



# **KYOGLÉ COUNCIL**

## **ORDINARY COUNCIL MEETING AGENDA**

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

ON MONDAY 15 FEBRUARY 2010

Commencing at 3.30 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 **15 February 2010, at 3.30 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 Deputations
- Item 8 Questions with Notice from Councillors
- Item 9 Matters Determined without Further Debate
- Item 10 Confirmation of Minutes
- Item 11 Mayoral Minute
- Item 12 Notices of Motion
- Item 13 Reports from Delegates
- Item 14 Information Reports
- Item 15 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 16 Urgent Business Without Notice
- Item 17 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

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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.**

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

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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 end 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.

If granted Public Access by the General Manager, the individual resident will be allowed five (5) minutes to address Council with an extension for Councillors to direct questions to the speaker. No more than two speakers for a subject will be permitted. Five (5) minutes is allocated for Council's response.

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.

### **5.9 Deputations to Council (Council Policy)**

Applications in writing, stating the subject matter to be discussed for Deputations to address Council on a particular subject may be made to the General Manager at least seven (7) days prior to the meeting.

Details of Scheduled deputations are to be included in the Business Paper; Deputations are allowed twenty (20) minutes to address Council and twenty (20) minutes for questions and answers. (Resolution 29/11/93-[007]).

# ORDINARY COUNCIL MEETING AGENDA

Monday 15 February 2010

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**ITEM 1 APOLOGIES**

**ITEM 2 OPENING PRAYER**

**ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**

**ITEM 4 DECLARATION OF INTERESTS**

Nil.

**ITEM 5 QUESTION TIME**

Nil.

**ITEM 6 PUBLIC ACCESS**

A request for public access has been received from;

- Mr Tom Fitzgerald representing the Kyogle & District Historical Society Steering Committee to discuss the proposed Feasibility Plan, Kyogle Gallery and Museum (15E.1).
- Mr Max Cowgill representing the Kyogle & District Arts Council to discuss the proposed Feasibility Plan, Kyogle Gallery and Museum (15E.1).

**ITEM 7 DEPUTATIONS**

Nil.



## ITEM 8 QUESTIONS WITH NOTICE FROM COUNCILLORS

### 8.1 QUESTIONS WITH NOTICE; CLR JOHN O'REILLY

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#### Summary/Purpose

This report presents questions with notice submitted by Councillor O'Reilly on 1 February, 2010 along with staff responses

#### Report

Following are the questions with notice submitted by Councillor O'Reilly and the associated staff responses.

#### Question

The timber trip by Councillors and Staff. Could you please give the Council a report on the trip.

#### Response

The report on the trip has been prepared, however recommendations arising from the trip are yet to be finalised. Councillors will be provided with a copy of the report in its current format. When the recommendations are completed, the final report will be presented to the public (expected to occur at the March Ordinary Meeting).

#### Question

How much did this trip cost the Rate Payers?

#### Response

The trip cost \$3,569. This is made up as follows:

Air Fares	1,405
Care Hire/Fuel	343
Accommodation	783
Meals/Gifts to host Councils/business	1,013
Parking/Phone	<u>25</u>
	<u>3,569</u>

A total of \$12,500 was allocated from futures funding for this trip.

#### Question

What did the Council get from this trip and what benefits will the rate payers get out of this?

#### Response

Council was able to learn from the experience of other Councils and businesses in a region that has a long established history of timber plantations and associated industry.

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Hopefully Council will be able to use this knowledge to identify ways to attempt to attract associated value adding opportunities.

Question

The Budget. Can you tell Council how much Government Funding was paid into the Budget before the end of June? Was this amount for this year's work?

Response

RLCIP Grants - \$401,000 was received under the Federal Government Regional and Local Community Infrastructure Program. At June 30, 2009 \$58,124 of this had been expended, leaving \$342,876 to be spent during the 2009-2010 financial year.

Unexpended grants as at 30 June 2010, are summarised below:

Blackspot Funding	25,312
Flood damage	366,452
Roads to Recovery	204,152
Kyogle showground street lights	5,230
Ettrick Street Cycleway	14,000
RLCIP Grants	342,876

Question

The Car Pool/Staff. Can you tell Council if all staff are up to date with their share of payments?

Response

All staff make the appropriate contribution through a payroll deduction that is taken from their fortnightly pay, as such all contributions are up to date.

**Recommendation**

That the report on Questions with Notice - Councillor John O'Reilly be received and noted.

## **ITEM 9 MATTERS DETERMINED WITHOUT FURTHER DEBATE**

### **9.1 MATTERS DETERMINED WITHOUT DEBATE**

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#### **Summary/Purpose**

This report seeks Council determination of those items that do not require further debate.

#### **Report**

This item allows Council to determine those matters that will be adopted “en globo” and assist in Council meetings operating smoothly and avoid undue delays where Councillors agree with the staff recommendations.

Upon the moving of this motion, the Mayor will then invite Councillors to call the item numbers of any report(s) which they wish to be excluded from the general resolution and considered separately.

#### **Recommendation**

1. That Council identify those matters to be dealt with by the exception method.
2. That the remaining matters be adopted.

## **ITEM 10 CONFIRMATION OF MINUTES**

### **10.1 CONFIRMATION OF ORDINARY MINUTES**

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#### **Summary/Purpose**

A copy of the Minutes for the Ordinary Meeting held on 21 December 2009 is included in the attachments to the business paper.

#### **Recommendation**

That the Minutes of the Ordinary Meeting held 21 December 2009 be adopted.

#### **Attachments**

1. Minutes of the Ordinary meeting held 21 December 2009.

### **10.2 CONFIRMATION OF EXTRAORDINARY MINUTES**

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#### **Summary/Purpose**

A copy of the Minutes for the Extraordinary Meeting held on 18 January 2010 is included in the attachments to the business paper.

#### **Recommendation**

That the Minutes of the Extraordinary Meeting held 18 January 2010 be adopted.

#### **Attachments**

1. Minutes of the Extraordinary meeting held 18 January 2010.

## **ITEM 11            MAYORAL MINUTE**

### **11.1 MAYORAL REPORT - FLASHING LIGHTS IN SCHOOL ZONES**

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#### **Summary/Purpose**

To investigate the implementation of “flashing lights” in School Zones during reduced speed periods to increase the safety of children and motorists.

#### **Report**

After recently travelling through Bexhill during School hours, I have been quite impressed with the visibility and effectiveness of the solar powered flashing lights.

I believe the lights would produce almost 100% compliance with the speed limit due to the high visibility. Bexhill already has a 50km speed limit but the lights produce quite a dramatic change in driver behaviour.

I believe there are a number of schools on high speed and high traffic/pedestrian areas within the Kyogle LGA that would benefit from the installation of this equipment. For example:- Mummulgum, Rukenvale, Grevillea and the Kyogle School zone. Obviously they would be of distinct advantage in periods of dense fog also.

#### **Recommendation**

That Council staff investigate and report back to Council on the requirements, costs and funding availability for the installation of 40km flashing signs in school zones within the Kyogle LGA

**ITEM 12        NOTICES OF MOTION**

**12.1 NOTICE OF MOTION; CLR LINDSAY PASSFIELD - POLICE STATIONS AT  
BONALBO & URBENVILLE**

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**Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Lindsay Passfield for Ordinary meeting to be held 15 February 2010.

**Report**

The Notice of Motion is as follows;

## NOTICE OF MOTION

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

That Kyogle Council lobbies the State Government through the media and Local Area Commander to have the Bonalbo & Urbenville Police Stations and domestic accommodation upgraded to contemporary standards and manned to the established strength, as a matter of high priority.

Signed:



.....

Date:

5 February 2010

Note:

1. The Notice of Motion must be signed and delivered to the General Manager before 12 noon on the Tuesday preceding the meeting.
2. Notice of Motion of Rescission must be signed by three members (Clause 25(c)) and must be delivered to the General Manager before the close of the meeting if it is intended to prevent a motion being acted upon.

### Recommendation

For Council's consideration.

### 12.2 NOTICE OF MOTION; CLR TOM COOPER - FLOOD MITIGATION BONALBO

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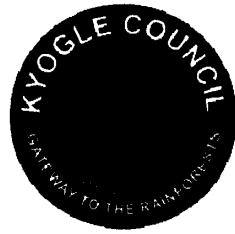
#### Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Tom Cooper for Ordinary meeting to be held 15 February 2010.

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## Report

The Notice of Motion is as follows;

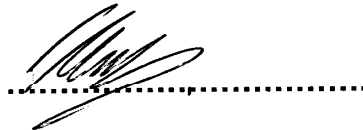


## NOTICE OF MOTION

**I Councillor Tom Cooper hereby give notice that at the next Ordinary Meeting of Council I will move;**

**That Council allocates funding for flood mitigation, planning and maintenance works in the Village of Bonalbo in the Management Plan budget for 2010/11.**

**Signed:**



**Date:**

**8 February 2010**

Note:

The Notice of Motion must be signed and delivered to the General Manager before 12 noon on the Monday preceding the meeting.

## Recommendation

For Council's consideration.



## **12.3 NOTICE OF MOTION; CLR TOM COOPER - SES SHED AT TABULAM**

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### **Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Tom Cooper for Ordinary meeting to be held 15 February 2010.

### **Report**

The Notice of Motion is as follows;



## NOTICE OF MOTION

**I Councillor Tom Cooper hereby give notice that at the next Ordinary Meeting of Council I will move;**

### **Request Council**

- 1. Support the investigation by a structural engineer on the soundness of the SES Shed at Tabulam.**
- 2. If there are works identified that they be included in the Management Plan budget for 2010/11 as a matter of high priority.**

**Signed:**

**Date: 8 February 2010**

Note:

The Notice of Motion must be signed and delivered to the General Manager before 12 noon on the Monday preceding the meeting.

### **Recommendation**

For Council's consideration.

## ITEM 13 DELEGATES REPORTS

### 13.1 DEPUTY MAYOR ATTENDANCES

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#### Summary/Purpose

The following summarises the Deputy Mayor Attendances for the period 1 December 2009 – 31 January 2010.

#### Report

Date	Attendance
24 January 2010	100 <sup>th</sup> Anniversary of the Opening of the Kyogle Railway
26 January 2010	Australia Day Ceremony – Woodenbong Australia Day Ceremony – Tabulam

#### Recommendation

That the information contained in the Deputy Mayor Attendances for the period 1 December 2009 – 31 January 2010 be received and noted.

## ITEM 14 INFORMATION PAPERS

### 14.1 MONTHLY FINANCIAL REPORT

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#### Summary/Purpose

This report serves to advise Council of matters of interest not requiring a determination by Council and/or not affecting Council Policy.

#### 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, with additional detail available through inspection of the monthly cheque warrant.

#### 1. (A) Finance Reports

Summary reports outlining Council's financial position as at 31 January 2010. The reports presented include:

- Rates Statement

- Statement of Bank Balances (December and January)
- Summary of Investments ( December and January)

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 Monthly Finance Report be received and noted.

### **Attachments**

1. Financial Reports
2. Councillors Travel

**ITEM 15 GENERAL MANAGER 'S REPORT**

**ITEM 15A TECHNICAL SERVICES REPORT**

**15A.1 WORKS COMMITTEE MEETING - FEBRUARY**

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**Summary/Purpose**

This report presents the minutes of the Works Committee Meeting held February 8, 2010.

**Report**

The minutes of the meeting appear below:

**Kyogle Council  
Unconfirmed Minutes of the Works Meeting held in the Council Chambers, Stratheden Street,  
Kyogle, on February 8, 2010.**

**PRESENT**

Cr. R. Brown, (Mayor in the Chair), Cr. J. O'Reilly, Cr. L. Zito, Cr. R. Dwyer, and Cr. T. Cooper.

**IN ATTENDANCE**

The General Manager, the Director of Technical Services, the Works Manager, the Asset Manager, the Plant and Depot Co-ordinator and the Personal Assistant to Technical Services.

**MEETING COMMENCEMENT**

The Mayor declared the meeting open at 2:31 p.m.

**ITEM 1 APOLOGIES**

Nil

**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**

**Item-5.1 RURAL AND URBAN WORKS REPORT**

**Committee's Recommendation**

Moved Councillor Lynette Zito, seconded Councillor John O'Reilly.

That the Rural and Urban Works report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

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**Committee's Recommendation**

Moved Councillor Ross Brown, seconded Councillor Lynette Zito.

That Council provide an estimate for initial sealing on Collins Creek Road between the two recent initial seals carried out as part of development applications and on Hillyard Road from Bentley Road through to the 1<sup>st</sup> bridge.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.2 STATE ROAD WORKS REPORT**

**Committee's Recommendation**

Moved Councillor Robert Dwyer, seconded Councillor Lynette Zito.

That the State Road Works report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.3 REGIONAL ROAD WORKS REPORT**

**Committee's Recommendation**

Moved Councillor Lynette Zito, seconded Councillor John O'Reilly.

That the Regional Road Works report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.4 PLANT BUDGET REPORT - JANUARY**

**Committee's Recommendation**

Moved Councillor Lynette Zito, seconded Councillor John O'Reilly.

That the Plant Budget Report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.5 QUARRIES REPORT**

**Committee's Recommendation**

Moved Councillor Lynette Zito, seconded Councillor Robert Dwyer.

That the Quarries report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.6 FINANCIAL PERFORMANCE MAJOR WORKS - JANUARY**

**Committee's Recommendation**

Moved Councillor Tom Cooper, seconded Councillor Lynette Zito.

That the Financial Performance Major Works Report be received and noted.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.7 ROAD REALIGNMENT - SHORTS ROAD OLD BONALBO**

**Committee's Recommendation**

Moved Councillor Lynette Zito, seconded Councillor Tom Cooper.

1. That Council obtain formal agreement with the affected land owners for the proposed road widening and compensation methods.
2. That Council proceeds to lodge all necessary road widening and closure applications once agreement has been obtained with the affected land owners.
3. That, subject to the above, Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the realignment of Shorts Road from the Clarence Way through to the western boundary of Lot 49 DP 751050.

The motion was put to the vote and was CARRIED unanimously.

**Item-5.8 NAMING OF UNNAMED ROAD NUMBER 4018 - BONALBO**

**Committee’s Recommendation**

Moved Councillor Lynette Zito, seconded Councillor Tom Cooper.

That Council advertises for submissions from the public on the road naming issue listed below;

<b>Road No.</b>	4018
<b>Description of Route</b>	The un-named laneway in the village of Bonalbo which runs parallel to and between Cope Street and Gill Street, starting from Woodenbong Road (Clarence Way) through Sandilands Street and Capeen Street and then south west of Capeen Street ending at the boundary of Lot 10 Section G DP 10036.
<b>Proposed Road Name</b>	Lunar Lane
<b>Reason</b>	Un-named road

The motion was put to the vote and was CARRIED unanimously.

**Item-5.9 NAMING OF ROADS - NEW ROAD OFF COLLINS CREEK ROAD**

**Committee’s Recommendation**

Moved Councillor Lynette Zito, seconded Councillor Tom Cooper.

That Council advertises for submissions from the public on the road naming issue listed below;

<b>Road No.</b>	To be determined
<b>Description of Route</b>	The new road created within Lot 39 DP 755753, starting from the intersection with Collins Creek Road approximately 7.8km from the intersection with the Summerland Way, created as part of Stage 1 of Development Application 2007-40.
<b>Proposed Road Name</b>	Chisholm Court
<b>Reason</b>	Newly constructed road

The motion was put to the vote and was CARRIED unanimously.

**MEETING CLOSURE**

There being no further business the Mayor declared the meeting closed at 2:58 p.m.

**Recommendation**

1. That the minutes of the Works Committee meeting held February 8, 2010 be received and noted.
2. That Council provide an estimate for initial sealing on Collins Creek Road between the two recent initial seals carried out as part of development applications and on Hillyard Road from Bentley Road through to the 1<sup>st</sup> bridge.
3. That Council obtain formal agreement with the affected land owners for the proposed road widening of Shorts Road and compensation methods.



4. That Council proceeds to lodge all necessary road widening and closure applications necessary for the proposed realignment of Shorts Road once agreement has been obtained with the affected land owners.
5. That, subject to the above, Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the realignment of Shorts Road from the Clarence Way through to the western boundary of Lot 49 DP 751050.
6. That Council advertises for submissions from the public on the road naming issue listed below;

<b>Road No.</b>	4018
<b>Description of Route</b>	The un-named laneway in the village of Bonalbo which runs parallel to and between Cope Street and Gill Street, starting from Woodenbong Road (Clarence Way) through Sandilands Street and Capeen Street and then south west of Capeen Street ending at the boundary of Lot 10 Section G DP 10036.
<b>Proposed Road Name</b>	Lunar Lane
<b>Reason</b>	Un-named road

7. That Council advertises for submissions from the public on the road naming issue listed below;

<b>Road No.</b>	To be determined
<b>Description of Route</b>	The new road created within Lot 39 DP 755753, starting from the intersection with Collins Creek Road approximately 7.8km from the intersection with the Summerland Way, created as part of Stage 1 of Development Application 2007-40.
<b>Proposed Road Name</b>	Chisholm Court
<b>Reason</b>	Newly constructed road

**ITEM 15B PLANNING SERVICES REPORT**

**15B.1 DEVELOPMENT APPLICATIONS RECEIVED, DETERMINED AND OUTSTANDING FOR THE PERIOD DECEMBER 1, 2010 TO JANUARY 31, 2010**

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**Report**

05/131

Property: Lot 784 DP 845464 Queebun Parish, Rous County  
Address: Dyraaba Road Dyraaba  
Applicant/Owner: Mark Stewart / M & H Stewart  
Proposal: Dwelling In Principle  
Received: Referred To DMP For Comment  
Status: Refused

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06/81

Property: L 97 DP 755751 Warrazambil Parish, Rous County  
Address: Lynches Creek Road Lynchs Creek  
Applicant/Owner: Shane McDaniel Hickey / S & J Hickey  
Proposal: Piggery Shed  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2006/159

Property: Lot 2 DP 123265 Boorabee Parish, Rous County  
Address: Mulvena Road, Larnook  
Applicant/Owner: Tony Michael Boyd / Comdox No.203 Pty Ltd  
Proposal: Dwelling  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2006/187

Property: Lot 612 DP 1043412 Boorabee Parish, Rous County  
Address: Boorabee Road, Boorabee Park  
Applicant/Owner: Simon Peter Van Oorde / SP Van Oorde  
Proposal: Dwelling  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2007/161

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

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2007/176

Property: Lot 77 DP 755723 Mummulgum Parish, Rous County  
Address: Bruxner Highway Mummulgum

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Applicant/Owner:	P N Van Mourik / WJ & PN Van Mourik
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Applicant to advise
<hr/>	
2007/188	
Property:	Lot 32 DP 1047834 Queebun Parish, Rous County
Address:	Carruthers Rd Doubtful Creek
Applicant/Owner:	John Joseph Hession / Tasmanian Plantation Pty Ltd
Proposal:	Subdivision
Received:	Referred to Department of Lands & RFS for Comment
Status:	Consultant to advise
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2007/194	
Property:	Lot 104 DP 1018683 Loadstone Parish, Rous County
Address:	Gradys Creek Rd Gradys Creek
Applicant/Owner:	Enviro Link Consulting / G Graham & SJ Cleeve
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Applicant to advise
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2007/200	
Property:	Lot 48 DP 755733 Roseberry Parish, Rous County
Address:	Roseberry Creek Rd Roseberry Creek
Applicant/Owner:	Enviro Link Consulting / PF Kedwell
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comment
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2008/17	
Property:	Lot 1 DP 527983 Sandilands Parish, Drake County
Address:	Bruxner Hwy Sandilands
Applicant/Owner:	Enviro Link Consulting / SH & KA Larsson
Proposal:	Industrial Facility -Soyabean Processing Facility
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comment
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2008/87	
Property:	Lot 1 DP 820659 Peacock Parish, Buller County
Address:	Station Road, Bonalbo
Applicant/Owner:	Newton Denny Chapelle / GT & DL Jarrett & Tasmanian Plantations P/L
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Applicant to advise
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2008/88	
Property:	Lot 54 DP 751074 Peacock Parish, Buller County
Address:	Station Road, Gorge Creek
Applicant/Owner:	Newton Denny Chapelle / GT & DL Jarrett & Tasmanian Plantations P/L
Proposal:	Subdivision
Received:	Referred To DMP For Comment
Status:	Applicant to advise
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2008/125	
Property:	Lot 101 DP 881876 Fairy Mount Parish, Rous County

Address: Green Pigeon Rd Green Pigeon  
Applicant/Owner: Allan Clarke / The Secretary, Green Pigeon Pty Ltd  
Proposal: 4 Commercial Sheds  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2009/6

Property: Lot 3 DP 1122813 Boomi Parish, Buller County  
Address: Boomi Creek Rd Boomi Creek  
Applicant/Owner: Enviro Link Consulting / DP & GJ Stace  
Proposal: Subdivision  
Received: Referred To RFS For Comment  
Status: Applicant to advise

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2009/18

Property: Lot 2 DP 810222 Wiangarie Parish, Rous County  
Address: Summerland Way, New Park  
Applicant/Owner: Newton Denny Chapelle / PA, CL, & LJ Bordin & ER Smith  
Proposal: Subdivision  
Received: Referred To DMP for Comment  
Status: Applicant to advise

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2009/32

Property: Lot 157 DP 781822 Fairy Mount Parish, Rous County  
Address: Irwin St Kyogle  
Applicant/Owner: Enviro Link Consulting / SA Hoffman  
Proposal: Strata  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2009/34

Property: Lot 5 DP 843729 Roseberry Parish, Rous County  
Address: Roseberry Creek Rd Roseberry Creek  
Applicant/Owner: LandPartners / Currey Family Holdings P/L & KGC Nominees P/L  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2009/35

Property: Lot 1 DP 1005177 Fairy Mount Parish, Rous County  
Address: Colin St Kyogle  
Applicant/Owner: Newton Denny Chapelle / Jarrett, Nash & Parrington  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2009/46

Property: Lot 7 DP 759111 Donaldson Parish, Rous County  
Address: Macpherson St Woodenbong  
Applicant/Owner: Enviro Link Consulting / Jasmine Blue Pty Ltd  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2009/120

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Property: Lot 13 DP 755753 Wiangarie Parish, Rous County.  
Address: Collins Creek Road Collins Creek  
Applicant/Owner: David Charles Wright / DC Wright & NJ Anderson  
Proposal: Subdivision By Boundary Adjustment  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2009/126

Property: Lot 13 DP 834450 Wiangarie Parish, Rous County.  
Address: Collins Creek Rd Fawcetts Plain  
Applicant/Owner: Brendan Neil Pratt / BN Pratt & FM Farrah  
Proposal: Spray Booth  
Received: Referred To DMP For Comment  
Status: Applicant to advise

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2009/158

Property: Lot 15 DP 6798 Runnymede Parish, Rous County.  
Address: Summerland Way Kyogle  
Applicant/Owner: Newton Denny Chapelle / LW Rixon  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/4

Property: Lot 278 DP 4517 Fairy Mount Parish, Rous County.  
Address: Bloore St Kyogle  
Applicant/Owner: Stephen P McElroy & Associates / Ulutaye Holdings Pty Ltd  
Proposal: Demolition Of Shed  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2010/12

Property: Lot 3 DP 21237 Fairy Mount Parish, Rous County.  
Address: Wyndham St Kyogle  
Applicant/Owner: Rodney Nardi / R Nardi  
Proposal: Dwelling and Retaining Walls  
Received: Referred To DMP for Comment  
Status: Applicant to advise

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2010/39

Property: Lot 855 DP 803944 Loadstone Parish, Rous County.  
Address: Cedargetters Rd Gradys Creek  
Applicant/Owner: Danielle Sandra Mulholland-Eaton / DS Mulholland-Eaton  
Proposal: Multiple Occupancy  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/41

Property: Lot 14 DP 792536 Geneva Parish, Rous County.  
Address: Ettrick Rd Horse Station Creek  
Applicant/Owner: Newton Denny Chapelle / DL & MG Keogh  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/42

Property: Lot 100 DP 814660 Runnymede Parish, Rous County.  
Address: Craig St Kyogle  
Applicant/Owner: All Steel Garages & Sheds / JH & CJ Graham  
Proposal: Awning  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2010/56

Property: Lot 24 DP 661658 Black Camp Parish, Drake County.  
Address: Larsson Rd Tunglebung  
Applicant/Owner: Newton Denny Chapelle / Bioforest Limited  
Proposal: Subdivision By Boundary Adjustment  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/58

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

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2010/59

Property: Lot 78 DP 6317 Fairy Mount Parish, Rous County.  
Address: Gardner Lane Kyogle  
Applicant/Owner: Landpartners / MM Pethers  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/62

Property: Lot 10 DP 263649 Pikapene Parish, Drake County.  
Address: Old Lawrence Road Mallanganee  
Applicant/Owner: Kenneth Robert Collier / ARN Hector  
Proposal: Kit Home  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2010/63

Property: Lot 855 DP 803944 Loadstone Parish, Rous County.  
Address: Cedargetters Rd Gradys Creek  
Applicant/Owner: DS Mulholland-Eaton  
Proposal: Dwelling Additions  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2010/64

Property: Lot 1 DP 376507 Runnymede Parish, Rous County.  
Address: Durhams Rd Cedar Point  
Applicant/Owner: J P Reilly / CL McLaughlin & KJ Jones  
Proposal: Rural Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/65	Property: Lot 71 DP 816317 Pikapene Parish, Drake County. Address: Green Pigeon Rd Green Pigeon Applicant/Owner: CA Munro Proposal: Private Cemetery 10 Allotments Received: Referred To DMP For Comment Status: Approved subject to conditions
2010/66	Property: Lot 4 DP 730840 Fairy Mount Parish, Rous County. Address: Wyangarie St Kyogle Applicant/Owner: FE Marsh & Co Pty Ltd / Lake Noorinbee Pty Ltd Proposal: Professional Offices Received: Referred To DMP For Comment Status: Awaiting DMP Comments
2010/67	Property: Lot 341 DP 755732 Queebun Parish, Rous County. Address: Bonners Lane Woolners Arm Applicant/Owner: MJ Scofield / MJ Scofield Proposal: Rural Shed Received: Referred To DMP For Comment Status: Approved subject to conditions
2010/68	Property: Lot 51 DP 1144934 Fairy Mount Parish, Rous County. Address: Colin St Kyogle Applicant/Owner: Newton Denny Chapelle / GC Nash & Others Proposal: Subdivision By Boundary Adjustment Received: Referred To DMP For Comment Status: Approved subject to conditions
2010/69	Property: Lot 58 DP 772100 Hanging Rock Parish, Rous County. Address: Kyogle Rd Wadeville Applicant/Owner: Andrea Phyllis Soler / Lillifield Pty Ltd Proposal: Dwelling Received: Referred To DMP For Comment Status: Withdrawn
2010/70	Property: Lot 2 DP 261602 Runnymede Parish, Rous County. Address: Summerland Way Kyogle Applicant/Owner: Terrence John Voice / TJ Voice Proposal: Fence Received: Referred To DMP For Comment Status: Approved subject to conditions
2010/71	Property: Lot 11 DP 811876 Fairy Mount Parish, Rous County. Address: Green Pigeon Rd Green Pigeon Applicant/Owner: Willa Joy Keys / SR & WJ Keys Proposal: Pool Received: Referred To DMP For Comment Status: Approved subject to conditions

2010/72	Property:	Lot 206 DP 856082 Geneva Parish, Rous County.
	Address:	Anzac Dr Geneva
	Applicant/Owner:	Mark Charles Pederson / MC & SM Pederson
	Proposal:	Pool
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/73	Property:	Lot 12 DP 759111 Donaldson Parish, Rous County.
	Address:	Macpherson St Woodenbong
	Applicant/Owner:	Steven Quarrell / NS & BM Reynolds
	Proposal:	Carport
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/74	Property:	Lot 1 DP 1113095 Fairy Mount Parish, Rous County.
	Address:	Summerland Way Kyogle
	Applicant/Owner:	Scott Wayne Lynch / SW Lynch & TA Mettam
	Proposal:	Retaining Wall
	Received:	Referred To DMP For Comment
	Status:	Awaiting DMP Comments
2010/75	Property:	Lot 1 DP 376507 Runnymede Parish, Rous County.
	Address:	Durhams Road, Cedar Point
	Applicant/Owner:	Coral Homes Pty Ltd / CL McLaughlin & KJ Jones
	Proposal:	Dwelling
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/76	Property:	Lot 47 DP 1144934 Fairy Mount Parish, Rous County.
	Address:	Colin Street, Kyogle
	Applicant/Owner:	JA, NJ & JE Parrington
	Proposal:	Relocated dwelling & shed
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/77	Property:	Lot 161 DP 733069 Findon Parish, Rous County.
	Address:	Sawpit Creek Road, Sawpit Creek
	Applicant/Owner:	GG & GME Barke
	Proposal:	Rural shed
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/78	Property:	Lot 405 DP 755732 Queebun Parish, Rous County.
	Address:	Babyl Creek Road, Babyl Creek
	Applicant/Owner:	The Shed Company / AL & TK Foster
	Proposal:	Rural shed
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions



2010/79	Property:	Lot 12 DP 1145040 Boorabee Parish, Rous County.
	Address	Boorabee Creek Rd Boorabee Park
	Applicant/Owner:	Newton Denny Chapelle / PJ Adams
	Proposal:	Boundary Adjustment
	Received:	Referred To DMP For Comment
	Status:	Awaiting DMP Comments
2010/80	Property:	Lot 5 DP 1122813 Boomi Parish, Buller County.
	Address	Boomi Creek Rd Boomi Creek
	Applicant/Owner:	Glenda Joy Stace / DP & GJ Stace
	Proposal:	Tourist Cabin
	Received:	Referred To DMP For Comment
	Status:	Awaiting DMP Comments
2010/81	Property:	Lot 49 DP 1144934 Fairy Mount Parish, Buller County.
	Address	Colin Street, Kyogle
	Applicant/Owner:	Unique Building Solutions / GC Nash & Others
	Proposal:	Dwelling
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/82	Property:	Lot 10 DP 1105782 Runnymede Parish, Buller County.
	Address	Yongurra Road, Kyogle
	Applicant/Owner:	AR Page / AR & VM Page
	Proposal:	Dwelling
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/83	Property:	Lot 6 DP 22917 Fairy Mount Parish, Rous County.
	Address	Colin St Kyogle
	Applicant/Owner:	Gavin Ross Worth / GR Worth
	Proposal:	Carport
	Received:	Referred To DMP For Comment
	Status:	Awaiting DMP Comments
2010/84	Property:	Lot 1 DP 858153 Fairy Mount Parish, Rous County.
	Address	Green Pigeon Road, Horseshoe Creek
	Applicant/Owner:	TG Matthews
	Proposal:	Dwelling
	Received:	Referred To DMP For Comment
	Status:	Approved subject to conditions
2010/85	Property:	Lot 14 DP 818215 Fairy Mount Parish, Rous County.
	Address	Bolziccos Rd Cawongla
	Applicant/Owner:	Richard Neil Harris
	Proposal:	Dwelling Additions
	Received:	Referred To DMP For Comment
	Status:	Awaiting DMP Comments

2010/86  
Property: Lot 71 DP 1130101 Runnymede Parish, Rous County.  
Address Runnymede Rd Kyogle  
Applicant/Owner: Graeme Lindsay Hickey / FE Byers & GL Hickey  
Proposal: Conversion of a shed to dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/87  
Property: Lot 36 DP 1064252 Runnymede Parish, Rous County.  
Address Rosewood PI Kyogle  
Applicant/Owner: Splash Pools / AJ Lord & DL Sim  
Proposal: Pool  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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### **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 December 1, 2009 to January 31, 2009 be received and noted.

2. That the information contained in the report Development December 1, 2009 to January 31, 2009 only in relation to DA../... and DA../.... In which Councillors ..... have declared an interest be received and noted.

## 15B.2 DEVELOPMENT APPLICATION 2010/66 - DEMOLITION AND ERECTION OF COMMERCIAL PREMISES

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### Summary/Purpose

This report aims to present to Council for determination a development application for the demolition of the building known as "Kyogle Leveretts Cordials former" in the State Heritage Inventory including its outbuildings, and the subsequent redevelopment of the site as commercial premises to be used for the purposes of offices.

### Background Information

Council received Development Application 2010/66 on 13 November 2009 for a "professional office" on Lot 4 in DP 730840, 1 Wyangarie Street, Kyogle.

Further information was requested from the Applicant on 18 November 2009. The information sought by Council included a Statement of Environmental Effects that addressed the relevant Development Control Plans and State Environmental Planning Policies pertaining to the proposed development, and requested the submission of a Statement of Heritage Impact describing the significance and consideration of the Kyogle Leverett's Cordials former building.

Issues within that correspondence were also raised regarding connectivity between the proposed car park to be developed on the subject land and the primary entrance to the building, as well as design considerations for crime prevention.

Following the receipt of additional information on 15 December 2009 addressing the issues raised, the matter was submitted to the Extraordinary Meeting of Council on 18 January 2010 for consideration and determination due to the recognition of the development site within the Godden Mackay *Kyogle Shire Heritage Study 1996* and its 2009 review by Jane Gardiner.

### Previous Council Consideration

Council has previously considered Development Application 2010/66 in the Extraordinary Council Meeting of 18 January 2010. In that meeting it was resolved "That the item be deferred until the Council's Ordinary Meeting in February 2010."

### Report

The particulars of Development Application 2010/66, received by Council on 13 November 2009, are as follows:

Applicant:	F.E. Marsh & Co. Pty. Ltd.
Owner:	Lake Noorinbee Pty. Ltd.
Property:	Lot 4 in DP 730840
Property Address:	1 Wyangarie Street, Kyogle

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Zone: 2 Village or Township  
Locality: Kyogle  
Proposal: Demolition and erection of commercial premises (offices)  
Zoning Requirements: Permissible with Council consent

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

### **Overview of the Subject Site**

The subject site is bound by Wyangarie Street to the north, Etrick Street to the west and private land developed for residential purposes to the south and east. The land is zoned 2 Village or Township under *Interim Development Order No 1 - Shire of Kyogle* and has an area of 942 square metres.

The subject land comprises the building known as Kyogle Leverett's Cordials former, which is a single storey timber-framed building predominantly clad in horizontal timber weatherboards and roofed with unpainted, short sheet, corrugated iron. The building was once a cordial factory and is currently vacant. Outbuildings have been developed on the south east corner of the subject land.

Council's Sewerage reticulation traverses generally east-west across the undeveloped portion of the property between the factory building and the sheds occupying the rear of the site.

### **Overview of the Proposed Development**

The proposed development seeks to demolish the existing building and other structures on the subject land and to develop an office building comprising five (5) offices, a board room, an interview room and associated amenities and utility room. A total of seven (7) car parking spaces are to be provided on the subject land and one (1) freestanding sign is proposed to be erected between the office building and road reservation fronting Wyangarie Street.

### **Legislative Requirements:**

Council is required, when assessing and determining any development application, to have full regard to the provisions of the *Environmental Planning and Assessment Act 1979* including the objects contained in Section 5 and the heads of consideration contained in Section 79C.

### **Agency Referral:**

Nil.

### **Public Notification**

No public notification has been undertaken in accordance with Council's *Development Control Plan No. 9 – Public Notification of Development Applications*,.

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

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

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

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

#### Interim Development Order No. 1-Shire of Kyogle (IDO)

The site is currently zoned 2 Village or Township under the IDO. The proposed development is permissible subject to development consent from Council pursuant to Clause 3(b) of the IDO.

Clause 7(a) of the IDO requires Council to take into consideration the probable aesthetic appearance of the proposed development when viewed from the rail corridor and road reservations. The proposed development is sympathetic in its scale and design to the existing residential development adjoining the subject land and is considered to not have any adverse visual impacts.

Clause 22 of the IDO specifically directs Council to take into consideration the supply of water and adequate facilities for sewerage and drainage when determining a development application.

#### North Coast Regional Environmental Plan 1988

The *North Coast Regional Environmental Plan 1988* ("REP") contains a number of aims and objectives that Council must take into consideration when preparing a local environmental plan or when making a determination on a development application.

There are considered to be no relevant provisions of the REP pertaining to Development Application 2010/66.

#### State Environmental Planning Policies (SEPPs)

SEPP 55 - Remediation of Land requires that "A consent authority must not consent to the carrying out of any development on land unless ... it has considered whether the land is contaminated." Further, the SEPP requires that "Before determining an application for

consent to carry out development that would involve a change of use ... the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines."

The Contaminated Land Planning Guidelines referred to are published by the Department of Planning and came into force in 1998.

Records of a preliminary investigation conducted in accordance with the Guidelines were submitted to Council by the Applicant on 15 December 2009. This report indicates that there is "no potential contamination" of the subject land and that "the planning process should proceed in the normal way."

SEPP 64 - Advertising and Signage applies to all signage within the local government area of Kyogle that is visible from any public place or public reserve. The Policy aims, amongst other things, to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area; provides effective communication in suitable locations; and, is of high quality design and finish.

The development of the land for the purposes of offices includes application for the erection of signage identifying the business conducted on the premises. One (1) 2m2 sign is proposed to address Wyangarie Street for this purpose. This sign is compatible with the scale, proportion and form of the single storey development on, and in the immediate vicinity of, the development site, and if appropriately constructed will not raise any safety issues.

#### **Section 79C(1)(a)(ii) draft environmental planning instruments**

There are currently no draft environmental planning instruments that directly affect this development as LEP 18 has not been placed on public exhibition.

#### **Section 79C(1)(a)(iii) development control plans (DCP)**

Two (2) development control plans are considered relevant to the assessment of the Development Application, namely *Development Control Plan No. 5 - Off-Street Car Parking Requirements* ("DCP 5") and *Kyogle Council Development Control Plan No. 6 - Outdoor Advertising* ("DCP 6").

DCP 5 aims to ensure that adequate provision is made for off-street car parking. For the subject development of offices, this equates to one (1) car parking space per 40m2 of gross floor area in accordance with Appendix 1 of the Plan. As the gross floor area of the office development is 277m2, this amounts to the requirement for seven (7) car parking spaces to be provided on the subject land.

Plans accompanying the development application indicate the provision of seven (7) car parking spaces located to the south of the proposed office building and within the subject land. These parking spaces are proposed to be accessed off Ettrick Street and are designed in accordance with the provisions of DCP 5 and Australian Standard 2890.1. Four (4) of the car spaces are to be covered.

DCP 6 provides guidelines for the provision of advertising throughout the Local Government Area. These guidelines aim to ensure that development for the purposes of signage protects public amenity, safety and the visual qualities of an area.

The proposed sign is to be situated between the north-western façade of the proposed office building and the property boundary fronting Wyangarie Street. It is proposed to measure two (2) metres in width by one (1) metre in height and is to be mounted on two (2) poles 800mm above ground level. The field is to be white and text black.

The scale and location of the sign is considered to be in keeping with the proposed development and the use of the subject land. It is considered that it will provide reasonable identification of the business without adversely impacting on the amenity of the locality.

### **Section 79C(1)(a)(iia) planning agreements**

No planning agreements have been entered into or offered under Section 93F of the *Environmental Planning and Assessment Act 1979*. Generally, a planning agreement is a voluntary understanding between a planning authority and a developer under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit.

### **Section 79C(1)(a)(iv) the regulations (prescribed matters)**

There are no prescribed matters which affect the proposal.

### **Section 79C(b) the likely impacts of the development**

The development proposes the demolition of a site listed in the *Kyogle Shire Heritage Study 1996* under Reference Number 063 and as Item ID 1890063 in the 2009 review of that study. The statement of significance is described as follows:

"This former 1912 cordial factory is a rare manufacturing enterprise in Kyogle. The cordial factory and local product are well known cordial having been produced at the same site for over 70 years. The building demonstrates the vernacular response to the early twentieth century cordial factory requirements. It is a rare surviving early timber building and retains the ability to demonstrate the simple nature of early manufacturing in the area."

These qualities need to be considered in the assessment of this development application as the endorsement of the DA will include the demolition of a building considered in the State Heritage Inventory as being "historically significant" to the Local Government Area.

The development application comprises two (2) professional reports regarding the impact of the proposed development on the heritage values documented to exist on the subject land. These are a structural report prepared by Spinaze Consulting and a Heritage Report compiled by Lyon Architects.

The structural report undertaken by Spinaze Consulting on 4 December 2009 indicated the following:

1. Structurally the building displays evidence of termite damage in the south-eastern corner of the original building. It is surmised from this that further evidence of

infestation will be revealed in the wall and roof framing granted the removal of the internal linings.

2. There is evidence that the concrete floor of the building is not level, includes various steps, facilitates the flow of stormwater into the building, and encases a central timber post which is showing signs of rot.
3. Rot is discernible along the stud wall which is possibly the result of the factory operations, including bottling and cleaning.
4. The building is poorly constructed and has no formal structural bracing to resist lateral loads due to wind loading or roof tie downs.
5. The existing footings supporting the building are likely to be structurally inadequate.

The report concludes that "It is our opinion that it would not be economically feasible to convert the existing structure to a commercial building that would comply with the structural requirements of the Building Code of Australia." This has ramifications beyond the proposed development as the structural requirements for a commercial building under the BCA in this instance would not differ from those for a residential development. This limits the capacity for the retention and adaptive re-use of the building and constitutes an economic case proffered by the Applicant to justify the development proceeding.

Economic hardship can constitute an appropriate justification to strike an item from a heritage schedule and the case forwarded by Spinaze Consulting suggests that the potential heritage item in its derelict state would cost more to restore than the final value of the finished work would return. This highlights the importance of the ongoing occupation and use of heritage items as it is quite evident that "there has not been a maintenance program in place as the [vacant] structure has fallen into disrepair and is now in a neglected state" (Lyon Architects 2009:3).

The heritage consultants, Lyon Architects, describe that, "Unfortunately, due to the termite infestation evident in the existing structure and the dilapidated state of the existing building fabric, the building is unsuitable to be used or retained for use as offices ... It is our recommendation that the existing building and other structures on the subject site be demolished."

### **Section 79C(c) the suitability of the site for the development**

The scale and nature of the development is sympathetic with the prevailing residential land uses in the vicinity of the subject land. The use of the premises for the purposes of offices constitutes an activity that is not expected to have any adverse impact upon the amenity of the locality.

Heritage and structural reports comprising the development application indicate that the site is suitable for redevelopment.

### **Section 79C(d) any submissions made**

As no notification was undertaken pursuant to Council's *Development Control Plan No. 9 – Public Notification of Development Applications*, no submissions have been received by Council.

### **Section 79C(e) the public interest**



The proposed development would serve to revitalise the subject land which is currently unutilised and unmanaged. It would provide floor space for the purposes of commercial premises (offices) in a highly accessible area that includes immediate road and pedestrian linkages to the Kyogle CBD.

The jobs created in the development and ongoing use of the site is considered to be a public benefit. However, the endorsement of the proposal comes at a cost to the original timber heritage of the township of Kyogle and the social significance that it embodies.

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

**Recommendation**

That Council issue Development Consent Notice 2010/66 for the demolition and the erection of commercial premises (offices), 1 Wyangarie Street, Kyogle, subject to the following conditions.

**PLANNING**

1. The development shall be in accordance with development application number 2010-66 submitted by the Applicant on 13 November 2009, and in accordance with the following:

<b>Statement of Environmental Effects entitled "Proposed Office Building for FE Marsh &amp; Co, Wyangarie Street/Etrick Street Kyogle," prepared by GM Project Development and Management, December 2009.</b>			
<b>Plan prepared by Lyon Architects on behalf of WHK.</b>			
<b>Reference No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
<b>09/13</b>	<b>D</b>	<b>Proposed Sketch Plan Scale 1:100 @ A1</b>	<b>5 November 2009</b>

except where otherwise provided by the conditions of this development consent.

2. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.
3. This development consent is limited to a period of two (2) years in accordance with Section 95(2) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless:
  - (a) work relating to the development is physically commenced before the date on which the consent would otherwise lapse; or
  - (b) application is made to Council for an extension before the date on which the consent would otherwise lapse.
4. The use of the site must not extend to the road reservation adjoining the premises at any time.

5. The land the subject of this consent notice must be left in a clean and tidy state at all times.
6. The land use must not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.
7. An archival photographic record of the structure known as "Kyogle Leveretts Cordials former" must be made prior to and during the removal of any fabric in general accordance with the NSW Heritage Branch guidelines for archival photography (see [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)), including interior and exterior photographs. This record must be presented to the Kyogle Council and the Kyogle and District Historical Society prior to the issue of a construction certificate.
8. The proposed sign must be:
  - directly associated with the use of the premises as offices;
  - professionally designed and legible;
  - structurally sound and not in any way hazardous;
  - located entirely within the boundaries of Lot 4 in DP 730840;
  - designed and situated so as not to obstruct traffic; and
  - non-reflective, non-iridescent and non-illuminated or mobile.

#### CONSTRUCTION/ DEMOLITION

9. A Construction Certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the Construction Certificate is obtained from an accredited certifier the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.
10. All demolition work must comply with the provisions of AS 2601 – 2001 "The Demolition of Structures" as in force at 1 July 1993.
11. The hours of work for any **offensive noise generating** construction or demolition activity of the proposed development are to be limited to the following time restrictions:  
  
Monday to Friday            - 7.00am to 6.00pm  
Saturday                      - 8.00am to 1.00pm  
  
No noise generating activities are to take place on Sundays or public holidays.
12. Burning of site refuse and materials is not permitted and all such materials shall be prevented from escaping onto adjoining land.
13. All waste materials generated from construction and demolition works shall only be disposed at waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste*

2008 and the *Protection of the Environment Operations Act 1997* and waste regulations there under.

14. Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site and eventually into natural or constructed drainage lines or watercourses. Control measures must be installed prior to the conduct of works and must remain in place and be maintained until the site has been adequately revegetated or landscaped to prevent soil erosion. Work may not proceed until the sedimentation controls are in place. Failure to comply with these requirements may result in penalty notices being issued without further notice.
15. Removal and disposal of asbestos is to be in accordance with the requirements of the WorkCover Authority of NSW.
16. The effects of vibration, dust, noise and concussion on adjoining buildings and their occupants must be minimised, by selecting appropriate demolition methods and equipment.
17. Appropriate signage must be provided on the work site and in a prominent position visible to the public:
  - a) stating that unauthorised access to the work site is not permitted; and
  - b) showing the name of the builder or person responsible for the site and a telephone number at which that person can be contacted outside working hours.
18. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.
19. Should the builder change from the builder nominated on the building application form, Council shall be notified in writing prior to the new builder commencing any works. The written notification shall include written concurrence of the new builder and a photostat copy of his builders licence.

## BUILDING WORKS

20. The metal roof and wall cladding is to be installed in accordance with AS 1562 – 1992, Design and Installation of Sheet Roof and Wall Cladding.

NOTE: All roof capping and flashing to be scribed on a Dwelling.
21. The roofing must have a low reflective finish.
22. All footings shall bear on natural ground having an even, uniform bearing capacity not subject to differential bearing values upon stable, firm and undisturbed foundations, free from roots and fill.
23. The building must be protected against attack by subterranean termites. This can be achieved by:

- a) Soil treatment in accordance with AS 3660.1 - 2000 of the subsoil area beneath all concrete slabs and including additional treatment of a 300mm wide horizontal barrier around the perimeter, edge protection and treatment of all slab penetrations.
- b) Maintenance of a 75 mm wide strip around the entire slab to allow visual inspection. The area immediately adjoining the external wall is to be kept clear of landscaping or gardens.
- c) other chemical or physical measures which meet the objective of protecting primary building elements against subterranean termite attack. If this option is chosen, full details are required to be submitted for Council's consideration.

NOTE 1: The approved chemical for underslab spraying does not provide protection against termites over the economic life of the building.

NOTE 2: Depending on the slab construction a vertical 150 mm wide chemical barrier may be required to the external perimeter of the slab.

NOTE 3: Landscaping and Gardens - Most termite barriers require the area immediately adjoining an external wall to be kept clear of any landscaping or gardens. This is necessary either to prevent the bridging of the termite barrier or to ensure the area is visible for inspection.

NOTE 4: It is recommended that the slab penetrations be protected by a physical barrier where a non reticulated chemical protection is used.

A durable notice must be permanently fixed to the building in a prominent location such as a meter box, indicating;

- a) the method of protection; and
- b) the date of installation of the system; and
- c) where a chemical barrier is used, its life expectancy as listed on the National Regulation Authority label; and
- d) the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.

24. Where termite barriers are installed that rely on periodic visual inspection, a minimum of 400 mm clearance between the lowest floor framing member and the finished ground level must be achieved. On sloping sites the 400 mm clearance may be reduced to 150 mm within a distance of 2.0 metres of external walls.

25. The wet areas are to be treated and impervious to moisture at all floor wall junctions with an approved material in accordance with the Building Code of Australia, and Australian Standard 3740. The shower area is to be provided with a completely impervious tray using either a preformed tray of approved material or an in-situ treatment complying with AS 3740. Floor surfaces shall be impervious and graded to a floor waste.

26. Where the height of the structure above finished ground level is greater than 1.0 metre, a continuous balustrade a minimum of:
- a) 1.0 metre high above the finished floor level of decks, landings, balconies and the like, and
  - b) 865 mm high above the nosings of the stair treads or floor of ramp,
- must be provided. The maximum permissible opening in the balustrade is 125 mm.
27. Emergency lighting and exit signs shall be installed in accordance with the building code of Australia Volume 1 sec E and AS 2293.1
28. Fire Hose reels shall be installed the building in accordance with Building Code of Australia and AS 1221.
29. Portable fire extinguishers' shall be installed the building in accordance with the Building Code of Australia and AS 2444.
30. Emergency exit plans shall be displayed in the building show means of egress in the event of and emergency.
31. Sanitary Facilities must be provided in accordance with section F of the Building Code of Australia.
32. Access and egress shall be provided to the building in accordance the Building Code of Australia section D.
33. The location of any fixed plant servicing the proposed development must not result in the emission of offensive noise.

Offensive noise means:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

## CARPARKING

34. Provision shall be made for seven (7) carparking spaces with a bitumen sealed/paved or equivalent surface constructed and landscaped. Documentary

evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

35. A sign shall be erected to the satisfaction of Council to clearly indicate off-street parking is available.
36. One (1) car space shall be set aside, constructed and signposted for disabled carparking in accordance with the provisions of the Building Code of Australia and the requirements of AS2890.1 - 1993 "Off-street Car Parking" CI 2.4.5(b) and the Proposed Sketch Plan.

#### WATER/ SEWER

37. The water supply service shall be sized in accordance with Australian Standard 3500.1 to service the whole development.
38. Provide 6/3 litre dual flush toilet suites to all water closets.
39. The proposed development is to be connected to Council's water supply system. A connection fee applies (see current Fees and Charges).
40. The building must be located clear of the sewer main, by a minimum distance of 1.5 metres, or the equivalent of the invert depth of the main, whichever is the greater.
41. The proponent is responsible for ensuring that the existing sewer pipe in the property is not damaged while performing the works. If the existing sewer pipe is damaged during the course of performing the works, the proponent will:
  - notify Kyogle Council immediately when the breakage occurs, and
  - repair the damage at no cost to Kyogle Council.
42. No retaining wall structures shall be constructed on land within any water, sewerage or drainage easement/s over that land or above any water, sewerage or drainage pipes on the land.
43. The proposed development is to be connected to Council's Sewerage System. A connection fee applies (see current fees and charges).
44. All house drainage and sanitary plumbing and sewerage work must be carried out in accordance with the requirements of the N.S.W. Code of Practice " Plumbing and Drainage " and the National Plumbing and Drainage Code AS 3500.

#### ROADS AND DRAINAGE

45. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.
46. The proponents shall construct a new 1.2m wide reinforced concrete footpath for the full frontage of Etrick Street and Wyangarie Street and provide connectivity to the existing footpath network and the proposed development. All design and

construction is to be in accordance with the Northern Rivers Local Government Development and Design and Construction Manuals.

47. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent approval by Council.

**Construction (contract) price Bond**

up to \$50,000 - 10% of contract price (minimum bond \$1,000)

over \$50,000 \$5,000 plus 5% of balance over \$50,000

48. That there shall be no loss of support to the Councils foot path area as a result of excavation within the site. Details of how this support will be maintained during construction shall be submitted for the Councils approval prior to the commencement of any work.
49. Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.
50. The applicant is to make written application to Council (accompanied by a location plan) for a vehicular access to the development and construct it in accordance with Council's approval (refer to Council's Property Access and Addressing Management Plan). No other accesses may be constructed or opened onto a Council road without the prior written approval of Council.
51. All allotments where access is obtained from a sealed road shall have a sealed vehicular access from the roadway to the boundary of private property in accordance with Councils Property Access and Addressing Management Plan.
52. Council must be notified in writing, prior to commencement of building operations of any existing damage to kerb and gutter or footpaths.

Absence of notification signifies that no damage exists and the applicant is therefore liable for the cost of reinstatement of any damage to the kerb and gutter or footpath which may be necessary after the completion of the building. Where unmade or grassed footpaths are disturbed by the passage of builder or suppliers' vehicles, the footpaths are to be graded and restored to original level with loam.

53. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.

54. Full design plans of the proposed engineering works shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.
55. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.
56. Prior to carrying out any works within a public road reserve, the proponent shall complete an application under Council's Road Reserve Management Plan and receive written approval from Council. Satisfactory arrangements for restoration with Council's Technical Services Department shall also be required, with all works constructed according to Council's Development, Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.
57. A certified "Works as Executed" plan from a qualified Engineer or Registered Surveyor is to be submitted before the final inspection certifying that the works have been constructed in accordance with the drawings and to the levels specified.

#### DEVELOPER CONTRIBUTIONS

58. The proponent shall pay to Council all Water, Sewerage and Drainage Headworks Levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993, the rates and amounts applying at the date of this notice, totalling \$1,360.00 are set out in the schedule for your information.

The proponent shall also comply with all requirements of the Water Supply Authority regarding the connection of water supply and sewerage services to the development. A Section 27 Certificate issued under the Water Supply Authorities Act 1987 shall be submitted to Council prior to release of the Occupation Certificate.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.



GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

59. Payment of contributions levied under Section 94 of the *Environmental Planning and Assessment Act 1979* and the Kyogle Section 94 Contributions Plan – Urban and Rural Roads 2002 (as amended) are required. Kyogle Council levies these contributions for the provision of public amenities and/or public services in such a manner as will meet the increased demand for those amenities and/or services arising from this development as identified in the attached schedule. The contributions shall be calculated in accordance with the Kyogle Council Section 94 Contributions Plan – Urban and Rural Roads Section 94 Contributions Plan. The rates and amounts applying at the date of this notice, totalling \$9,572.48, are set out in the schedule for your information.

Payments are subject to annual indexation in line with Council's chosen Consumer Price Index (CPI), being CPI Brisbane as published by the Australian Bureau of Statistics. Indexation adjustments shall be included in the final calculation of the contribution amount and paid in accordance with Section 1.8 of Council's Urban & Rural Roads Section 94 Contributions Plan. Determined amounts of contributions remain valid for a period of three (3) months from date of issue. Unpaid contributions at the expiration of this time period shall be subject to pro rata yearly adjustments or CPI indexation.

Proponents of Development may be entitled to a discounted rate of contribution in some circumstances. Eligibility and discount amounts are specified in Section 4 of Council's Section 94 Urban and Rural Roads Contributions Plan, pertaining to developments in both Rural and Urban areas. Contributions required by the proponent of development pursuant to the "heavy haulage contribution rate" calculated and specified in clause 2.3.3 shall not be entitled to a discounted rate.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

### **Advisory Note**

1. This approval does not necessarily guarantee compliance with the *Disability Discrimination Act 1992*, and the applicant is therefore advised to investigate their liability under the Act. Your attention is drawn to AS1428 parts 2, 3, and 4 inclusive. This may be used as a comprehensive guide for disability access.
2. Occupation of the proposed development prior to its completion may result in Council initiating legal action for breaches of the provisions of the *Environmental Planning and Assessment Act 1979*, as amended.
3. The development must comply with the requirements of the Work Cover Authority of NSW.

### **Note:**

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

### **Attachments**

1. Floor plan and elevations. Project No. 09/13
2. Proposed sign

**Summary/Purpose**

This report presents the minutes of the Planning and Environment Committee Meeting held February 4, 2010.

**Report****Kyogle Council**

**Unconfirmed Minutes of the Planning & Environment Committee Meeting held in the Council Chambers, Stratheden Street, Kyogle, on February 4, 2010.**

**PRESENT**

Cr. R. Brown, (Mayor in the Chair), Cr. E. Bennett and Cr. R. Leadbeatter.

**IN ATTENDANCE**

The General Manager, the Director of Planning & Environmental Services, the Senior Town Planner, the Manager Asset Services and the Personal Assistant to Planning & Environmental Services.

**MEETING COMMENCEMENT**

The Mayor declared the meeting open at 2.56pm.

**ITEM 1 APOLOGIES**

Nil

**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**

Cr. Robert Leadbeatter declared an interest in the following item/s:

o 5.2

Reason for Declaration - Business owner with advertising sandwich board occasionally displayed on footpath.

**ITEM 5 REPORTS****Item-5.1 PRIVATE PROPERTY ACCESS REQUIREMENT****Committee's Recommendation**

Moved Councillor Ernie Bennett seconded Councillor Robert Leadbeatter

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1. That the Private Property Access Requirements report be received and noted.

CARRIED

A motion was foreshadowed by Councillor Ernie Bennett, seconded Councillor Robert Leadbeatter.

That Council be informed of any changes to the Northern Rivers Local Government Development Design and Construction Manual prior to adoption.

The motion was put to the vote and was CARRIED.

The Manager Asset Services departed the meeting at 3.12pm.

#### **Item-5.2 FOOTPATH USAGE BY CHARITABLE ORGANISATIONS**

##### **Committee's Recommendation**

Moved Councillor Ernie Bennett, seconded Councillor Robert Leadbeatter

1. That the Footpath Usage by Charitable Organisations report be received and noted.

CARRIED

#### **Item-5.3 PROCESSING OF DEVELOPMENT APPLICATIONS**

##### **Committee's Recommendation**

Moved Councillor E Bennett, seconded Council R Leadbeatter

1. That the Development Assessment Guidelines be received and noted.

CARRIED

#### **MEETING CLOSURE**

There being no further business the Mayor declared the meeting closed at 3.25 p.m.

#### **Recommendation**

1. That the minutes of the Environment and Planning Committee meeting be received and noted.
2. That Council be informed of any changes to the Northern Rivers Local Government Development Design and Construction Manual prior to adoption.

**Summary/Purpose**

This report:

- Presents to Council the *Kyogle Local Government Area Heritage Review 2009* for adoption and subsequent public exhibition and consultation pursuant to the document "Community-based Heritage Studies: A Guide" and Council's funding agreement with the State Government;
- Comments on the resolution of Council at the Ordinary Meeting held on 21 September 2009; and
- Considers two alternative LEPs, one currently having the necessary authorisation from the Director-General to be placed on public exhibition.

**Background Information**

Kyogle Council is undertaking a review of the Godden Mackay Logan heritage study through the assistance of Jane Gardiner, heritage advisor, and joint funding from the Heritage Branch, Department of Planning. The review, like the inaugural study before it, recommends heritage items and landscapes for inclusion in a Local Environmental Plan.

Draft Local Environmental Plan 18, specific to heritage, has twice been resolved by Council to be produced. To this end Council currently has authorisation from the Director General to present draft LEP 18 Draft A for public comment.

**Previous Council Consideration**

The previous considerations by Council are chronologically described below.

*Ordinary Meeting, 21 August 2000*

At this meeting Council resolved "that Council adopts the Kyogle Heritage Study as amended in June 2000 and advertise accordingly."

*Ordinary Meeting, 15 August 2005*

1. "Pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council resolves to prepare a Draft Local Environmental Plan amendment to insert a Heritage Provisions generally in accordance with the Standard Heritage Clauses listed by the NSW Heritage Office within Interim Development Order No 1 - Shire of Kyogle and Interim Development Order No 1 - Shire of Terania.
2. "That Council advise the Director General of the Department of Infrastructure, Planning and Natural Resources of the decision to prepare a draft local environmental plan.
3. "That following the public exhibition of the Draft Local Environmental Plan and review of all public and government agency submissions a further report is presented to Council to adopt the Local Environmental Plan Amendment."

*Ordinary Meeting, 15 June 2009*

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At this meeting it was resolved by Council "that Council proceeds with the creation of Draft LEP 18."

*Ordinary Meeting 21 September 2009*

On 21 September 2009 Kyogle Council at its ordinary meeting resolved that, "In relation to the initial heritage listing of private dwellings, this should be on a voluntary basis."

*Ordinary Meeting 16 November 2009*

In response to the item "Heritage Review & Local Environmental Plan 18" presented to the Ordinary Meeting, 16 November 2009, interests were declared by Councillors and the item was unable to be considered due to the lack of a quorum.

## **Report**

Kyogle Council's inaugural study of the environmental heritage of the Local Government Area was undertaken in February 1996 when Kyogle Council commissioned a Heritage Study of the Local Government Area with joint funding from the former NSW Heritage Office. That study was the first of its type to be undertaken in the Shire and was finalised in September 1997 and later amended in June 2000. It addressed European heritage through both the built environment and cultural landscapes, specifically stating that "this project has not involved research of or survey for Aboriginal places" (Godden Mackay Logan 1997:54).

That study has been the subject of review in 2008 and 2009 by the Heritage Advisor Jane Gardiner who was commissioned by Kyogle Council through joint funding from the Heritage Branch of the Department of Planning. This review "was instigated because of the passage of time and the need to correctly identify heritage items and make practical recommendations for their conservation and management in the new Kyogle Local Environmental Plan" (Gardiner 2009:9).

The contemporary review is being undertaken in accordance with the processes outlined in the Heritage Branch document "Community-Based Heritage Studies: A Guide." This is a requirement of Council's dollar-for-dollar funding agreement with NSW Heritage Grants, from whom funding was sought on 16 October 2008 and approved on 7 November 2008 (Project Number LGP 2009 316). The review builds on and enhances the earlier work of Godden Mackay Logan and recognises items that are of heritage significance.

In accordance with the provisions for undertaking a community-based heritage study, the *Kyogle Local Government Area Heritage Review 2009* is presented to Council for draft approval. Following this, the document (along with the original Godden Mackay Logan reports which are the foundation of the review) is to undergo a public exhibition and consultation phase, including the notification of heritage item owners and the wider community. A report on this process will then be furnished to Council for the adoption of the study and the commencement of its implementation.

Due to the recommendations of consultant heritage advisors to Council, previous agreements between the NSW Heritage Office and Council, State Government directives and past resolutions of Council regarding the inclusion of heritage in a local environmental plan, it is considered appropriate that the community-based heritage study

entitled *Kyogle Local Government Area Heritage Review 2009* be advertised in conjunction with the draft Local Environmental Plan ("LEP") 18. This will facilitate timely outcomes for heritage items and landscapes in the Local Government Area.

Council has authorisation from the Director-General to proceed with the advertising of LEP 18 as a comprehensive document founded on the recommendations of the heritage study and its review. This has not occurred as Council resolved at its ordinary meeting of 21 September 2009 that, "In relation to the initial heritage listing of private dwellings, this should be on a voluntary basis."

From this resolution the owners of "private dwellings" were contacted by Council staff in correspondence that included a copy of the state heritage inventory datasheet for the subject item, a copy of the ordinance for draft LEP 18, a reply paid envelope and a cover sheet which made the following enquiries:

- Please list my dwelling in the draft Local Environmental Plan;
- Please omit my dwelling from the draft Local Environmental Plan;
- I am unsure of the ramifications of heritage listing my dwelling;
- The data information sheet is incorrect, please find it enclosed with amendments.

105 letters were sent out of which 2 were returned to sender by Australia Post. Kyogle Council has received 49 responses from land owners following the survey who indicated as follows:

Enquiry	Number of responses received
Please list my dwelling in the draft Local Environmental Plan	2
Please omit my dwelling from the draft Local Environmental Plan	40
I am unsure of the ramifications of heritage listing my dwelling	7
The data information sheet is incorrect, please find it enclosed with amendments	2

According to Council's resolution of 21 September 2009, only two (2) dwellings should be listed in LEP 18 as having been volunteered. However, of these two (2) dwellings, one (1) resides within the proposed Mallanganee Village Conservation Area. As this heritage precinct cannot function without the sum of its parts, and the sum of its parts has not been volunteered, this item must likewise be struck from the list. Hence, without undertaking face-to-face consultation with the relevant persons who are unsure of the ramifications of heritage listing their property (and this equates to only three (3) properties once private dwellings inside non-volunteered heritage precincts are omitted), and contacting those who were not notified due to changes in address details, the LEP shall include one (1) private dwelling house.

Two (2) draft LEP's have been attached to this report. One (1) in accordance with the Godden Mackay Logan *Kyogle Shire Heritage Study 1996* and the Gardiner *Kyogle Local Government Area Heritage Review 2009* (LEP 18 Draft A), and one (1) in accordance with Council's resolution of 21 September 2009 (LEP 18 Draft B).

If Council elects to progress LEP 18 Draft B, then it will require authorisation from the Director-General, NSW Government Department of Planning. The LEP 18 Draft B, as per Draft A, will be obligated to comply with relevant Section 117 Directions and State legislative requirements in order to proceed. Conversely, LEP 18 Draft A has undergone this process and is approved for display.

With regard to the declarations of interest disclosed by some Councillors at the Ordinary Meeting of Council on 16 November 2009 specific to the item "Heritage Review & Local Environmental Plan 18," the Department of Planning has been consulted and advises as follows:

"Chapter 13, Part 2, Division 3 of the Local Government Act 1993 makes provisions for the disclosure of pecuniary interest, which is defined as "*an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person*" (section 442). As some Councillors have disclosed an interest in some items in draft LEP 18, this restriction has meant that Council is unable to form a quorum to progress the plan.

"While we cannot direct you on this matter, we query whether the declarations of interest by some Councillors fall within the definition of a "*pecuniary interest*" under the LG Act. We suggest you have a further look at this aspect of the issue to see if a reassessment of the interests declared by Councillors may resolve the matter."

Although it is anticipated by the Department of Planning that a re-assessment of pecuniary interests in the matter will result in a quorum capable of determination, the declaration of a pecuniary interest remains an individual decision to be made by each Councillor.

In the event that a quorum remains unachievable:

1. The Minister may, under Part 6, Division 1AA, Section 118 of the *Environmental Planning and Assessment Act 1979*, provide for the appointment of a planning administrator to exercise the function of the entire elected Council under the EP&A Act; or
2. Council may request the authorisation of the Minister for Local Government under section 458 of the *Local Government Act 1993* to permit any councillor who has a pecuniary interest in a matter to take part in the consideration, discussion and voting on the matter; or
3. One property the subject of a pecuniary interest, might be able to be omitted from the Heritage Schedule should the omission be justifiable to the Director-General.

Council contacted the Department of Planning regarding point 1 above in correspondence dated 1 December 2009 and to date has not received a response on this matter.

### **Budget & Financial Aspects**

Council has entered into two (2) contractual agreements with the Heritage Branch of the Department of Planning and its predecessor for the funding of an inaugural heritage study and a subsequent review of that study. These contracts were based on Council undertaking a community based heritage study and implementing that study through listings within a LEP.

Two (2) draft LEP's have been attached to this report; one (1) in accordance with Council's resolution of 21 September 2009 and a second which has a comprehensive listing of properties and the endorsement of the Director-General for advertising.



Council's current funding agreement with the Heritage Branch to undertake the contemporary heritage review is subject to a number of conditions. Clause 10, Revocation of funding, describes that "unsatisfactory work" may result in a review and revocation of financial assistance at any time. Further, the funding agreement utilises terms such as "adequate progress," whereby failure to comply will result in a case of "show cause" and the possible reimbursement of all monies plus interest. It should be noted that the current heritage review has cost around \$15,000 and warrants timely progression.

### **Recommendation**

1. That Council approve the draft heritage study compiled by Jane Gardiner, August 2009 and entitled *Kyogle Local Government Area Heritage Review 2009*.
2. That Council notifies potential heritage item owners and the wider community about the heritage study and undertakes a public exhibition and consultation process for draft LEP 18 Draft A and the *Kyogle Local Government Area Heritage Review 2009*.

### **Attachments**

1. *Kyogle Local Government Area Heritage Review 2009*
2. LEP 18 Draft A
3. LEP 18 Draft B

**ITEM 15C ENVIRONMENT SERVICES REPORT**

Nil.

**ITEM 15D CORPORATE SERVICES REPORT**

**15D.1 DECEMBER QUARTER BUDGET/MANAGEMENT PLAN REVIEW**

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**Summary/Purpose**

This report arises out of the statutory requirement to conduct a review of budget performance and a review against targets identified in the Management Plan following the close of each quarter.

**Background Information**

Legislative Requirements

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

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

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

**Report**

The combined format is in line with the format that was adopted in the Management Plan. The document incorporates any adjustments made in previous reports to Council (eg. Revotes).

A detailed explanation of the budget variances is outlined in the Budget Review Statement, which shows actual income and expenditure against forecast estimates.

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A Summary of bank account balances is attached to this report which shows the forecast bank balances as shown in the Management Plan, these bank balances adjusted for actual 30 June bank balances and for revotes and the revised bank balances after adjustments identified in the September Quarter Review.

An amended plant purchase list is attached. The purchase of the compactor for the Kyogle landfill has been achieved for \$130,000 less than the budget amount. It is proposed to make the following purchases with the savings from the Compactor purchase.

Tractor including front bucket for Kyogle Sewerage Works	\$45,000
Truck for Kyogle spraying and sign crew	\$50,000
Front deck mower Kyogle town area (nett)	<u>\$35,000</u>
Total	<u>\$130,000</u>

Conclusion:

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

**Recommendation**

That the December, 2009 Quarterly Budget/Management Plan Review Statement be received and noted and Council approve the variation of estimates contained therein.

**Attachments**

1. December 2009 Budget/Management Plan Review- attached separately

**Summary/Purpose**

This report is to provide Council with a timetable for the preparation and adoption of the 2010/2011 Management Plan and seeks input regarding the conduct of public forums.

**Previous Council Consideration**

At the Ordinary Meeting held November 16, 2009 it was resolved that:

The community consultations be removed from the Futures Committee function

Council consider the best possible way of conducting community consultation meetings in the future.

**Background Information**Legislative Requirements

Chapter 13 of the Local Government Act 1993 and the Local Government (General) Regulation 2005 governs the preparation and adoption of Management Plans.

**Report**

Work has commenced to develop the 2010/2011 Management plan. Letters have been sent to community and sporting organisations inviting them to submit written submissions as to what they would like to see included in the Management Plan that is currently being developed. Submissions are required to be received by Council by March 15, 2010.

An advertisement is to appear in the Express Examiner February 11, 2010 and an article will appear in the Council newsletter which is due to be circulated on March 1, 2010.

Public meetings

It is proposed that the public meetings regarding the Management Plan be held prior to the draft plan being adopted, as opposed to when the document is on public display.

This year it is proposed to conduct informal meetings that cover the Management Planning process as well as giving residents an opportunity to raise other issues. Councillors are invited to be in attendance at all meetings.

This year the meetings will be conducted over a longer timeframe than has previously been used.

If an above rate pegging application is made as part of the 2010/2011 Management Plan it will be necessary to conduct further consultation during the period of exhibition to satisfy the requirements of the Department of Local Government.

Outlined below is a *proposed* timetable for the 2010/2011 Management Plan.

<b>Action</b>	<b>Deadline</b>
Deadline to Adopt Plan	30 June 2010
Adopt Management Plan – Ordinary Meeting	21 June 2010
Public Submissions Close	25 May 2010
Adopt Draft Plan for Public Display – Extraordinary Meeting	27 April 2010
Draft Plan Distributed to Councillors	19 April 2010
Council Workshop Draft Plan & Submissions	12 April 2010
Draft Management Plan Prepared	16 April 2010
Prepare Draft Budget Estimates	31 March 2010
Public Forums	
Kyogle	31 March 2010
Bonalbo	24 March 2010
Woodenbong	10 March 2010
Tabulam	24 February 2010
Call for Input/Submissions/ideas - letters sent on 2nd February 2010 to community groups advising of closing date of 15 March 2010.	15 March 2010

### **Recommendation**

1. That the information contained in the 2010/11 Management Plan Timetable Report be received and noted.
2. That the change to the format of public forums regarding the Management Plan be endorsed.

## ITEM 15E      **COMMUNITY SERVICES REPORT**

### 15E.1           **FEASIBILITY PLAN - KYOGLE GALLERY AND MUSEUM**

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#### **Summary/Purpose**

This report presents to Council the feasibility plan for the Kyogle gallery and museum and the recommendations

#### **Previous Council Consideration**

At the Ordinary meeting of Council held in March 2009 the following report was considered:

##### **Summary/Purpose**

This report presents to Council a request from the Kyogle Historical Society Planning and Development Committee.

##### **Previous Council Consideration**

At the December 2008 Ordinary Meeting of Council, it was resolved

That Council requests the Kyogle Historical Society to provide more detail in the form of a concept plan for the proposal for consideration by Council and further consideration by the community.

##### **Report**

Following the above resolution, staff contacted the Historical Society seeking the concept plan required by Council.

Sketches showing the external view of the proposed building were provided to staff and these have been distributed to Councillors for their information.

Staff wrote to the Historical Society requesting the provision of additional information showing the footprint of the building on the land and how the sloping nature of the land would be catered for.

The Historical Society has responded with the letter that is attached to this report.

##### **Comments/Points to Note**

Council's Executive Manager Environmental Services wrote to the Historical Society on 1 May 1995, advising them that this parcel of land is available for a museum. Following a search of Council's minutes, around that period, the only related resolutions that could be located were during 1993.

On 1 November, 1993, in response to a Mayoral Minute, Council resolved "*That the Manager Environmental Services prepare a detailed report on available lots of ground in Kyogle that could be utilised for a Historical Museum and report back to Council*".

The Manager Environmental Services subsequent report was presented to a Council meeting held on 15 November, 1993. A copy of the report is attached. Council resolved *"That the information be noted."*

As the land belongs to Council, any building constructed on the land will also belong to Council

The Department of Local Government (DLG) would view this as a Public Private Partnership (PPP) and as such it would require DLG approval. In order to obtain approval, a feasibility study would need to be prepared and provided to the DLG.

Council has had \$5,000 included in its budget for a number of years for the cost of a feasibility study for a museum. It is possible that matching funding may be able to be obtained for this study.

Should Council advise the Historical Society that the land is available for a Museum, the project would still require a feasibility study, approval from the DLG, sourcing of funds and Development Application approval

Council is currently paying \$19,000 per annum for rent and outgoings for the Art Gallery.

If the Museum and the Art Gallery were to co-habitate, this would require a smaller number of volunteers to operate the two functions.

At this meeting it was resolved that:

1. That Council confirms its support for development of a combined Museum/Art Gallery subject to confirmation of the Arts Council's interest, a Feasibility Study and available funding.
2. That Council, in association with the Kyogle Historical Society and the Arts Council, apply for matching funding to the available \$5,000 in Council's budget for a feasibility study.
3. That the services of Kyogle Council's Community Projects Officer be made available to aid the Kyogle Historical Society and the Arts Council to undertake their feasibility study and explore available funding options.
4. Such feasibility study is to be based on the presumptive use of Lot 23 of DP 4113, 157-159 Summerland Way, Kyogle as the preferred site but not necessarily restricted to that site.
5. That to aid a timely progression of this proposal, Kyogle Council appoints Councillor Robert Dwyer as its representative to the Kyogle Historical Society Planning and Development Committee and requests quarterly update reports to be provided.

## **Report**

Kylie Winkworth was engaged by Kyogle Council to prepare a feasibility plan . A steering committee was established which included Council staff, representatives from Kyogle and Districts Arts Council the Kyogle Historical Society and the Kyogle Reconciliation Group. This Committee provided both advice and support to the consultant preparing the plan.

The recommendations as presented in the report appear below along with staff comments:

1. That Council endorses in principle the concept of a combined gallery and museum co-located with the library, subject to grant funding for the capital works.

Comment

It is recommended that Council endorses in principle the concept of a combined gallery and museum co-located with the library.

However, before the project progresses beyond the concept stage, the following issues need to be addressed:

- The site is currently used as a depot for Council's maintenance crew and as such the identification of a new location, associated costs and how this will be funded needs to be determined.
  - An analysis of the current recurrent costs against those that will be incurred should the project proceed needs to be undertaken.
2. That Council contributes \$10,000 towards an architectural concept design for the combined gallery and museum adjacent to the library to create a cultural precinct. The design, with indicative costings, will be used to support funding applications to the commonwealth and other grant bodies.

Comment

No current allocation exists to fund the \$10,000 for the architectural design. It may be possible to reallocate part of the \$20,000 budget item that was established for the possible relocation of the Roxy Gallery.

3. That Council assists the Roxy Gallery to move into the KMI shops as an interim arrangement between vacating their current premises and completion of the new building.

Comment

The lease for the Roxy Gallery is current until September 2011. Council have recently received a new lease document that offers a two year lease to January 2012 and an option to renew for three years. (Separate report to Council). It is therefore not necessary to relocate the gallery to the KMI shops as an interim measure

4. That Council adopts the draft Cultural Strategy in 2010, subject to available funding for implementation. This will assist Council to substantiate its case for grant funding for the new gallery and museum.

Comment

The cultural strategy has been deferred pending a review of the list of organisations and resolution of heritage matters.

5. That Council formalises the Community Cultural Committee recommended in the Cultural Strategy as an advisory committee on cultural development. Implementation of the gallery and museum development would come under the auspices of the committee until the gallery and museum is completed. This is recommended as grant bodies may ask for information about council's cultural



advisory structure to ensure proposals and programs reflect community aspirations and allow for community input.

Alternatively, the current feasibility plan management committee could continue to guide design development of the cultural hub, with the addition of a representative from the library and the Kyogle Local Reconciliation Group. Council may wish to have the committee chaired by a councillor.

Comment

The establishment of a Community Cultural Consultative Committee is part of the draft Cultural Strategy.

6. That Council considers the tourism and economic development opportunities associated with a new cultural attraction in Kyogle when the tourism strategy is revised later in 2010.

Comment

It is assumed that this will be addressed within the draft Economic Development Policy being prepared by the Kyogle Community Economic Development Committee.

**Recommendation**

1. That Council endorses in principle the concept of a combined gallery and museum co-located with the library.
2. That Council contributes \$10,000 towards an architectural concept design for the combined gallery and museum adjacent to the library to create a cultural precinct. The design, with indicative costs will be used to support funding applications to the Commonwealth and other grant bodies.

**Attachments**

1. Feasibility Plan for Kyogle gallery and museum (separate attachment)

## **15E.2 LEASE FOR ROXY GALLERY**

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### **Summary/Purpose**

This report presents to Council a new lease documents for shop 4 corner Summerland Way and Stratheden Street Kyogle for the affixing of the Common Seal.

### **Background Information**

The Roxy Gallery is located in a leased premises being shop 4 corner Summerland Way and Stratheden Street Kyogle. Council were advised by the landlords solicitor on July 13, 2009 that a new lease was not required to exercise Councils option and that a new lease will be required from September 1, 2011.

### **Report**

On December 15, 2009 correspondence was received offering Council a lease for two years with a further three (3) year option commencing on February 1, 2010.

Considering no decision has been made on the location of the galley for the future and that the whole project is subject to external funding, it is considered that securing the premises until 31 January 2012 would be in Councils best interests.

### **Budget & Financial Aspects**

A budget allocation exists for the payment of rent for the Roxy Gallery

### **Recommendation**

1. That Council receives and notes the report concerning lease for the Roxy Gallery.
2. That Council authorises the common seal to be affixed in the presence of the Mayor and General Manager to the lease agreement for part folio identifier lot 1 DP 748511 regarding shop 4, corner Summerland Way and Stratheden Street Kyogle.
3. That Council authorises the Mayor and General Manager to sign the lease agreement for part folio identifier lot 1 DP 748511 regarding shop 4, corner Summerland Way and Stratheden Street Kyogle.

**15E.3 CONFIRMATION OF COMMUNITY, CULTURAL & ECONOMIC MINUTES**

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**Summary/Purpose**

This report presents for confirmation the minutes of the Community Cultural & Economic Committee meeting held 1 February 2010.

**Report**

The minutes of the meeting appear below:

**Kyogle Council**

**Unconfirmed Minutes of the Community Cultural & Economic Committee Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 1 February 2010.**

**PRESENT**

Cr. R. Brown, (Mayor in the Chair), Cr. J. Wilson, Cr. R. Dwyer, and Cr. T. Cooper.

**IN ATTENDANCE**

The General Manager, the Director of Corporate & Community Services, the Director of Planning & Environmental Services, Community Projects Officer, Art Gallery Coordinator and the Personal Assistant to the General Manager & Corporate Services.

**MEETING COMMENCEMENT**

The Mayor declared the meeting open at 3.30 p.m.

**ITEM 1 APOLOGIES**

Nil

**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**

**Item-5.1 REPORT ON ACOUSTIC ASSESSMENT KYOGLE SENIOR CENTRE**

**010210/ 1**

**RECOMMENDED**

Councillor Robert Dwyer, seconded Councillor Tom Cooper.

That the report on the acoustic assessment for the Seniors Centre was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote

## **Item-5.2 REVIEW OF ELIGIBILITY CRITERIA FOR FUTURES FUNDING**

### **010210/ 2 RECOMMENDED**

Councillor Janet Wilson, seconded Councillor Ross Brown.

1. That the objectives for Futures Funding be amended to include the new community plans as outlined the report.
2. That the eligibility criteria for Futures Funding be amended to facilitate allocation of funds to community groups to undertake projects that are viable and reflect identified community needs as outlined in the report.

**CARRIED**

FOR VOTE - Unanimous vote

## **Item-5.3 REPORT ON VISITOR NUMBERS TO ROXY GALLERY**

A motion was moved by Councillor Robert Dwyer, seconded Councillor Janet Wilson.

That the report on Visitor numbers to Roxy Gallery was received and noted.

A motion was foreshadowed by Councillor Janet Wilson, seconded by Councillor Robert Dwyer  
That the Gallery provide Council with a report in conjunction with the Tourism Officer, on how the Gallery contributes to the creative industry across the local government area.

The motion was put to the vote and was CARRIED.

### **010210/ 3 RECOMMENDED**

Councillor Robert Dwyer, seconded Councillor Janet Wilson.

That the report on Visitor numbers to Roxy Gallery was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote

The foreshadowed motion was put to the vote and was CARRIED.

### **010210/ 4 RECOMMENDED**

Councillor Janet Wilson, seconded Councillor Robert Dwyer.

That the Gallery provide Council with a report in conjunction with the Tourism Officer, on how the Gallery contributes to the creative industry across the local government area.

**CARRIED**

FOR VOTE - Unanimous vote

## **MEETING CLOSURE**

There being no further business the Mayor declared the meeting closed at 4.05 p.m.

## **Recommendation**

1. That the minutes of the Community Cultural & Economic Committee Meeting held 1 February 2010 be received and noted.

2. That the objectives for Futures Funding be amended to include the new community plans as outlined the report.
3. That the eligibility criteria for Futures Funding be amended to facilitate allocation of funds to community groups to undertake projects that are viable and reflect identified community needs as outlined in the report.
4. That the Gallery provide Council with a report in conjunction with the Tourism Officer, on how the Gallery contributes to the creative industry across the local government area.

**ITEM 15F      GENERAL MANAGER'S REPORT**

**15F.1          CODE OF CONDUCT MATTER**

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**Summary/Purpose**

This report is to present to Council the findings of a Code of Conduct complaint review carried out by Mr. Geoff McNamara.

**Report**

Copies of Mr. McNamara's review reports dated 18 September, 2009 and 23 November, 2009 are attached.

**Recommendation**

For Council consideration

**Attachments**

1. Code of Conduct by GF McNamara

**ITEM 16            URGENT BUSINESS WITHOUT NOTICE**

Nil.

**ITEM 17            CONFIDENTIAL BUSINESS PAPER**

**17.1 INTERNAL AUDIT SERVICES**

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**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





APPENDIX / ATTACHMENTS

# KYOGLE COUNCIL



# ATTACHMENTS

## ORDINARY COUNCIL MEETING

ON 15 FEBRUARY 2010

## **10.1 CONFIRMATION OF ORDINARY MINUTES**

### **Kyogle Council**

**Unconfirmed Minutes of the Ordinary Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 21 December 2009.**

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#### **PRESENT**

Cr. L. Zito, (Deputy Mayor in the Chair from 3.30 pm - 4.00 p.m.), Cr. R. Brown (Mayor in the Chair from 4.00 p.m.), Cr. E. Bennett (arrived 4.59 p.m.), Cr. J. Wilson, Cr. J. O'Reilly, Cr. L. Passfield, Cr. R. Dwyer, Cr. R. Leadbeatter and Cr. T. Cooper.

#### **IN ATTENDANCE**

The General Manager, the Director of Technical Services, the Director of Corporate & Community Services, the Director of Planning & Environmental Services and the Personal Assistant to the General Manager & Corporate Services.

#### **MEETING COMMENCEMENT**

The Deputy Mayor declared the meeting open at 3.30 p.m.

#### **ITEM 1 APOLOGIES**

Apologies were received from Councillor Ernie Bennett and Councillor Ross Brown that they would be arriving late for the meeting.

#### **211209/ 1      RESOLVED**

Moved Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

That the apologies be accepted and the leave of absences be granted for part of the meeting.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - Ernie Bennett, Ross Brown

#### **ITEM 2 OPENING PRAYER**

The Deputy Mayor read the opening prayer.

### **ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**

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

### **ITEM 4 DECLARATION OF INTERESTS**

Cr. Robert Leadbeatter declared an interest in the following item/s:

- Item 15B.4 Crown Reserves Strategic Plan  
Reason for Declaration - owns land adjoining reserve.

Cr. Ross Brown declared an interest in the following item/s:

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 November - 30 November 2009 - 2009/18  
Reason for Declaration – adjoining land owner

General Manager declared an interest in the following item/s:

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 November - 30 November 2009 - 2009/35  
Reason for Declaration – sister involved in preparation of rezoning application.
- Item 17.3 Contractual Conditions of Senior Staff  
Reason for Declaration - position named in report.

Director of Planning & Environmental Services declared an interest in the following item/s:

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 November - 30 November 2009 - 2007/188  
Reason for Declaration – previous preparation of SOE affects prior to being employed by Kyogle Council.
- Item 15F.3 Acting General Manager
- Item 17.3 Contractual Conditions of Senior Staff  
Reason for Declarations - position named in reports.

Director of Technical Services declared an interest in the following item/s:

- Item 15F.3 Acting General Manager
- Item 17.3 Contractual Conditions of Senior Staff  
Reason for Declarations - position named in reports.

Director of Corporate & Community Services declared an interest in the following item/s:

- Item 15F.3 Acting General Manager
- Item 17.3 Contractual Conditions of Senior Staff  
Reason for Declarations - position named in reports.

### **ITEM 5 QUESTION TIME**

Mrs Anne Reardon addressed the meeting in relation to:-

- Toilets located in the Kyogle Memorial Institute in Stratheden Street and stated they are in a deplorable state. Can Council attend to this matter, by cleaning them more regularly and placing directional signage to the toilets, as these issues have been ongoing for sometime?

The Director of Planning & Environmental Services advised the toilets are cleaned on a daily basis by staff; Council will investigate the matter further in the New Year.

- The Council Chambers Administration Building repair program – what is happening with this?

The Director of Planning & Environmental Services advised maintenance works are scheduled to commence in January 2010.

- The Memorial gates once erected at the Kyogle Memorial Hall and enquired what progress has been made to have them reinstalled?

The Director of Planning Services advised the matter is currently on hold until the Heritage Study to be formally adopted, and this cannot occur until LEP 18 is also adopted, which will occur in 2010.

- Placement of seating in the Kyogle Main Street – who is responsible for where the seats were placed i.e. on the kerb?

The Director of Technical Services advised he made the decision giving consideration to maintenance issues and the objections received previously from shop owners to seats located outside their premises.

## **ITEM 6 PUBLIC ACCESS**

- Mr Stephen Fletcher, Planning Consultant addressed the meeting in relation to Item 15B.2 DA 2010-04.

Outlined various reasons (referring to criteria provided by the NSW Heritage Office) as to whether the building was of Heritage significance. His professional view was that it is not and provided the various reasons for this.

- Mr Alan Roberts addressed the meeting in relation to Item 15F.1 Code of Meeting Practice

Encouraged Council to expand it's public access segment to be in line with Council's Community Engagement Policy. i.e. proposal for one (1) public access per year per person is inadequate.

Stated that the requirement that a speaker is only allowed to address a particular item on the business paper, would seem inappropriate, as there are many matters which are not on Council's business agenda's which need to be discussed.

Councillor Lynette Zito vacated the position of Chair at 4.00 pm

Councillor Ross Brown assumed the position of Chair.

**ITEM 7 DEPUTATIONS**

Nil.

**ITEM 8 QUESTIONS WITH NOTICE FROM COUNCILLORS**

Nil.

**ITEM 9 MATTERS DETERMINED WITHOUT FURTHER DEBATE**

**9.1 MATTERS DETERMINED WITHOUT DEBATE**

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There were no items identified.

**ITEM 10 CONFIRMATION OF MINUTES**

**10.1 CONFIRMATION OF EXTRAORDINARY MINUTES**

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**211209/ 2 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

That the Minutes of the Extraordinary Meeting held 26 November 2009 were adopted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**10.2 CONFIRMATION OF ORDINARY MINUTES**

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**211209/ 3 RESOLVED**

Councillor Robert Leadbeatter, seconded Councillor Lynette Zito.

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That the Minutes of the Ordinary Meeting held 16 November 2009 were adopted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**ITEM 11            MAYORAL MINUTE**

Nil.

**ITEM 12            NOTICES OF MOTION**

Nil.

**ITEM 13            DELEGATES REPORTS**

**13.1 DEPUTY MAYOR ATTENDANCES**

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**211209/ 4           RESOLVED**

Councillor Lynette Zito, seconded Councillor Robert Leadbeatter.

That the information contained in the Deputy Mayor Attendances for the period 5 to 30 November 2009 was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**ITEM 14            INFORMATION PAPERS**

**14.1 MONTHLY FINANCE REPORT - NOVEMBER**

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**211209/ 5           RESOLVED**

Councillor Lynette Zito, seconded Councillor John O'Reilly.

That the information contained in the Monthly Finance Report – November 2009 was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

#### **14.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING**

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**211209/ 6      RESOLVED**

Councillor Janet Wilson, seconded Councillor Robert Leadbeatter.

That the minutes of Local Emergency Management Committee meeting were received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

#### **14.3 MINUTES OF THE SUMMERLAND WAY PROMOTIONAL COMMITTEE MEETING - NOVEMBER 2009**

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**211209/ 7      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

That the Minutes of the Summerland Way Promotional Committee meeting held November 13, 2009, were received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

#### **14.4 WORKS COMMITTEE MEETING - DECEMBER**

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**211209/ 8      RESOLVED**

Councillor Lynette Zito, seconded Councillor Tom Cooper.

That the minutes of the December Works Committee meeting were received and noted.

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**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**ITEM 15            GENERAL MANAGER 'S REPORT**

**ITEM 15A         TECHNICAL SERVICES REPORT**

**15A.1 WASTE & WATER COMMITTEE MEETING**

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**211209/ 9        RESOLVED**

Councillor Robert Dwyer, seconded Councillor Lynette Zito.

1. That the minutes of the Waste and Water Committee meeting was received and noted.
2. That as part of the 2010/11 draft Management Plan process, staff include information relating to a new special rate to generate an additional \$220,000 per annum for stormwater and flood management on an ongoing basis.
3. That as part of the 2010/11 draft Management Plan process, Council review its pricing structure for small loads of tankered waste.
4. That Council staff prepare a detailed brief for the undertaking of feasibility studies and community consultation with residents and ratepayers in the villages of Wiangaree, Mallanganee, Tabulam and Old Bonalbo regarding the possible future provision of sewerage services to the villages.
5. That the undertaking of feasibility studies and community consultation will be on a user pays basis.
6. That Council initiate preparation of the preliminary Waste Transfer Station design, including geotechnical testing of the construction site.
7. That Council invite tenders for the supply, installation and design of the outfitting/leachate system of a suitable Compactor/Baler for the Waste Transfer Facility.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett



## **15A.2 KYOGLE BYPASS OPTIONS**

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### **211209/ 10 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

1. That the Bypass options report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - Ernie Bennett

### **211209/ 11 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Janet Wilson.

2. That Council, through its anticipated involvement on the Project Steering Committee for a Northern Rivers Integrated Regional Transport Plan, continue to pursue the provision of a Kyogle Bypass for the Summerland Way.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - Ernie Bennett

## **ITEM 15B PLANNING SERVICES REPORT**

### **15B.1 DEVELOPMENT APPLICATIONS RECEIVED, OUTSTANDING AND DETERMINED FOR THE PERIOD NOVEMBER 1 TO NOVEMBER 30, 2009**

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### **211209/ 12 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Leadbeatter.

1. That, with the exception of the following items in which Councillor Ross Brown, the General Manager & the Director of Planning & Environmental Services have declared an interest,
    - Cr Ross Brown 15B.1 Development Applications Received, Determined and Outstanding DA 2009/18
    - The General Manager 15B.1 Development Applications
-

Received, Determined and Outstanding DA 2009/35

- Director of Planning & Environmental Services 15B.1 Development Applications Received, Determined and Outstanding DA 2007/188

The information contained in the report Development Applications Received, Determined and Outstanding for the period November 1, 2009 to November 30, 2009 was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

Having declared an interest in Item 15B.1 Mayor Ross Brown, The General Manager, Director of Planning & Environmental Services and left the meeting at 4.10 p.m.

Deputy Mayor Councillor Lynette Zito assumed the position of the Chair.

**211209/ 13      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Leadbeatter.

2. That the information contained in the report Development Applications Received, Determined and Outstanding for the period November 1, 2009 to November 30, 2009 only in relation to DA09/18, DA09/35 and DA07/188 in which Councillor Ross Brown, the General Manager and the Director of Environmental Services have declared an interest was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett, Ross Brown

Mayor Ross Brown, the General Manager and the Director of Planning & Environmental Services returned to the meeting at 4.11 p.m.

The Mayor Ross Brown resumed the Chair.

## 15B.2 DEVELOPMENT APPLICATION 2010-4 - DEMOLITION OF EXISTING BUILDINGS

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### 211209/ 14 RESOLVED

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

That Council issue development consent for the demolition of a building situated at 33 Bloore Street, Kyogle.

SUBJECT TO THE CONDITIONS SPECIFIED in this notice being:

1. The development being carried out substantially in accordance with the Statement of Environmental Effects received by Council on July 6, 2009 except where amended by the following conditions of consent.
2. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the development application registered in Councils records as Development Application No 10/04 on July 6, 2009, and that any alteration, variation or extension to the use for which approval has been given would require further development approval.
3. This development consent is limited to a period of 2 years. Following the expiration of this period the consent will lapse unless the development has commenced in accordance with the conditions of consent, or unless an extension of the development consent period has been requested and granted.
4. The proponent is responsible for ensuring that the existing sewer pipe in the property is not damaged while performing the works. If the existing sewer pipe is damaged during the course of performing the works, the proponent will:
  - notify Kyogle Council immediately when the breakage occurs, and
  - repair the damage at no cost to Kyogle Council.
5. Sewer connections must be effectively sealed off at the boundary riser. In this regard an application to connect to Council's sewage system must be submitted prior to the commencement of work.
6. The footpath being kept clear of signs, fixtures and goods at all times.
7. Prior to carrying out any works within a public road reserve, the proponent shall complete an application under Council's Road Reserve Management Plan and receive written approval from Council. Satisfactory arrangements for restoration with Council's Technical Services Department shall also be required, with all works constructed according to Council's Development, Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.

8. That there shall be no loss of support to the Councils foot path area as a result of excavation within the site. Details of how this support will be maintained during construction shall be submitted for the Councils approval prior to the commencement of any work.
9. Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended).
10. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.
11. Council must be notified in writing, prior to commencement of building operations of any existing damage to kerb and gutter or footpaths.

Absence of notification signifies that no damage exists and the applicant is therefore liable for the cost of reinstatement of any damage to the kerb and gutter or footpath which may be necessary after the completion of the building. Where unmade or grassed footpaths are disturbed by the passage of builder or suppliers' vehicles, the footpaths are to be graded and restored to original level with loam.

12. No vehicular accesses may be constructed or opened onto a Council road without the prior written approval of Council.
13. Measures shall be put in place to control stormwater runoff. These control measures shall be in place prior to the commencement of works and shall prevent soil erosion and the transport of sediment from the development site into either:
  - adjoining land
  - natural drainage courses
  - constructed drainage systems, or
  - waterways.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation.

14. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.
15. All demolition work must comply with the provisions of AS 2601 – 2001 "The Demolition of Structures" as in force at 1 July 1993.

Appropriate precautions shall also be taken to ensure compliance with the requirements of WorkCover Authority of NSW.

16. Disposal of waste material, associated with the demolition, shall be undertaken at an approved landfill facility, subject to Council's approval.
17. Removal and disposal of asbestos is to be in accordance with the requirements of the WorkCover Authority of NSW.

18. Water and sewer connections must be effectively disconnected. Council's Water and Sewer Section is to be contacted in this regard so as to arrange required permits and inspections.
19. All building waste is to be removed from the site to an approved waste disposal facility. Storage of waste on site following demolition is to be for no longer than 24 hours.
20. The effects of vibration, dust, noise and concussion on adjoining buildings and their occupants must be minimised, by selecting appropriate demolition methods and equipment.
21. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a) must preserve and protect the building from damage, and
  - b) if necessary, must underpin and support the building in an approved manner, and
  - c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the proposed work.
22. Appropriate signage must be provided on the work site and in a prominent position visible to the public:
  - a) stating that unauthorised access to the work site is not permitted; and
  - b) showing the name of the builder or person responsible for the site and a telephone number at which that person can be contacted outside working hours.
23. Detailed testing of the soil is to be undertaken, the results of which are to be submitted to Council following demolition of the building and concrete slab and their removal, prior to remediation works being undertaken in accordance with the provisions of State Environmental Planning Policy 55 – Remediation of Land and also with the provisions of Kyogle Council Development Control Plan No. 10 – Contamination of Land.
24. The preparation and submission to Council for its approval of Environmental Consultant reports is to be undertaken prior to asbestos being removed from the site and also after all demolition is completed following soil testing.
25. Noise generated by the development is not to exceed the L90 plus 5dB(A) (being the maximum level) when measured 1.5 metres from the external wall of any affected residence.
26. Hours of operation for the demolition are to be restricted to 7am to 6 pm Monday to Friday and from 8 am to 1 pm on Saturdays, with no works to be undertaken on Sundays or public holidays.

Advisory Condition:-

That prior to the building being demolished, it is advertised for sale, collection, removal and installation at an alternative site either in the Kyogle Local Government Area or other location, including Amberley Air Force Base in Brisbane.

Note:

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.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

Councillor Lindsay Passfield and Councillor Ross Brown called for a division

<b>For</b>	<b>Against</b>
Cr Lindsay Passfield	
Cr Robert Dwyer	
Cr Robert Leadbeatter	
Cr John O'Reilly	
Cr Lynette Zito	
Cr Ross Brown	
Cr Janet Wilson	
Cr Tom Cooper	

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

### **15B.3 PLANNING & ENVIRONMENT COMMITTEE MEETING**

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#### **211209/ 15 RESOLVED**

Councillor Robert Leadbeatter, seconded Councillor Lynette Zito.

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1. That the minutes of the Environment and Planning Committee meeting were received and noted.
2. That Council staff proceed with further discussion with the Chamber of Commerce with a view to providing a consistent approach to footpath usage by businesses.
3. That Council staff provide a further report to the Planning & Environment Committee with regard to footpath usage by charitable organisations.
4. That Kyogle Council Planning Department proceed with the production of fact sheets to aid the development application process as per other Northern Rivers Councils.
5. That Kyogle Council Planning Department bring a further report to the Planning & Environment Committee covering all aspects of private property access requirements for discussion.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

#### **15B.4 CROWN RESERVES STRATEGIC PLAN**

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Having declared an interest in Item 15B.4 Councillor Robert Leadbeatter left the meeting at 4.12 p.m.

#### **211209/ 16 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

1. That the Crown Reserves Strategic Plan December 2009 was adopted by Council.
2. That Council commences the formation of a Crown Reserve Trust to manage those Crown Reserves identified in the Crown Reserve Strategy.
3. That Council commences actions in consultation with the Department of Lands to resolve issues identified on reserves other than those to be managed by Council or the new Crown Reserve Trust.
4. That Council commences consultation with the relevant stakeholders to facilitate the preparation of village plans of management for the villages of Woodenbong, Bonalbo, Tabulam and Wiangaree.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett, Robert Leadbeatter

Councillor Robert Leadbeatter returned to the meeting at 4.13 p.m.

## **15B.5 JOINT REGIONAL PLANNING PANEL**

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### **211209/ 17 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

1. That the report on nominations for the Joint Regional Planning Panel was received and noted.
2. That Council formally contact neighbouring councils requesting the participation of their professional planning staff members on the Joint Regional Planning Panel to act on behalf of Kyogle Council in the event of an application being lodged which satisfies the criteria of a development which is to be determined by the JRPP and providing a reciprocating offer of participation of Kyogle Council professional planning staff members.
3. That Council advise the Department of Planning of the above outcomes.

**CARRIED**

FOR VOTE - Janet Wilson, John O'Reilly, Lindsay Passfield, Lynette Zito, Robert Dwyer, Robert Leadbeatter, Ross Brown  
AGAINST VOTE - Tom Cooper  
ABSENT. DID NOT VOTE - Ernie Bennett

## **ITEM 15C ENVIRONMENT SERVICES REPORT**

### **15C.1 ONSITE SEWAGE MANAGEMENT SYSTEMS APPROVALS**

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### **211209/ 18 RESOLVED**

Councillor Lynette Zito, seconded Councillor John O'Reilly.

1. That the report On-site Sewage Management Systems approvals policy was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett



A motion was moved by Councillor Lynette Zito

2. That Council adopt an open-ended timeframe for the registration of all on-site sewage management systems with a charge for those systems that have previously been registered.

The motion was seconded by Councillor Robert Dwyer

The motion was put to the vote and was LOST.

FOR VOTE - Janet Wilson, John O'Reilly, Lynette Zito, Robert Dwyer

AGAINST VOTE - Lindsay Passfield, Robert Leadbeatter, Ross Brown, Tom Cooper

ABSENT. DID NOT VOTE - Ernie Bennett

The motion was lost on the casting vote of the Mayor Ross Brown.

A motion was moved by Councillor Lindsay Passfield

2. That Council adopt an open-ended timeframe for the registration of all on-site sewage management systems with no charge for those systems that have previously been registered.

The motion was seconded by Councillor Tom Cooper.

The motion was put to the vote and CARRIED.

## **211209/ 19      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Tom Cooper.

2. That Council adopt an open-ended timeframe for the registration of all on-site sewage management systems with no charge for those systems that have previously been registered.

**CARRIED**

FOR VOTE - Lindsay Passfield, Robert Dwyer, Robert Leadbeatter, Ross Brown, Tom Cooper

AGAINST VOTE - Janet Wilson, John O'Reilly, Lynette Zito

ABSENT. DID NOT VOTE - Ernie Bennett

**ITEM 15D CORPORATE SERVICES REPORT**

**15D.1 CONFIRMATION OF GOVERNANCE COMMITTEE MINUTES 14 DECEMBER 2009**

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**211209/ 20 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

1. That the Governance Committee Meeting Minutes were received and noted.
2. That Council contact Tenterfield Council and request details on how it is carrying out the Internal Audit Function.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**15D.2 FINANCIAL ASSISTANCE - REQUESTING REALLOCATION OF FUNDS**

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**211209/ 21 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

That Council approves the request from the Woodenbong Public Hall Reserve Trust to utilise the remainder of the funds for the payment of fire equipment service and performing licence.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**15D.3 ECONOMIC DEVELOPMENT POLICY**

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**211209/ 22 RESOLVED**

Councillor Robert Dwyer, seconded Councillor Robert Leadbeater.

That the report on the Economic Development Policy was received and noted.

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**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - Ernie Bennett

**ITEM 15E COMMUNITY SERVICES REPORT**

Nil.

**ITEM 15F GENERAL MANAGER'S REPORT**

**15F.1 CODE OF MEETING PRACTICE**

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Councillor Ernie Bennett joined the meeting at 4.59 pm

**211209/ 23 RESOLVED**

Councillor Janet Wilson, seconded Councillor Lindsay Passfield.

1. That the report Code of Meeting Practice was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote

A motion was moved by Councillor Janet Wilson

2. That a report be prepared for Council about an appropriate community engagement procedure to include public access at Council meetings so it can be implemented as a flow-on from the Community Engagement Policy.

The motion was seconded by Councillor Lynette Zito

The motion was put to the vote and was CARRIED.

**211209/ 24 RESOLVED**

Councillor Janet Wilson, seconded Councillor Lynette Zito.

2. That a report be prepared for Council about an appropriate community engagement procedure to include public access at Council meetings so it can be implemented as a flow-on from the Community Engagement Policy.

**CARRIED**

FOR VOTE - Unanimous vote

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A motion was moved by Councillor Robert Dwyer

3. That Council workshop the Code of Meeting Practice.

The motion was seconded by Councillor Lynette Zito

The motion was put to the vote and was CARRIED.

**211209/ 25      RESOLVED**

Councillor Robert Dwyer, seconded Councillor Lynette Zito.

3. That Council workshop the Code of Meeting Practice.

**CARRIED**

FOR VOTE - Unanimous vote

**15F.2 TRAINING NEEDS ANALYSIS**

---

**211209/ 26      RESOLVED**

Councillor Lynette Zito, seconded Councillor Lindsay Passfield.

1. That the training needs analysis report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote

A motion was moved by Councillor Janet Wilson

2. That Council proceed with the plan identified under the Training Needs Analysis as soon as practicable.

The motion was seconded by Councillor Robert Dwyer.

The motion was put to the vote and was CARRIED.

**211209/ 27      RESOLVED**

Councillor Janet Wilson, seconded Councillor Robert Dwyer.

2. That Council proceed with the plan identified under the Training Needs Analysis as soon as practicable.

**CARRIED**

FOR VOTE - Ernie Bennett, Janet Wilson, John O'Reilly, Lindsay Passfield, Lynette Zito, Robert Dwyer, Ross Brown, Tom Cooper

AGAINST VOTE - Robert Leadbeatter

### **15F.3 ACTING GENERAL MANAGER**

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Having declared an interest in the Item 15F.3 Director of Planning & Environmental Services, Director of Corporate & Community Services and Director of Technical Services left the meeting at 5.16 p.m.

### **211209/ 28 RESOLVED**

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

That the following Acting General Manager appointments be made:

- 4 January, 2010 to 8 January 2010 inclusive – Director of Corporate & Community Services.
- 11 January 2010 to 15 January 2010 inclusive – Director of Technical Services.
- 18 January 2010 to 22 January 2010 inclusive – Director of Planning & Environmental Services.

**CARRIED**

FOR VOTE - Unanimous vote

The Director of Planning & Environmental Services, Director of Corporate & Community Services and Director of Technical Services returned to the meeting at 5.18 p.m.

### **ITEM 16 URGENT BUSINESS WITHOUT NOTICE**

Nil.

## **ITEM 17            CONFIDENTIAL BUSINESS PAPER**

### **17.01    MOVE INTO CLOSED COUNCIL**

On closing the meeting to the public.

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

The matters and information are the following;

- (d) commercial information of a confidential nature that would if disclosed:
  - (a) personnel matters concerning particular individuals

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

#### **Item 17.1 - Tender for Supply of Used Landfill Compactor: Tender No 200910-002 Item 17.2 - Tender for Bridge Replacement - Bean Creek No 4 Bridge**

These items are classified CONFIDENTIAL under section 10A(2) (i) 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 that would if disclosed:

Tender details, should they be revealed, may result in commercial disadvantage to parties involved in the tender process. Some information provided to Council by tenderers is provided on the basis that Council will treat is as commercial in confidence.

It is not in the public interest to reveal all details of these tenders or the assessment process. Tenderers have provided sensitive information about their operations in the confidence that their details will not be made public by Council. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information by tenderers and reduction in the provision of information relevant to council's decision.

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

#### **Item 17.3 - Contractual Conditions of Senior Staff**

This item is classified CONFIDENTIAL under 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

This matter is confidential because it may contain personnel matters in relation to an individual.

It is not in the public interest and would be contrary to privacy provisions to reveal these details.

Pursuant to section 10A(4), the public were invited to make representations to the council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

**211209/ 29 RESOLVED**

Moved by Councillor Ernie Bennett, seconded by Councillor Lindsay Passfield.

1. That Council resolve to move into closed council to consider business identified, together with any late reports tabled at the meeting.
2. That pursuant to section 10A(1)-(3) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of section 10A(2) as outlined above.
3. That the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by section 11(2) of the Local Government Act 1993.

**CARRIED**

FOR VOTE - Unanimous vote

Council Closed its meeting at 5.19 p.m. The public and media left the Chamber.

Item 17.1 Tender for Supply of Used Landfill Compactor: Tender No 200910-002  
- Council's Plant & Depot Co-ordinator attended the meeting to assist with any questions arising from this item.

Item 17.3 Having declared an interest in this item the General Manager, Director of Technical Services, Director of Planning & Environmental Services, Director of Corporate & Community Services and the Personal Assistant to the General Manager and Corporate Services left the meeting at 5.34 p.m.

The General Manager returned to the meeting at 6.05 p.m.

## **17.02 MOVE OUT OF CLOSED COUNCIL**

### **211209/ 30 RESOLVED**

Moved by Councillor Ernie Bennett, seconded by Councillor Robert Dwyer.

That Council move out of Closed Council and into Open Council.

Open Council resumed at 6.05 p.m. The public and the media entered the chamber.

The following resolutions of Council while the meeting was closed to the public were read to the meeting by the Mayor.

**CARRIED**

FOR VOTE - Unanimous vote

### **17.1 TENDER FOR SUPPLY OF USED LANDFILL COMPACTOR: TENDER NO 200910-002**

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That Council accept the tender from GCM Enviro Pty Ltd for the supply of a Caterpillar 816 F H Compactor at a cost to Council of \$210,000.00 (GST Exclusive) after the trade of Council Plant No. 23.

### **17.2 TENDERS FOR BRIDGE REPLACEMENT - BEAN CK NO 4 BRIDGE**

- 
1. That additional funds of \$66,000 be allocated towards construction of the Bean Creek No 4 Bridge to fund 50% of the replacement cost of the bridge.
  2. That the tender from E. K. Sanderson of \$469,178 plus GST for replacement of Bridge No 361-B2572 (Bean Ck No 4) be accepted
  3. That the Mayor and General Manager be authorised to execute the tender documents for the above contract under seal



### **17.3 CONTRACTUAL CONDITIONS OF SENIOR STAFF**

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1. That the Contractual Conditions of Directors were received and noted.
2. That the performance review of the General Manager was received and noted.
3. That Council grants the General Manager a 1.75% wage increase as a productivity bonus.

### **MEETING CLOSURE**

There being no further business the Mayor declared the meeting closed at 6.08 p.m.

## **10.2 CONFIRMATION OF EXTRAORDINARY MINUTES**

### **Kyogle Council**

**Unconfirmed Minutes of the Extraordinary Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 18 January 2010.**

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#### **PRESENT**

Cr. L. Zito, (Deputy Mayor in the Chair), Cr. E. Bennett, Cr. J. O'Reilly, Cr. L. Passfield , Cr. R. Dwyer, Cr. R. Leadbeatter and Cr. T. Cooper.

#### **IN ATTENDANCE**

The Director of Planning & Environmental Services (Acting General Manager), Director of Technical Services, Manager Asset Services, Town Planner and the Personal Assistant to the General Manager & Corporate Services.

#### **MEETING COMMENCEMENT**

The Deputy Mayor declared the meeting open at 3.30 p.m.

#### **ITEM 1 APOLOGIES**

Apologies were received from Councillor Ross Brown and Councillor Janet Wilson.

#### **180110/ 1 RESOLVED**

Moved Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

That the apologies were accepted.

**CARRIED**

#### **ITEM 2 OPENING PRAYER**

The Deputy Mayor read the opening prayer.

#### **ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**

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

## **ITEM 4 DECLARATION OF INTERESTS**

Cr. Lynette Zito declared an interest in the following item/s although stated she would remain in the meeting during the item:

- Item 5.1 Regional Local Community Infrastructure Program.  
Reason for Declaration - Vice President of Kyogle Seniors Centre Committee

## **ITEM 5 GENERAL MANAGER 'S REPORT**

### **5.1 REGIONAL LOCAL COMMUNITY INFRASTRUCTURE PROGRAM**

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A motion was moved by Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

1. That the Regional Local Community Infrastructure Program report was received and noted.
2. That Council withdraws its application for the following project under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a. Various PAMP projects in villages other than Kyogle - \$60,000
3. That Council applies for the following projects under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a. Stage 2 Piping of open drain Summerland Way, Kyogle - \$60,000 (Priority 1)
  - b. Provision of a disabled lift at Grove House, Geneva St Kyogle - \$60,000 (Priority 2)

An amendment was moved by Councillor Robert Dwyer, seconded by Councillor John O'Reilly.

1. That the Regional Local Community Infrastructure Program report was received and noted.
2. That Council withdraws its application for the following project under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a. Various PAMP projects in villages other than Kyogle - \$60,000
3. That Council applies for the following projects under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a) Provision of a disabled lift at Grove House, Geneva St Kyogle - \$60,000 (Priority 1)
  - b) Stage 2 Piping of open drain Summerland Way, Kyogle - \$60,000 (Priority 2)

The amendment was put to the vote and was LOST

FOR VOTE - John O'Reilly, Lynette Zito, Robert Dwyer

AGAINST VOTE - Ernie Bennett, Lindsay Passfield, Robert Leadbeatter, Tom Cooper

ABSENT. DID NOT VOTE - Janet Wilson, Ross Brown

The motion was put to the vote and was CARRIED.

**180110/ 2      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

1. That the Regional Local Community Infrastructure Program report was received and noted.
2. That Council withdraws its application for the following project under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a) Various PAMP projects in villages other than Kyogle - \$60,000
3. That Council applies for the following projects under the non-competitive component of the Regional Local Community Infrastructure Program;
  - a) Stage 2 Piping of open drain Summerland Way, Kyogle - \$60,000 (Priority 1)
  - b) Provision of a disabled lift at Grove House, Geneva St Kyogle - \$60,000 (Priority 2)

**CARRIED**

FOR VOTE - Ernie Bennett, Lindsay Passfield, Robert Leadbeatter, Tom Cooper

AGAINST VOTE - John O'Reilly, Lynette Zito, Robert Dwyer

ABSENT. DID NOT VOTE - Janet Wilson, Ross Brown

**5.2 DEVELOPMENT APPLICATION 2010/66 - DEMOLITION AND ERECTION OF COMMERCIAL PREMISES (OFFICES), 1 WYANGARIE STREET, KYOGLE**

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**180110/ 3      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Ernie Bennett.

That the item be deferred until the Council's Ordinary Meeting in February 2010.

**CARRIED**

FOR VOTE - Ernie Bennett, John O'Reilly, Lindsay Passfield,  
Lynette Zito, Robert Leadbeatter, Tom Cooper

AGAINST VOTE - Robert Dwyer

ABSENT. DID NOT VOTE - Janet Wilson, Ross Brown

Councillor Ernie Bennett and Councillor Lindsay Passfield called for a division

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<b>For</b>	<b>Against</b>
Cr Lindsay Passfield	Cr Robert Dwyer
Cr Robert Leadbeatter	
Cr John O'Reilly	
Cr Lynette Zito	
Cr Tom Cooper	
Cr Ernie Bennett	

### **MEETING CLOSURE**

There being no further business the Chair declared the meeting closed at 3.52 p.m.

## 14.1 MONTHLY FINANCIAL REPORT

### COUNCILLORS TRAVEL EXPENSES DECEMBER/JANUARY

COUNCILLOR NAME	KLMS CLAIMED		CURRENT KM RATE	AMT REIMBURSED	
	MONTHS	YTD		MONTH	YTD
E Bennett	2,526	6,982	0.73	1,843.98	5,096.86
R. Brown	0	0	0.73	0.00	0.00
T. Cooper	980	2,352	0.73	715.40	1,716.96
R. Dwyer	0	180	0.73	0.00	131.40
J. O'Reilly	0	480	0.73	0.00	350.40
R. Leadbeatter	0	0	0.73	0.00	0.00
L. Passfield	771	2,858	0.73	562.83	2,086.34
J. Wilson		0	0.73	0.00	0.00
L. Zito		1,504	0.64	816.16	991.36
<b>Total</b>	<b>4,277</b>	<b>14,356</b>		<b>3,938.37</b>	<b>10,373.32</b>

#### Notes

- (1) The above figures represent amounts actually paid.
- (2) The amounts paid in the current month will relate to claims for travel in prior months
- (3) Some councillors may have claims outstanding for more than one month.

\* Claim contains some kilometres paid at 73cents/km and some at .64 cents /km

# Kyogle Council



## Financial Reports 31 January, 2010

### Rates Statement Statement of Bank Balances (December and January) Summary of Investments (December and January)

NOTE: All Financial Data presented is unaudited at the date of presentation to Council

### **KYOGLE COUNCIL RATES STATEMENT AS AT 28 JANUARY 2010**

	<b>ARREARS 1-Jul-09</b>	<b>NET CHARGES 2009</b>	<b>PAYMENTS</b>	<b>OUTSTANDING BALANCE</b>	<b>PERCENTAGE COLLECTED</b>
RATES	209,476.01	4,264,706.61	2,691,797.57	1,782,385.05	60.16%
SERVICES	324,936.70	2,086,300.10	1,422,307.27	988,929.53	58.99%
INTEREST	74,253.63	23,760.14	30,690.34	67,323.43	31.31%
<b>TOTALS</b>	<b>608,666.34</b>	<b>6,374,766.85</b>	<b>4,144,795.18</b>	<b>2,838,638.01</b>	<b>59.35%</b>

PRESENTED TO COUNCIL FEBRUARY 2010

**Note:**

Some ratepayers have made arrangements, whilst others are at different stages of legal action.

# KYOGLÉ COUNCIL

## STATEMENT OF BANK BALANCES AS AT 31-Dec-09

FUND	CLOSING BANK BALANCE 31-Dec-09	INVESTMENT BALANCE 31-Dec-09
<b>GENERAL FUND</b>		
UNRESTRICTED	(1,577,333.13)	3,200,000.00
INTERNALLY RESTRICTED	362,000.00	3,500,000.00
STATE HIGHWAYS	1,212,517.26	
QUARRIES	132,076.70	
PLANT	2,900,541.58	
EXTERNALLY RESTRICTED	213,650.80	700,000.00
	3,243,453.21	7,400,000.00
<b>RESTRICTED</b>		
WATER SUPPLIES	93,437.29	
SEWERAGE SYSTEMS	434,702.03	500,000.00
DOMESTIC WASTE	498,838.14	
ORDINARY TRUST	32,518.21	
	1,059,495.67	500,000.00
<b>CONSOLIDATED FUNDS</b>	<b>4,302,948.88</b>	<b>7,900,000.00</b>



# KYOGLÉ COUNCIL

## STATEMENT OF BANK BALANCES AS AT

31-Jan-10

	CLOSING BANK BALANCE	INVESTMENT BALANCE
FUND	31-Jan-10	31-Jan-10
<b>GENERAL FUND</b>		
UNRESTRICTED	(1,839,249.80)	3,200,000.00
INTERNALLY RESTRICTED	362,000.00	3,500,000.00
STATE HIGHWAYS	1,397,905.49	
QUARRIES	157,556.92	
PLANT	2,895,700.93	
EXTERNALLY RESTRICTED	213,650.80	700,000.00
	3,187,564.34	7,400,000.00
<b>RESTRICTED</b>		
WATER SUPPLIES	271,844.19	
SEWERAGE SYSTEMS	377,517.62	500,000.00
DOMESTIC WASTE	386,870.56	
ORDINARY TRUST	35,821.21	
	1,072,053.58	500,000.00
<b>CONSOLIDATED FUNDS</b>	<b>4,259,617.92</b>	<b>7,900,000.00</b>

## KYOGLE COUNCIL

### SUMMARY OF INVESTMENTS AS AT 31/12/09

	BANK	TYPE	TERM	AMOUNT	RATE P.A.	DUE DATE
1	BANKWEST	TERM DEPOSIT	30 DAYS	1,500,000.00	4.60%	January 6, 2010
2	CITIBANK	TERM DEPOSIT	30 DAYS	1,000,000.00	5.03%	January 8, 2010
3	BANKWEST	TERM DEPOSIT	116 DAYS	1,000,000.00	4.40%	January 19, 2010
4	COMMONWEALTH	TERM DEPOSIT	63 DAYS	3,000,000.00	4.02%	January 27, 2010
5	SUNCORP METWAY	TERM DEPOSIT	90 DAYS	1,000,000.00	5.25%	February 25, 2010
6	SUNCORP METWAY	TERM DEPOSIT	90 DAYS	400,000.00	4.55%	February 25, 2010

7,900,000.00

**PRESENTED TO COUNCIL ON FEBRUARY 15, 2010**

I hereby certify that the above investments have been made in accordance with section 625 of the Local Government Act, 1993, the Local Government ( General ) Regulation 2005 and Councils Investment Policy.

( GLENN ROSE )  
RESPONSIBLE ACCOUNTING OFFICER

## KYOGLE COUNCIL

### SUMMARY OF INVESTMENTS AS AT 31/01/10

	BANK	TYPE	TERM	AMOUNT	RATE P.A.	DUE DATE
1	CITIBANK	TERM DEPOSIT	31 DAYS	1,000,000.00	5.21%	February 8, 2010
2	SUNCORP METWAY	TERM DEPOSIT	90 DAYS	1,000,000.00	5.25%	February 25, 2010
3	SUNCORP METWAY	TERM DEPOSIT	90 DAYS	400,000.00	4.55%	February 25, 2010
4	COMMONWEALTH	TERM DEPOSIT	30 DAYS	3,000,000.00	4.45%	February 26, 2010
5	BANKWEST	TERM DEPOSIT	61 DAYS	1,500,000.00	5.20%	March 8, 2010
6	BANKWEST	TERM DEPOSIT	62 DAYS	1,000,000.00	5.25%	March 22, 2010
				7,900,000.00		
<b>PRESENTED TO COUNCIL ON FEBRUARY 15, 2010</b>						
I hereby certify that the above investments have been made in accordance with section 625 of the Local Government Act, 1993, the Local Government ( General ) Regulation 2005 and Councils Investment Policy.						
( GLENN ROSE )						
RESPONSIBLE ACCOUNTING OFFICER						

**KYOGLÉ COUNCIL CODE OF CONDUCT****REVIEW of COMPLAINT for BREACH OF CODE**

by G F McNAMARA

COMPLAINANT: ARTHUR PIGGOTT, GENERAL MANAGER

RESPONDENT: COUNCILLOR JANET WILSON

DATE: 18<sup>th</sup> September 2009**PARTICULARS OF COMPLAINT**

It is complained that Councillor Janet Wilson breached the Code in correspondence with [REDACTED] on 14<sup>th</sup> May 2009, in that the Councillor was overbearing or threatening to council staff and directing or pressuring council staff in the performance of their work. The complaint is contained in letters from [REDACTED] to the Mayor dated 26<sup>th</sup> August 2009 and 28<sup>th</sup> August 2009.

**CODE OF CONDUCT BREACH**

Chapter 9, RELATIONSHIP BETWEEN COUNCIL OFFICIALS  
Paragraph 9.7 (e) and (g)

**REASONS FOR DECISION by REVIEWER**

On 26<sup>th</sup> August 2009, [REDACTED] advised the Mayor, Ross Brown that [REDACTED] was of the opinion the Councillor Janet Wilson had breached the above provisions in her Correspondence Email to [REDACTED] on 14<sup>th</sup> May 2009.

A detailed examination of the Email indicates that the writer, Janet Wilson appeared to be deeply concerned about the decision by [REDACTED] that two recommendations from the Community & Cultural Committee were contrary to Clause 267 of the Local Government ( General) Regulation.

Janet Wilson expressed firmly her views in this Email and the following extracts are relevant to the Complainant, namely:

“ If you do anything to interfere in a professional approach to qualitative information gathering then I will take this further.”

“ I am very angry about this because I see it as another example of using regulation to bully and it is not based in fact.”

It is in this Email that a serious allegation is made against [REDACTED]  
[REDACTED]

Reference is made to an alleged statement by [REDACTED] with words to the effect..” in your wildest dreams.” The sentence then goes on to say that this behavior towards residents is unacceptable.

The Mayor saw fit to advise Janet Wilson on 15<sup>th</sup> May about her confusion with the two Committees and the reply on 15<sup>th</sup> May is telling in relation to this complaint, namely that she would apologise to [REDACTED] for the confusion.

The next Email from Janet Wilson on 18<sup>th</sup> May 2009 to [REDACTED] is further evidence of her view and attitude towards Council staff, namely:

“ I will try to speak to you to-day to apologise for reading 2 documents at once and therefore confusing the outcomes.”

The terms and contents of Emails from Janet Wilson dated 19<sup>th</sup> June 2009 and 9<sup>th</sup> August 2009 and 18<sup>th</sup> August 2009 are noted.

Now it may well be argued that the comments of Councillor Wilson were related to the Community and Cultural Committee decision by [REDACTED] and that she was not overbearing or threatening to council staff; her explanation is detailed in the Email to the Mayor on 14<sup>th</sup> May 2009.


However, on balance the evidence does tend to indicate that Councillor Janet Wilson in the communications has breached the Code of Conduct that specifically provides for a very high standard of conduct between Council Officials. In particular, there is evidence and a weight of evidence that must conclude, there has been inappropriate interaction by the Councillor towards [REDACTED] and [REDACTED] of the Kyogle Council.

Given the several references to an apology by Council Wilson in her Emails, it could be argued she did acknowledge her behaviour as inappropriate.

#### FINDING AND RECOMMENDATION OF THE CONDUCT REVIEWER

Therefore, on balance it is reasonable to conclude there has been a breach of Section 9.7, Paragraphs(e) and (g) of the Code of Conduct by Councillor Janet Wilson.

Taking into account the directions in Chapter 14.9 of the Code, it is recommended that Council require the Councillor to apologise to [REDACTED] and [REDACTED]

  
G F McNamara  
Reviewer  
18th September 009

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**KYOGLE COUNCIL CODE OF CONDUCT**

**CONFIRMATION of REVIEW of COMPLAINT for BREACH OF CODE**

by G F McNAMARA

COMPLAINANT: ARTHUR PIGGOTT, GENERAL MANAGER

RESPONDENT: COUNCILLOR JANET WILSON

DATE of COMPLAINT 26<sup>th</sup> August 2009

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On 18<sup>th</sup> September 2009 an initial Review was made by G F McNamara, in respect of the Complaint by [REDACTED] of 26<sup>th</sup> August 2009 and it was concluded there has been a breach of the Code of Conduct by Councillor Janet Wilson.

A copy of that Review was sent to Councillor Janet Wilson on 23<sup>rd</sup> September and she was invited to respond to the Complaint and she was referred to Chapter 14 of the Code which provides for hearing and determination of Complaints.

There was no reply to the above letter.

On 28<sup>th</sup> October 2009 a further letter was sent to Councillor Janet Wilson requesting that she respond to the Complaint on or before 13<sup>th</sup> November, 2009.

In an undated letter received on 13<sup>th</sup> November, Councillor Janet Wilson advised this matter "...is being handled by my lawyer, [REDACTED]. Please direct all correspondence and contract to [REDACTED] on [REDACTED] if you have any further queries".

No communication has been received nor directed to the above Solicitor.

**CONFIRMATION of PRELIMINARY FINDING AND RECOMMENDATION MADE ON 18TH SEPTEMBER 2009**

The message of 14<sup>th</sup> May 2009 from Councillor Janet Wilson addressed to [REDACTED] constitutes a breach of paragraphs 9.7(e) and (g) of the Code of Conduct.

Taking into account the directions of Chapter 14.9 of the Code, it is recommended that Council require the Councillor to apologise to [REDACTED] and [REDACTED].

  
G F McNamara  
Reviewer

23<sup>rd</sup> November 2009