



KYOGLÉ COUNCIL

EXTRAORDINARY COUNCIL MEETING AGENDA

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

ON MONDAY, 30 JUNE, 2014

Commencing at 5.00 p.m.

ACTING GENERAL MANAGER: JEFF BREEN

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Extraordinary Meeting to be held at the Kyogle Council Chambers, on Monday, 30 June 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 | Reports from General Manager |
| Item 6 | Confidential Business Paper |

JEFF BREEN
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.

(JEFF BREEN),
ACTING GENERAL MANAGER.

EXTRAORDINARY COUNCIL MEETING AGENDA

Monday 30 June 2014

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APPENDIX / ATTACHMENTS

ITEM 1 APOLOGIES

ITEM 2 OPENING PRAYER

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

ITEM 4 DECLARATION OF INTERESTS

ITEM 5 GENERAL MANAGER'S REPORT

5.1 ADOPTION OF 2014/2015 DELIVERY PROGRAM/OPERATIONAL PLAN

REPORT BY: EXECUTIVE MANAGER ADMINISTRATION AND COMMUNITY

CONTACT: JEFF BREEN

Summary/Purpose

This report presents the 2014/2018 Delivery Program and 2014/2015 Operational Plan for adoption following the period of public exhibition.

Community Strategic Plan Item(s)

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

Report

Making of Rates and Charges

Council must after consideration of any submissions, formally make all rates and charges to enable levies to be effected.

It should be noted that the general rates advertised in the Revenue Policy have been calculated so as to include a 2.3% increase under Section 508 of the Local Government Act for the 2014/2015 rating year

Adoption of Fees

Fees may be charged under Section 608 for any services Council provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 or 501 of the Act. In accordance with Section 610F of the Local Government Act 1993, the proposed fees for the various services provided or intended to be provided by Council over the period 1 July, 2014 to 30 June, 2015.

Borrowings

Outlined in the Revenue Policy of the Management Plan are details of borrowings proposed to be undertaken during the 2014/2015 year. The proposed borrowings are \$300,000 for waste services which were previously proposed for 2012/2013 but not yet taken up. There is a \$2,000,000 approved LIRS borrowing to be drawn down during 2014/2015. A \$300,000 internal loan between the water and sewer funds (to be repaid over 5 years) is proposed to operate from 2015/2016.

Section 621 of the Local Government Act 1993 authorises Council to borrow at any time for any purpose under the Act. Section 624 allows the Minister for Local Government to impose borrowing limitations or restrictions from time to time. Kyogle Council does not have any limitations or restrictions imposed by the Minister.

Submissions

Submissions in relation to Council's 2014/2015 Draft Delivery Program/Operational Plan were invited through notices in the Express Examiner, Council's Web Site the Kyogle Council Newsletter and various Media Releases. The closing date for submissions was June 23, 2014. Copies of submissions received during the exhibition period will be provided to Councillors as confidential attachments to a separate report summarising submissions received and providing corresponding comments from staff on matters raised in these submissions.

Changes to Documents Adopted for Public Exhibition

The following changes have been made to the draft documents adopted for public exhibition and the Final Drafts presented in the attachments to this report;

- An executive Summary has been added to the document based on the overview flyer distributed to Councillors and the community during the public display period.
- A table showing bank balances and movements in general fund restrictions over the ten year period of the budget estimates has been added to the end of the Executive Summary.
- The costs of grave digging have been separately shown in the cemeteries budget
- Footnotes have been added to the budget pages to show transfers in reserves to explain where funds have been moved from and to.
- There were errors in the number of services associated with both Domestic Waste Management Charges and Commercial and Other Waste Charges. These have been updated to reflect the correct number of services, and the anticipated yield. These figures have also been used to update the respective budget sections.
- The current balance of funds available under the Emergency Relief Fund has been shown at the end of the Financial Assistance/Donations section.

- The Urban Streets budget has been changed to reflect the street lighting subsidy from the Roads and Maritime Services being increased from \$20,000 per year to \$32,000 per year due to changes in subsidy calculations implemented over the past two years.
- The Community Services budget has had the employment costs increased by \$11,100 in 2014/15 with increases at 3% thereafter to reflect the current employment costs. The original draft had shown this amount as reduced by \$11,100 due to the loss of equivalent grant income; however the implications of adopting this budget on staffing levels had not been identified. This change to the budget does not affect the balances for the General Fund as the increased street lighting subsidy covers the increased employment costs in the Community Services budget.
- The Regional Roads budget was updated to correct errors in the sub totals shown against each budget area. This does not affect the budget balances as the error was only in the calculation of subtotals in the budget documents.
- The Rural Local Roads budget was changed to move projected flood damage expenditure to the operational budget area and away from the capital expenditure area. The projected income figures remain in the operational area, and this change does not affect the budget balances.
- The section on borrowings was revised to remove reference to the drawing down of the proposed Water Fund loan in the 2013/14 financial year as this did not occur.
- The following changes have been made to the draft 2014/2015 Fees and Charges as adopted for public display
 - Governance and Community – Certificates - deleted charge for Drainage/Sewerage Plan with 149 as this charge is duplicated under Town Planning and Sewerage Charges
 - Waste Services – deleted section on Waste Management Charges as these are contained in the Revenue Policy section of the Delivery Program and Operational Plan and will be adopted by separate resolution
 - Town Planning – Compliance Certificates Lodged by Private Certifiers – fee reduced from \$37 to \$36 in line with statutory charge limits.

Conclusion

Council has advertised its Draft Delivery Program/Operational Plan for 2014/2015 in accordance with the provisions of Section 404 and 405 of the Local Government Act 1993, and has considered submissions to its draft documents in accordance with Sections 404 and 405 of that Act.

Recommendation

1. That Council adopt the amended Final Draft Delivery Program 2014/2018 and Operational Plan 2014/2015 incorporating any editing changes, alterations to strategies, budget estimates or fees and charges, as necessary to take affect to resolutions made during the consideration of this report;

2. That a Farmland Rate, to be known as the “Farmland Rate” of 0.287459 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that has been categorised as Farmland in accordance with Section 515 of the Local Government Act 1993, subject to a base amount of \$184.00 which is expected to yield 13.9% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;
3. That a Residential Rate, to be known as the “Residential Rate” of 0.585896 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that has been categorised as Residential in accordance with Section 516 of the Local Government Act 1993, subject to a base amount of \$184.00 which is expected to yield 41.2% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;
4. That a Residential Rate, to be known as the “Residential – Kyogle” Rate of 0.768857 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that belongs to the sub-category of Residential - Kyogle (being all rateable land (other than business) in the Kyogle Urban Area, as defined and includes properties in the areas of Kyogle, Geneva, Highfield, Homestead and the Golf Course Estate) in accordance with Sections 516 and 529 of the Local Government Act 1993, subject to a base amount of \$217.00 which is expected to yield 23.3% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;
5. That a Residential Rate, to be known as the “Rural Residential Rate” of 0.412532 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that belongs to the sub-category of Residential Rural (being parcels of residential land that are the site of a dwelling and are between 2 and 40 hectares in area, or which do not have a significant and substantial commercial purpose or character) in accordance with Sections 516 and 529 of the Local Government Act 1993, subject to a base amount of \$184.00 which is expected to yield 20.8% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;
6. That a Business Rate, to be known as the “Business Rate” of 0.403421 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that has been categorised as Business in accordance with Section 518 of the Local Government Act 1993, subject to a base amount of \$184.00 which is expected to yield 39.7% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;

7. That a Business Rate, to be known as the “Business – Kyogle” Rate of 0.727872 cents in the dollar on the Land Value be now made for the rating year 1 July, 2014 to 30 June, 2015 in accordance with Section 494 of the Local Government Act 1993, on all rateable land in the area of the Council of Kyogle that belongs to the sub-category of Business - Kyogle (being all rateable land (other than residential) in the Kyogle Urban Area, as defined and includes properties in the areas of Kyogle, Geneva, Highfield, Homestead and the Golf Course Estate) in accordance with Sections 518 and 529 of the Local Government Act 1993, subject to a base amount of \$217.00 which is expected to yield 15.6% of revenue in this category, in accordance with Sections 499 and 537 of the Local Government Act 1993;

8. That the following Water Supply Charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Sections 501, 502 and 503 of the Local Government Act 1993;

Access Charges

• Vacant Property	\$100.00
• 20mm Connection	\$340.00
• 25mm Connection	\$531.00
• 32mm Connection	\$870.00
• 40mm Connection	\$1,360.00
• 50mm Connection	\$2,125.00
• 80mm Connection	\$5,440.00
• 100mm Connection	\$8,500.00
• Fire Service Connection	\$340.00

Consumption Charges

Consumption up to 200kL usage	\$1.30 per kL
Consumption above 200kL usage	\$1.80per kL
Home Dialysis allocation first 100 kL	no charge

9. That the following Residential Sewerage Charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Sections 501, 502 and 503 of the Local Government Act 1993;

Sewerage Annual Charge	\$643.00
Vacant Annual Sewerage Charge	\$100.00

10. That the following Non Residential Sewerage Charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Sections 501, 502 and 503 of the Local Government Act 1993; subject to a minimum amount of \$606.00 in accordance with Section 542 of the Local Government Act 1993;

(a) Non-Residential Sewerage

Access Charges

• Vacant property	\$100.00
• 20mm Connection	\$254.00
• 25mm Connection	\$396.00
• 32mm Connection	\$650.00
• 40mm Connection	\$1,016.00
• 50mm Connection	\$1,588.00
• 80mm Connection	\$4,064.00
• 100mm Connection	\$6,350.00

Consumption Charges

\$1.00 per kl

11. That the following Trade Waste Charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Sections 501, 502 and 503 of the Local Government Act 1993;

(a) Trade Waste – Dischargers requiring nil or minimal pre-treatment

Annual Trade Waste Fee	\$84.00
Re-inspection Fee	\$68.00

(b) Trade Waste – Dischargers requiring prescribed pre-treatment

Annual Trade Waste Fee	\$84.00
Re-inspection Fee	\$68.00
Consumption Charge	\$1.00/kL

(c) Trade Waste – Large dischargers (over 20kl/d)

Annual Trade Waste Fee	\$480.00
Re-inspection Fee	\$68.00
Excess mass charges	(detailed in Fees and Charges)

(d) Trade Waste – Discharges with a sewerage dump point

Annual Trade Waste Fee	\$588.00
Re-inspection Fee	\$68.00

12. That the following Domestic Waste Management charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Section 496 and Sections 501, 502 and 503 of the Local Government Act 1993;
- Waste Management Service availability charge \$50.00
(all rateable properties within the Kyogle LGA garbage collection service area)
 - Occupied Premises \$450.00
 - Additional Domestic Waste Service \$400.00
13. That the following Commercial and Other Waste charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Section 501 of the Local Government Act 1993;
- Commercial Properties \$450.00
 - Landfill Access Charge \$37.00
(all rateable properties outside the garbage collection area)
 - Additional Commercial Waste Service \$400.00
14. That the following On Site Sewerage Management charges be made for the rating year 1 July, 2014 to 30 June, 2015, in accordance with Section 501 of the Local Government Act 1993;
- OSMS Annual Charge \$38.00
15. That Council set the Rate of Interest, to apply for the rating year 1 July, 2014 to 30 June, 2015, on rates, charges, and debtor accounts which remain unpaid after they become due and payable, at 8.5% per annum, accruing on a daily basis, in accordance with Section 566 of the Local Government Act 1993;
16. That Council adopt the Schedule of Fees and Charges contained in the Final Draft 2014/2015 Fees and Charges in accordance with Sections 608, 609 and 610 of the Local Government Act 1993;
17. That Council approve the borrowing proposed and authorise the Mayor and General Manager to sign under Common Seal, any documentation relating to the proposed loans.

Attachments

1. Final Draft Delivery Program 2014/2018 and Operational Plan 2014/2015
2. Final Draft 2014/2015 Fees and Charges

5.2 NORTHERN COUNCILS E-ZONE REVIEW SUBMISSION

REPORT BY: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
CONTACT: GREG MEYERS

Summary/Purpose

This report is submitted to Council to finalise its submission to the Department of Planning and Environment following the release of the consultant's report into its review of the allocation of Environmental Zones by the Northern NSW Councils under the Standard Instrument Local Environmental Plan.

Previous Council Consideration

Determination of the E-zones has remained an outstanding matter since the Kyogle LEP 2012 was made.

Community Strategic Plan Item(s)

- Environmental and Planning

Report/Assessment

The Department of Planning and Environment (DP&E) engaged Parsons Brinckerhoff to undertake an independent review into the way environmental zones and overlays are being applied to land on the Far North Coast of NSW covering the Local Government Areas of Ballina, Byron, Kyogle, Lismore and Tweed.

The Department placed the report and a number of associated documents on public exhibition from 14 May 2014 to 5 June 2014.

Council subsequently wrote to the Minister for Planning, Pru Goward MP on 27 May 2014 seeking an extension of the public exhibition period to 4 July 2014. The advice received was that the public exhibition period will not be extended but gave Kyogle Council an extension to enable it to finalise its submission at an Extra Ordinary meeting on 30 June 2014.

In the report, the Consultants have identified a number of issues associated with the methodology and application of the proposed E2 and E3 zones (deferred matters) under the draft Kyogle Standard Instrument Local Environmental Plan (KLEP).

The report makes a number of Recommendations and are contained on page 75 of the Review.

The material that has been placed on Public Exhibition includes the formal response from the DP&E and the specific recommendations relating to Kyogle Council which are outlined below.

Northern Councils E-Zones Review

Summary of consultant's draft recommendations which apply to Kyogle

In addition to making general draft recommendations applying to all the Far North Coast

councils, the consultant has also made draft recommendations which apply specifically to

each of the council areas.

The consultant's general recommendations which apply to land in Kyogle are that:

- *environmental zones should only be applied to those areas which have important environmental values, based on validated ecological evidence.*
- *E2 and E3 zoning should only be applied where there is proven evidence of significant environmental values that meet the specific criteria listed by the consultant.*
- *land that does not meet the criteria should be zoned according to its primary use.*
- *where an environmental value is identified which may not warrant an environmental zone, it should be protected through an environmental overlay on the LEP map with an accompanying clause. The consultant considers environmental values which should be managed in this way are drinking water catchment areas, scenic protection areas, coastal risk areas and terrestrial biodiversity.*
- *extensive agriculture should be permitted with consent on E2 zoned land.*
- *extensive agriculture should be permitted without consent on E3 zoned land.*
- *aesthetic values should be removed as an attribute from the E3 zone.*
- *land that is mapped as 'State Significant Farmland' or 'Regionally Significant Farmland' on the Northern Rivers Farmland Protection Project – Final Map 2005 and does not contain significant environmental values should be given an appropriate rural zoning.*

The consultant's draft recommendations which apply specifically to land in Kyogle are as follows:

- *Land proposed to be zoned E2 or E3 under Kyogle LEP 2012 should be transferred to the equivalent zoning of the superseded IDO and the area of the relevant environmental overlay in the Kyogle LEP 2012 should be extended to include that land.*

The Regional Manager and one staff member from the North Coast Office of the Department of Planning & Environment along with two representatives from the consultants Parsons Brinckerhoff attended a briefing session for Councillors on Monday 26 May 2014.

A Councillor workshop was later held on Tuesday 10 June 2014 when Councillors worked through the documents as well as considering comments and responses by Council's Executive Manager Planning and Environment (copy attached).

From this workshop the direction which was provided is summed up in the following:

Council **supports** all ***land proposed to be zoned E2 or E3 under Kyogle LEP 2012 to be transferred to the equivalent zoning of the superseded IDO.***

Council does **not support** the use of any existing ecological or biodiversity overlays in its SILEP due to the lack of accuracy and validation with these existing maps.

Council considers that the State Government, through its relevant Departments, undertake the necessary mapping, ground-truthing and validation of all natural, environmental and physical constraints that would meet the proposed Criteria (as recommended by the consultants) throughout the state and make these available free of charge to all LGAs if the State Government requires Environmental Zones to be applied to land under the SILEP to ensure consistency across all LGAs.

Council is asked however, to reconsider the use of the environmental overlays as they exist and include original Draft clauses 7.2 & 7.3 (below) as exhibited in the 2011 Draft LEP, noting that they only take effect when and if a Development Application is required on the land. Such use will then provide guidance for staff and landowners that they may be required to address Flora and Fauna issues.

7.2 Natural Resources sensitivity - Biodiversity

Note. Section 5A of the Environmental Planning and Assessment Act 1979 makes provision relating to threatened species.

(1) The objective of this clause is to maintain terrestrial biodiversity, including:

- (a) protecting native flora and fauna;*
- (b) protecting the ecological processes necessary for their continued existence; and*
- (c) encouraging the recovery of native flora and fauna, and their habitats.*

(2) This clause applies to land identified on the Kyogle Local Environmental Plan 2012 Natural Resource – Vegetation Map.

(3) When assessing a development application, the consent authority must consider potential adverse impacts from the proposed development on:

- (a) the condition and significance of the vegetation on the land and*

- whether it should be substantially retained;*
- (b) the importance of the vegetation in that particular location to native fauna;*
- (c) any potential to fragment, disturb or diminish the biodiversity values of the land; and*
- (d) the condition and role of the vegetation as a habitat corridor, and any proposed measures to minimise or mitigate those impacts*

(4) Before granting consent to development to which this clause applies the consent authority must be satisfied that:

- (a) the development is sited, designed and managed to avoid potential adverse environmental impacts, or*
- (b) where an impact cannot be avoided, and having taken into consideration feasible alternatives, the proposed design, construction and operational management of the development will mitigate and minimise those impacts to a satisfactory extent.*

7.3 Natural Resources Sensitivity – Riparian Land and Waterways

(1) The objective of this clause is to protect and maintain:

- (a) water quality within waterways;*
- (b) stability of the bed and banks of waterways;*
- (c) aquatic and riparian habitats; and*
- (d) ecological processes within waterways and riparian areas.*

(2) This clause applies to land identified as a watercourse on the Kyogle Local Environmental Plan 2012 Natural Resource - Water Map and situated within 40 metres of the top of the bank of those watercourses.

(3) In assessing a development application, the consent authority must take into consideration the following matters:

- (a) the identification of potential adverse impacts on:*
 - (i) water quality within the watercourse,*
 - (ii) aquatic and riparian habitats and ecosystems,*
 - (iii) stability of the bed, shore and banks of the watercourse, and*
 - (iv) free passage of fish and other aquatic organisms within or along the watercourse;*
- (b) the likelihood that the development will increase water extraction from the watercourse; and*
- (c) any proposed measures to minimise or mitigate those impacts.*

(4) Before granting consent to development to which this clause applies the consent authority must be satisfied that:

- (a) the development is sited, designed and managed to avoid potential adverse environmental impacts, or*
- (b) where an impact cannot be avoided, and having taken into consideration feasible alternatives, the proposed design, construction*

and operational management of the development will mitigate and minimise those impacts to a satisfactory extent.

Note 1. The Macquarie Dictionary contains the following definition:

bank means "the slope immediately bordering the course of a river along which the water normally runs."

Note 2. Additional consents may be required under the Water Management Act 2000.

Should the overlay and clauses not be included, all Development proposals will need to demonstrate that they have considered impacts on Flora and Fauna.

Council now needs to finalise the content for its submission to enable the submission to be sent on Tuesday 1 July 2014.

Budget and Financial Aspects

There are no budget impacts with this report. However resources will be required to finalise the deferred matters (e-zones) through an amending LEP once the final directive is issued by the Department.

Recommendation

1. That Council receive and note the report on the Northern Councils E-Zone Review submission.
2. That Council reinstates the use of the environmental overlays and associated Clauses as discussed in this report in the LEP as they are a useful planning tool to "flag" land which may have ecological values in the situations where a development application is made on that land.
3. That subject to any agreed amendments made during the consideration of this matter, Council confirm the content of its submission to the Department of Planning and Environment on the Review of the Northern Councils E-Zones.

Attachments

Comments and Recommendations by the Executive Manager Planning and Environment as presented to the Councillor Workshop on Tuesday 10 June 2014.

ITEM 6 CONFIDENTIAL BUSINESS PAPER

6.1 TENDER EVALUATION – WEIGHBRIDGE – KYOGLE LANDFILL

REPORT BY: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
CONTACT: GREG MEYERS

Reason for Confidentiality

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.