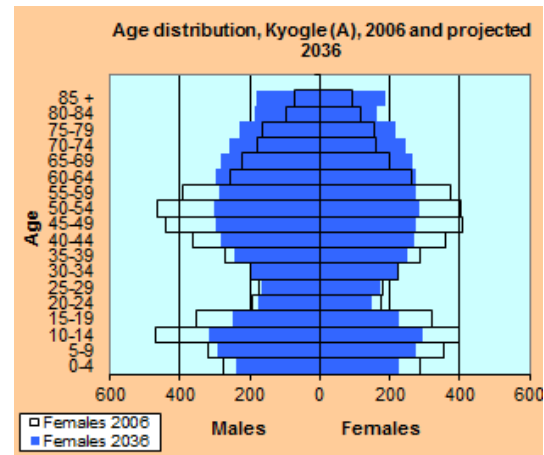
For example, the Urban and Rural Roads S94 Plan applies the principal that a new lot and/or a new dwelling unit will generate additional traffic movements thereby placing a demand on improved road networks to cater for increased usage.

The calculations applied for traffic movements per dwelling type/size or land use remain current. However, for the Urban and Rural Roads Plan it will be necessary to review the Works Schedule to ensure the projected timing for improved road works, the identified roads and improvements and the standard required are current based on actual new lots/dwellings created/approved and the land zones under the new Kyogle LEP 2013.

It will also be necessary to consider and review the population trend for the Kyogle LGA as it is anticipated that the 65+ age group will increase by 74% by 2031 whilst the population itself is expected to remain static at around 9500. The two extracts below depict the age distribution trending higher in the 65+ age groups. The left hand graph depicts the Richmond-Tweed census area for the period 2006-2036, and the right hand graph identifies the Kyogle LGA for the same period 2006 – 2036.



Richmond-Tweed



Kyogle LGA

The impacts of these population projections will relate more to the existing urban and closer settlement areas as the people in these age brackets are likely to remain closer to amenities and services. Wider footpaths, more public seating and use of recreational facilities are all likely to receive increased demands as will allied services which provide support.

Documents such as the Pedestrian Access and Mobility Management Plans (PAMP) for each of the urban and village areas will continue to provide guidance for Council's works schedule.

It may be necessary to undertake an audit and review of the Community Facilities within each of the towns and villages to identify any additional needs to cater sufficiently for increased aged population.

Whilst the body of the Section 94 Contribution Plans are easily amended and can remain generic for most forms of contributions, a review will need to be undertaken of the respective "Works Schedules" and possibly recalculate the level of contribution required through the plan.

The current **2001 Urban and Rural Roads Plan** will require review due to the extent of the works schedule and the identified improvements and embellishment for a population projection well ahead of what the actual growth has realised and also the new land zonings under the Kyogle LEP 2013. Utilising the new projections and the LEP zones, it may identify some change to the works schedule resulting in an amended contribution rate.

Within the 2008 Contributions Plan the contributions for **Heavy Haulage Development** are calculated against a specific formula. The value base for the contribution is \$0.048 which is *"the maintenance contribution calculated by Council based on its maintenance cost per standard axle"*.

The Contributions Plan however does not provide any detail on how this base figure was derived other than the before mentioned statement.

Contribution = \$0.048 x L x Q x D, where

<i>L</i>	<i>Is the truck load or truck and trailer load in tonnes per unit.</i>
<i>Q</i>	<i>Is the number of loaded movements from the development annually, assessed as part of the development application report.</i>
<i>D</i>	<i>Is the average distance of the development from the servicing market or destination. Depending on the type of development, the destination distance may be taken as the distance from the site to the local government boundary, or to the nearest Main Road or State Highway in klm.</i>
<i>\$0.048</i>	<i>Is the maintenance contribution calculated by Council based on its maintenance cost per standard axle. Council may vary this figure in accordance with the provisions of this plan, pursuant to Section 2.13</i>

Section 2.13 provides: *To ensure that the value of the contributions are not eroded, Council will adjust the contribution rates in accordance with the Consumer Price Index – Brisbane (CPI – Brisbane), as published by the Australian Bureau of Statistics – in accordance with the following formula:*

$$RC = \frac{C \times \text{Current Index}}{\text{Previous Index}}$$

Where

RC = Revised contribution rate applicable at the time of payment

C = Previous contribution rate

As Council has experienced with *Rate Pegging*, adjusting an amount by a calculated figure does not always align with the actual costs associated with a service.

It is therefore considered timely that Council undertakes a review of its “*per axle maintenance contribution rate*”, to ensure it is accurate.

It is considered that this review be deferred until the outcome of the auditing of existing extractive industries is completed to determine if in fact an alternative plan is contemplated or reviewing the current contribution rate is all that is required.

With an amount of \$5,578.00 being received during the 2012/13 budget year from the Heavy Haulage levy, the outcome of the audit may identify that a number of quarry operators are not paying the levy or a large number of quarries have ceased production and may very well have lost their consent to operate.

Alternatives to Section 94 Developer Contribution Plans

Council has several other options available to it which were identified in the Background Section of this report.

Section 94A Levy.

Section 94A of the Environmental Planning and Assessment Act allows a Council to impose a levy on specified development. It is a percentage based levy against the value of the work.

This form of contribution is best used in areas where there is slow or no growth and may only be charged when the genuine cost of carrying out the development exceeds \$100,000.

The Regulations set the percentage which is in two parts:

*\$100,000 - \$200,000 – 0.5% of that cost;
Greater than \$200,000 – 1% of that cost.*

There are exceptions which further restrict the Levy being imposed, such as where a Section 94 Contribution has already been imposed through say a subdivision.

For example, under a S94A Plan a person building a new home on a subdivision where S94 contributions have already been paid would not incur the levy for the dwelling which is the case with the current Section 94 Plan. However, if they wished to construct a secondary dwelling or dual occupancy the levy would be imposed for the secondary dwelling/dual occupancy if the "*Genuine Estimated Cost of Development*" exceeded \$100,000.

Alternatively, if a subdivision is proposed and only a S94A plan is in place and if the genuine cost of the subdivision (taking into account, civil works, extension of services etc) is less than \$100,000 irrespective of the number of lots created, no levy would be imposed on the developer for the subdivision, but the subsequent purchaser would be liable for a levy if the genuine cost of development exceeded \$100,000. This is a significant change to the current methodology of the developer bearing the cost and passing these on through the sale price.

To ensure that the estimated cost is not undervalued, a guideline was issued by the Department of Planning and Infrastructure in 2013 to provide guidance and consistency across the state. Effectively, for developments up to \$100,000 a building contract, or "suitably qualified person" such as a licensed builder or other recognised professional in the building and design industry, could provide the "*Genuine Estimated Cost of Development*". Council staff would question any estimate if it considered it was currently undervalued, similar to what staff currently do for the determination of fees for development applications.

For developments above \$100,000 the guideline recommends that the methodology used to determine the "*Genuine Estimated Cost of Development*" is undertaken by a registered architect, licensed builder, accredited building designer or registered quantity surveyor and submitted with the DA.

Items to be included in the "*Genuine Estimated Cost of Development*" are construction costs, plant, fittings, fixtures and equipment. For subdivision of land, the estimate of costs would include the civil construction works to create the subdivision.

Section 25J of the Environmental Planning and Assessment Regulations provides for the full list of exclusions and exemptions.

A Section 94A Plan should be further considered to complement and in addition to maintaining its current, but revised suite of Contribution Plans due to its low/minimal population growth. The Section 94A Plan would be the catch-net for all development/redevelopment with a development cost greater than \$100,000 which falls outside the current S94 Plans.

Table 3 outlines what development proposals during 2013 would have been levied under a S94A Plan. The greatest consideration or concern that may be raised is that it could be seen as an additional tax or redistribution of a tax on development, especially for redevelopment or expansion in an established urban centre CBD area.

However, one of the advantages of S94A is that it allows the funds to be pooled and expended as considered appropriate by Council towards such matters as improved off street parking, embellishment and improvements to public facilities and main street beautification projects.

S94A Plans are also much easier to administer thus reducing the administration and accounting overhead that go with S94 Plans.

Table 3

2013 DA No	Proposal	Location	Value	S94 Levied	Possible S94A Levy
11	Dwelling Houses	Andrew Street KYOGLE NSW 2474	179000		No
67	Dwelling Houses	Howard Court KYOGLE NSW 2474	289000		No
61	Dwelling Houses	Chisholm Court FAWCETTS PLAIN NSW 2	240000		No
60	Dwelling Houses	Howard Court KYOGLE NSW 2474	258000		No
55	Dwelling Houses	Fisher Street KYOGLE NSW 2474	155000		Yes \$775
53	Dwelling Houses	Butlers Road DEEP CREEK NSW 2469	250000		*Possibly \$2,500
48	Dwelling Houses	Fawcetts Plain Road FAWCETTS PLAIN	140000		No
43	Dwelling Houses	Howard Court KYOGLE NSW 2474	247000		No
42	Dwelling Houses	Boorabee Creek Road BOORABEE PARK N	150000		No
40	Medical Centres	Summerland Way KYOGLE NSW 2474	560000		Yes \$5,600
39	Dwelling Houses	Sextonville Road DOUBTFUL CREEK NSW 24	198466		*Possibly \$992
33	Subdivision	Campbell Road KYOGLE NSW 2474	0	13555.85	No
30	Dwelling Houses	Howard Court KYOGLE NSW 2474	277000		No
29	Dwelling Houses	Williams Road WADEVILLE NSW 2474	150000		No

28	Dwelling Houses	Horseshoe Creek Road UPPER HORSESHOE	200000		<i>*Possibly</i> \$1,000
27	Subdivision	Larsson Road TUNGLEBUNG NSW 2469	0	17203.27	No
17	New dwelling	Bolziccos Road CAWONGLA NSW 2474	130000		No
9	Subdivision	Summerland Way GREVILLIA NSW 2474	0	1218.45	No
7	Dwelling Houses	Daleys Lane GENEVA NSW 2474	150000		Yes \$750
5	Subdivision	Afterlee Road AFTERLEE NSW 2474	0	10877.81	No
3	Dwelling Houses	Afterlee Road HORSE STATION CREEK NS	182284		Yes \$911
1	Dwelling Houses	Colin Street KYOGLE NSW 2474	160000		No
				\$42,855.38	*\$12,528

**Possibly* - indicates that the lot on which the development is proposed is an original lot or one that was created prior to S94 contributions being imposed by Council. If so then a Levy under S94A could be applied.

Planning Agreements

Voluntary Planning Agreements (VPA's) are a legally binding agreement put forward by the applicant at the time of lodging their application.

Council or the consent authority cannot condition a development that they enter into a VPA if the applicant has not already proposed one and Council has publicly advertised the proposal and considered it in conjunction with the application.

If Council agrees to enter into the VPA, the instrument of agreement is drawn up and is registered on title of the development and becomes a legally binding and enforceable instrument.

A VPA may cover such things as new infrastructure, community facilities, and monetary contributions greater than the contributions outlined in a Section 94 Plan to enable a facility or project to be brought forward. A VPA may be in addition to any other contributions required or as an alternative to the imposition of contributions.

Before entertaining a VPA Council must be satisfied that it would provide an equivalent or greater material benefit than what would normally be achieved through a Contributions Plan or condition of consent.

Council does not have to set anything in place in regard to Voluntary Planning Agreements as the legislation facilitates VPA's and the guidelines provide the basic format of a VPA.

All legal costs incurred through a VPA are borne by the applicant. Any developer may put forward a VPA for any development which Council then considers. Council maintains the overall control to refuse or to accept the VPA.

In-Kind works or provision of a Material Public Benefit

The 2008 Contributions Plan provides opportunity for Council to accept works in-kind or the provision of another public benefit in lieu of satisfying the requirements of the plan and payment of contributions.

Before accepting any such proposal Council would take into consideration whether the proposed works in kind or provision of another service or facility has a material public benefit and then, to what extent.

Section 94 Income

Table 4 provides a breakdown of the contributions received for the 2012/2013 budget year and the restricted funds held by Council against the relevant contributions as at 30 June 2013.

Table 5 identifies the Contributions levied against development applications for the 2013 calendar year but not yet received. Council will note that there is no reference to the Heavy Haulage Levy in Table 5 as this levy is on an output basis and not able to be determined.

Table 4

Contribution Type	Levy received 2012/13	Reserve Balance 30/06/13
Public Recreation and Community Facilities	\$ 3,372.00	\$ 59,133.00
Road Levy	\$87,110.00	\$146,298.00
Heavy Haulage Levy	\$ 5,578.00	\$141,426.00
TOTALS	\$96,060.00	\$346,857.00

Table 5

Contribution Type	S94 Contribution Levied during 2013 Calendar Year but not yet paid
Public Recreation and Community Facilities	\$ 3,069.00
Plan Preparation	\$ 333.00
Road Levy	\$16,346.00
TOTALS	\$19,748.00

Budget and Financial Aspects

Section 94 Contributions are a legitimate means to generate non-standard revenue for specific purposes. Any costs incurred in preparing and administering Contribution Plans may be recouped through the contributions. All interest earned goes back into the restricted funds.

Recommendation

1. That Council receive and note the report on the review of Section 94 Developer Contribution Plans
2. That staff undertake a review of the current Section 94 Plan Work Schedules, and the “*per axle maintenance contribution rate*” for the heavy haulage levy.
3. That upon completion of the audit of all approved Extractive Industries and the review of the works schedule and heavy haulage levy rate, a workshop be arranged for Councillors and staff to consider the Future of Section 94 & 94A Plans and any course of action regarding the Extractive Industry operations within the shire.

Division:

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

Attachments

Copies of the current Section 94 Plans have been circulated to Councillors only for their information

13B.4 PLANNING PROPOSAL TO REZONE LAND AT 19-25 ANDREW STREET, KYOGLE

Summary/Purpose

This report presents the results of community and agency consultation on a proposal to amend the Kyogle Local Environmental Plan (LEP) 2012 to change the zoning of land at 19-25 Andrew Street, Kyogle from Zone R1 General Residential to Zone IN2 Light Industrial. The report seeks a resolution to make arrangements for the making of the proposed plan amendment.

Previous Council Consideration

At its ordinary meeting of 11 November 2013 Council resolved:

1. *That Council support the proposal to amend the Kyogle LEP 2012 to change the zoning of Lot 101 DP 1078192 to Zone IN2 Light Industry.*
2. *That Council submit the planning proposal to the Department of Planning and Infrastructure for review and gateway determination.*
3. *That Council request the Minister for Planning and Infrastructure to grant Council authority to exercise delegation of plan making powers.*
4. *That upon an affirmative gateway determination being received from the*
5. *Department of Planning & Infrastructure, Council staff carry out the procedural*
6. *steps associated with the progress of the planning proposal, including community consultation.*
7. *That a further report be presented to Council on this matter following the conclusion of community consultation and review of submissions.*

Actions relating to points 2, 3 and 4 have been completed; this report is in response to point 5.

Community Strategic Plan Item(s)

- Environmental and Planning
- Economic Development

Background Information

The site (Lot 101 DP 1078192) is located at 19-25 Andrew Street and accommodates a light industrial activity being a seed drying enterprise. Figure 1 below shows the site and its context. The owner of the property seeks to expand the light industrial use of the site. The current zone R1 General Residential prohibits light industrial uses. Therefore, the property owner seeks to change the zoning to IN2 Light Industrial so that light industrial uses are permitted with consent on the site.

Subject to the LEP being amended to change the zoning, the land owner has indicated they will lodge an application to extend the light industrial use of the site.



Figure 1 Subject site and context

Report

Gateway Determination

NSW Planning and Infrastructure (P&I) provided a gateway determination on 22 November 2013: P&I were happy for the proposal to proceed subject to consultation with the community and RailCorp. 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.

Community consultation

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

1. Notification of adjoining and surrounding landowners and business owners by mail.
2. Placing a notice in the Richmond River Express Examiner.
3. Placing a notice on Council's website.
4. Consultation with Australian Rail Track Corporation (ARTC) and RailCorp.

The period of notification ran from 4 December 2013 to 17 January 2014. Three submissions were received:

- Two submissions were received from owners of nearby properties (not located in Andrew Street); both submissions supported the proposed amendment.
- One submission was received from ARTC who stated they had no objections to the proposed amendment.

Conclusion

As no objections were received it is recommended the proposed amendment to Kyogle LEP 2012 to change the zoning of Lot 101 DP 1078192) at 19-25 Andrew Street from R1 General Residential to IN2 Light Industrial be endorsed and finalised.

Budget and Financial Aspects

As this rezoning was an applicant generated proposal the applicant paid the adopted fee for a private rezoning which covers the cost of administrative, professional, consultation and ancillary matters undertaken by Council resulting in no financial implications for Council.

Recommendation

1. That Council reiterate its support for the planning proposal to amend the Kyogle LEP 2012 to change the zoning of Lot 101 DP 1078192 at 19-25 Andrew Street from R1 General Residential to IN2 Light Industrial.
2. That pursuant to section 59(1) of the *Environmental Planning and Assessment Act 1979*, Council request Parliamentary Counsel's Office to prepare a draft legal instrument.
3. That upon receiving from Parliamentary Counsel's Office a draft LEP amendment and an Opinion from that the plan can be made, Council request NSW Planning and Infrastructure to finalise making of the plan.

Division:

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

ITEM 13C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 13D CORPORATE SERVICES REPORT

13D.1 SOCIAL MEDIA POLICY

Summary/Purpose

This report presents the draft Social Media Policy to Council for adoption.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

The draft Social Media Policy sets out the standards of behaviour expected of Person's when making reference to Kyogle Council ("Council") on social media platforms, including social networking sites when the person is using a computer or hand held device not owned or controlled by Council. This Policy also deals with acceptable use of the social media platforms during ordinary work hours.

This Policy aims to assist Council to establish a clear set of guidelines for official, professional and personal use of social media. This Policy applies to all Councillors, Council employees, volunteers, consultants, contractors, and outsourced service providers engaged by Kyogle Council.

The objectives of this policy is to set the parameters for the use of social media in an official, professional, and personal capacity for Councillors, Council Directorates, Council employees, volunteers, consultants, contractors, and outsourced service providers engaged by Kyogle Council.

It is essential that users understand that comments published or broadcast via social media platforms are public statements and must be made by an authorised spokesperson in the same way that comments are made in any public forum or to the media.

Budget & Financial Aspects

Nil

Recommendation

That the Draft Social Media Policy be adopted.

Attachments

1. Draft Social Media Policy (separate attachment for Councillors)

ITEM 13E COMMUNITY SERVICES REPORT

13E.1 MINUTES OF THE KYOGLE COUNCIL CULTURAL PLANNING COMMITTEE

Summary/Purpose

This report presents the minutes of the Kyogle LGA Community Cultural Committee.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

Meetings of the Kyogle LGA Community Cultural Committee were held on 10 December 2013 and 11 February 2014. The minutes of these meetings are attached to the Business Paper.

Committee Recommendations

1. That council meet with the Land Council and the reconciliation group to discuss an appropriate course of action in relation to developing a fitting memorial for Elder Aunty Patsy Nagas.
2. Strategies 7, 8 and 13. The role of Council in providing leadership by ensuring local content in local events and activities and by paying artists for their contribution to local events and activities.
3. That Council makes the shopfront available to Arts Northern Rivers to undertake a pop up shop to showcase local and regional artists.

Recommendation

That the Minutes of the Kyogle LGA Community Cultural Committee be received and noted.

Attachments

Minutes December 10, 2013 and February 11, 2014 separate attachment.

Summary/Purpose

This report presents the minutes of the Community Funding Committee Meeting held 28 February, 2014.

Report

The minutes of the meeting appear below:

Kyogle Council

Unconfirmed Minutes of the Community Funding Committee held in the Council Chambers, Stratheden Street, Kyogle, on 28 February 2014.

PRESENT

Cr Danielle Mulholland, Cr Maggie Creedy, Cr Chris Simpson, Ms Kylie Thomas, Ms Cathleen Warburton.

IN ATTENDANCE

The Executive Manager Administration & Community, the Community Development Officer

MEETING COMMENCEMENT

The meeting opened at 4.00 p.m.

ITEM 1 APOLOGIES

Mr Chris Duley

ITEM 2 OPENING PRAYER

The Mayor read the opening prayer.

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

The Mayor acknowledged that the meeting was being held on the Traditional Lands of the Bundjalung people.

ITEM 4 DECLARATION OF INTERESTS

Nil

ITEM 5 REPORTS**FUTURES FUNDING APPLICATIONS**

The Committee Recommended:

1. *That the application from Village Hall Players be declined as there are insufficient funds in the LGA funding allocation.*
2. *That the application from Bonalbo and District Community Hall be declined as the allocation for that area has been exhausted.*
3. *That Council fund the following applications:*
 - a. *Gugin Guddaba \$2,000; due to the partial funding of the application, that the offer for funding is subject to evidence being provided to ensure that the project will proceed. (LGA wide funding)*
 - b. *Kyogle and District Care Connections \$1,000; due to the partial funding of the application, that the offer for funding is subject to evidence being provided to ensure that the project will proceed. (LGA wide funding)*
 - c. *Wiangaree Rodeo and Sports \$4,000; due to the partial funding of the application, that the offer for funding is subject to evidence being provided to ensure that the project will proceed. This funding is also to be subject to Council receiving evidence that approvals have been obtained.(Kyogle area funding)*
 - d. *Wadeville Trust \$3,500 (Range to Range funding)*
 - e. *Mallanganee Progress Association \$620 (Mallanganee /Mummulgum/Tabulam funding)*

FINANCIAL ASSISTANCE APPLICATIONS

The Committee Recommended:

1. ***That Council fund the following organisation applications:***
 - a. *Pikapene and Cherry Tree Environment Centre \$400*
 - b. *Bonalbo and District Community Hall \$600*
 - c. *Tunglebung Hall Committee \$1,000*
 - d. *RSL Sub Branch/Kyogle Red Cross \$1,000*
 - e. *Tabulam Racing Club \$1,000*
2. *That the application from Wiangaree Rodeo and Sports Association be deferred until the next round and the applicant be requested to provide evidence of appropriate approvals and quote/s regarding the cost of the sign.*
3. *That the application from Guggin Guddaba be deferred until the next round and the applicant be requested to provide additional information. This information is to include whether partnerships with local schools have been explored to deliver this program, what instruments are to be purchased and quotes.*
4. *That the application from the Ladies Aboriginal Corporation be declined and that correspondence be sent providing feedback and information that funding is provided on a reimbursement basis.*
5. *That Council fund the following individual applications*
 - a. *David Brink \$300*

MEETING CLOSURE

There being no further business the Mayor declared the meeting closed at 5.38 p.m.

Recommendation

1. That the Minutes of the Community Funding Committee meeting 28 February, 2014 be received and noted.
2. That Council staff follow up where additional information has been requested.

Summary/Purpose

This report presents to Council applications for Community Assistance Funding under Council's Financial Assistance Policy.

Applications from local organisations and individuals were invited up until 14 February 2014 for amounts of up to \$1,000 and \$500 respectively.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

Ten (10) applications have been received for funding.

- 9 from local organisations and
- 1 application from an individual.

They were assessed by Council's Community Funding Support Committee and are summarised as follows:

Request for Assistance - Local Organisations			
Applicant	Reason for Request	Funds received within past 2 years	Funds requested
Pikapene and Cherry Tree Environment Centre	Fees for disadvantaged community members to take part in art course and fees for hiring Mallanganee Hall.	Nil	\$400.00
Bonalbo and District Community Hall Association	Assistance to cover the cost of employing a supervisor one night a week for 10 weeks to oversee/mentor Friday night activities at the hall for young people under 18 years of age.	\$2,530 (Financial Assistance)	\$600.00
Wiangaree Rodeo & Sports Association Inc	Purchase a sign to advertise upcoming events at the rodeo and sports ground.	\$3,200 (Futures Funding)	\$1,000.00
Paper Daisies Women's Community Group	Provide start up resources for newly formed paper-based craft group to continue meeting on a regular basis.	Nil	\$1,000.00
Tunglebung Hall Committee	To help cover the cost of a joint 50th anniversary celebration of the Tunglebung Hall/reunion of past and present members of the Tunglebung community.	Nil	\$1,000.00
Gugin Guddaba Local Aboriginal Land Council	Purchase musical instruments for the Find Your Music youth program instrument bank.	\$1,000 (Financial Assistance Kid Space Program)	\$860.00

Kyogle RSL Sub-branch/Kyogle Red Cross	Help cover the cost of a jointly organised community event to commemorate the centenary of the start of World War I and the establishment of the Australian Red Cross.	Nil	\$1,000.00
Tabulam Racing Club	To help cover the cost of posters, race books, and advertising for the annual Tabulam Race Day.	\$3,500 (Futures Funding, October 2013)	\$1,000.00
Ladies Aboriginal Corporation	To help cover the cost of outings for youth to go turtle diving and fishing.	Nil	\$1,000.00
Total			\$7,860.00

Request for Assistance - Individuals			
Applicant	Reason for Request	Funds received within past 2 years	Funds requested
David Brink	To assist with the costs of holding an exhibition of his art works at the Roxy Gallery.	Nil	\$300.00
Total			\$300.00

Budget & Financial Aspects

Council's Financial Assistance Policy states;

Maximum Assistance

The maximum amount that will be provided per application are as follows:

Organisations \$1,000 (Total available funds annually \$15,500 – amount expended \$7027.70)

Individuals \$ 500 (Total available funds annually \$4,500 – amount expended \$1,000)

Assessment for Organisations

State and Federal Government agencies and businesses are ineligible for funding under the Community Assistance Fund.

The use of funds for capital improvements to grounds, clubhouses, facilities, playing fields, the provision of equipment, etc will be given priority. Requests for assistance to finance ongoing running expenses for organisations will be considered.

The Community Assistance Fund can be accessed by eligible organisations and individuals who can demonstrate the greatest need and/or benefit to the wider community in the areas of:

- Welfare
- Community involvement/social interaction
- Sport and recreation
- The Arts
- Youth affairs
- Senior citizens affairs
- Cultural Assistance

Recommendation

That Council fund the following Financial Assistance Applications:

Pikapene and Cherry Tree Environment Centre	\$400.00
Bonalbo and District Community Hall Association	\$600.00
Tunglebung Hall Committee	\$1,000.00
Kyogle RSL Sub-branch/Kyogle Red Cross	\$1,000.00
Tabulam Racing Club	\$1,000.00
David Brink	\$300.00

Attachments

1. Financial Assistance Applications - separately attached for Councillors.

Summary/Purpose

This report presents the Futures Funding applications to Council for determination.

Community Strategic Plan Item(s)

- Governance and Community Service
- Village Life
- Economic Development

Background Information

The Futures Funding program provides funds for community groups and not for profit organisations to undertake community and economic development projects that benefit communities within the Kyogle LGA.

The principal objective of Futures Funding is to create partnerships between community and council in order to deliver the outcomes identified as priorities to the Council and community.

To do this the project must address at least one of the strategies or key activities identified in one of the following documents

1. Kyogle Council Community Strategic Plan under the Economic Development or Village Life categories
2. Social Plan 2009-2014
3. Cultural Strategy 2010-2012

A project is eligible for consideration by the Futures Committee if the application addresses the following:

1. The project has been identified as a priority through one of council's community planning processes identified above;
2. The applicants can demonstrate community support for the project;
3. The project plan and budget are realistic and fit within Council's allocated budget for the town, village or whole LGA;
4. The organisation can demonstrate that it can manage projects and public funds;
5. The project is auspiced by an organisation that is a legal entity (eg is Incorporated, Lands Council or Local Government);
6. The organisation has public liability cover and other relevant insurance cover;
7. The organisation can contribute financial or in-kind contributions to the project.

Report

An advertisement was placed in the Council newsletter calling for applications for the second round of 2013/2014 Futures Fund.

Seven applications from seven organisations were received and considered by the Community Funding Support Committee.

LGA wide projects - \$3,000 available

1. Kyogle District Care Connections requested funding of \$2,376.00 to publish a social calendar for Kyogle district seniors in the Northern Rivers Talking Turkey newspaper on a quarterly basis.
2. Gugin Guddaba Local Aboriginal Land Council requested funding of \$4,500 to help members of the Find Your Music Program attend and perform at events such as the Boomerang Festival.

Kyogle projects – \$8,000 available

1. Wiangaree Rodeo & Sports Committee Inc requested funding of \$19,000 to assist toward the cost of build a shed/protective covered area at the Wiangaree Rodeo & Sports Ground.
2. Village Hall Players which is a sub-committee of the Kyogle & District Arts Council requested funding of \$8,369 to assist with the cost of organising a running the Village Hall Players Playwrights Festival in Kyogle during August 2014.

Bonalbo/Old Bonalbo Projects – no funds available

1. Bonalbo & District Community Hall Assoc Inc requested funding of \$6,865.00 to assist with the cost of replacing the front doors of the hall to provide improve access to the hall and improved security.

Range to Range (Cawongla/Barkersvale) Projects – \$3,500 available

1. Wadeville Reserve Trust requested \$3,500 to assist with the cost of purchasing 16 tables and 120 chairs for the Hanging Rock Hall enabling the trust to hire out the hall for weddings/functions.

Mummulgum/Mallanganee/Tabulam Projects – \$3,500 available

1. Mallanganee and District Progress Association requested funding of \$620.00 assist with the cost of purchasing a cast bronze plaque featuring the names of 10 people buried at the Mallanganee Cemetery in unmarked graves. It's proposed to erect the plaque on a cross at the cemetery.

Woodenbong/Urbenville Projects – no funds available

No applications were received.

Budget & Financial Aspects

An allocation of \$40,000 has been included in the 2013/2014 Management Plan, one round of funding has already been processed and the following amounts remain unspent;

LGA Projects	\$3,000
Kyogle Projects	\$8,000
Bonalbo / Old Bonalbo Projects	Nil
Woodenbong / Urbenville Projects	Nil
Mummulgum / Mallanganee / Tabulam Projects	\$3,500
Range to Range (Cawongla / Barkersvale) Projects	\$3,500

Recommendation

That the following Futures Funding Applications be funded:

Kyogle District Care Connections - \$1000 (subject to conditions).

Gugin Guddaba - \$2,000 (subject to conditions)

Wiangaree Rodeo & Sports Committee Inc - \$4,000 (subject to conditions)

Wadeville Reserve Trust - \$3,500

Mallanganee and District Progress Association \$620.

Attachments

Funding Applications – separate attachment for Councillors

ITEM 13F GENERAL MANAGER'S REPORT

FINAL REPORT OF THE INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL

Summary/Purpose

This report seeks a Council Resolution to adopt a submission to the final report to the Independent Local Government Review Panel.

Community Strategic Plan Item(s)

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

Previous Council Consideration

At its February Meeting, Council resolved:

That a Workshop be held on 3 March, 2014 at 5pm to consider Council's response.

Council extend an invitation to the Minister for Local Government and the chair of the Local Review Panel to discuss the recommendations of the report which relate particularly to the Kyogle Local Government Area;

Council's response at this time relates to generic local government needs and recommendations only;

A further response will be provided after:

(3.1) discussions with the Minister and Chair;

(3.2) a response to the motion resolved on 10 February 2014 has been received;

That Council investigate and provide information for the workshop about the cost of, and opportunity for, employing personnel to develop Council's position and strategies needed to respond to the recommendations of the report about the Kyogle LGA;

That Council request an extension of time to 12 March, 2014 to make its submission(s).

Report

At the time of writing this report, the Workshop of 3 March, 2014 has not yet occurred.

It is anticipated that following this workshop a draft submission will be prepared and will be available for presentation to Council for consideration.

Recommendation

To be provided.

ITEM 14 URGENT BUSINESS WITHOUT NOTICE

ITEM 15 QUESTIONS FOR NEXT ORDINARY MEETING

ITEM 16 CONFIDENTIAL BUSINESS PAPER

16.1 OFFER OF SALE ON WATER FUND HOUSE CONFIDENTIAL

Reason for Confidentiality

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

- (d) commercial information of a confidential nature

16.2 SALE OF LAND FOR OVERDUE RATES CONFIDENTIAL

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

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON MONDAY, 10 MARCH, 2014