



# **KYOGLÉ COUNCIL**

## **ORDINARY COUNCIL AGENDA**

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

**ON MONDAY 26 SEPTEMBER 2011**

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 26 September 2011, 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 Annual Appointments
- Item 6 Question Time
- Item 7 Public Access
- Item 8 Confirmation of Minutes
- Item 9 Mayoral Minute
- Item 10 Notices of Motion
- Item 11 Questions with Notice from Councillors
- Item 12 Reports from Delegates
- Item 13 Information Reports
- Item 14 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 15 Urgent Business Without Notice
- Item 16 Questions for Next Ordinary Meeting
- 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 and we acknowledge elders, both past and present.**

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 cut short the session.

Speakers are not to debate answers.

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

The maximum duration of this session is 30 minutes.

### **5.8 Public Access (Council Policy)**

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

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

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

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

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

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

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

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

# ORDINARY COUNCIL AGENDA

Monday 26 September 2011

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## **ITEM 1 APOLOGIES**

## **ITEM 2 OPENING PRAYER**

## **ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**

## **ITEM 4 DECLARATION OF INTERESTS**

Nil.

## **ITEM 5 ANNUAL APPOINTMENTS**

### **5.1 ELECTION OF MAYOR**

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#### **Summary/Purpose**

In accordance with Section 227 of the Local Government Act, 1993, the election of Mayor is to be by the Councillors from among their numbers.

#### **Election Procedure**

The Election procedure is to be in accordance with Schedule 7 of the Local Government (General) Regulation 2005.

#### **Returning Officer**

The General Manager (or a person appointed by the General Manager) is the Returning Officer.

#### **Nomination**

1. A Councillor may be nominated without notice for election as Mayor (or Deputy Mayor).
2. The nomination is to be made in writing by 2 or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
3. The nomination is to be delivered or sent to the Returning Officer.
4. The Returning Officer is to announce the names of the nominees at the Council Meeting at which the election is to be held.

#### **Election**

1. If only one Councillor is nominated, that Councillor is elected.
  2. If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
  3. The election is to be held at the Council Meeting at which the Council resolves on the method of voting.
  4. In this Clause:
-



“ballot” has its normal meaning of secret ballot;  
“open voting” means voting by a show of hands or similar means.

### **Ordinary Ballot or Open Voting**

Application of Part:

This Part applies if the election proceeds by Ordinary Ballot or by Open Voting.

### **Marking of Ballot Papers**

1. If the election proceeds by ordinary ballot, the Returning Officer is to decide the manner in which votes are to be marked on the ballot papers.
2. The formality of a ballot paper under this Part must be determined in accordance with Clause 345(1)(b) and (c) and (5) of this Regulation as if it were a ballot paper referred to in that clause.
3. An informal ballot paper must be rejected at the count.

### **Count – 2 Candidates**

1. If there are only 2 candidates, the candidate with the higher number of votes is elected.
2. If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

### **Count – 3 or more Candidates:**

1. If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
2. If 3 or more Candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
3. If, after that, 3 or more candidates still remain, the procedure set out in Subclause (2) is to be repeated until only 2 Candidates remain.
4. Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
5. If at any stage during a count under Subclause (1) or (2), 2 or more Candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

### **Preferential Ballot**

Application of Part:

This Part applies if the election proceeds by Preferential Ballot.

### **Ballot Papers and Voting:**

1. The ballot papers are to contain the names of all the candidates. The Councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for the Candidates.
2. The formality of a ballot paper under this Part is to be determined in accordance with Clause 345 (1)(b) and (c) and (5) of this Regulation as if it were a ballot paper referred to in that Clause.

### **Count**

1. If a Candidate has an absolute majority of first preference votes, that Candidate is elected.

2. If not, the Candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot papers counted to him or her are transferred to the candidates with second preferences on those ballot papers.
3. A Candidate who then has an absolute majority of votes is elected, but, if no Candidate then has an absolute majority of votes, the process of excluding the Candidate who has the lowest number of votes and counting each of his or her unexhausted ballot papers to the Candidates remaining in the election next in order of the voter's preference is repeated until one Candidate has received an absolute majority of votes. The latter is elected.
4. In this Clause "absolute majority" in relation to votes means a number which is more than one-half of the number of formal unexhausted ballot papers.

### **Tied Candidates**

If, on any count of votes, the numbers of votes cast for 2 Candidates are equal and:

- (a) those Candidates are only Candidates whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected; or
  - (b) those Candidates are the ones with the lowest number of votes on the count of the votes – the Candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.
1. If, on any count of votes, the number of votes cast for 3 or more Candidates are equal and the lowest number of votes on the count of the votes – the Candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

### **Choosing by Lot**

To choose a Candidate by lot, the names of the Candidates who have equal numbers of votes are written on similar slips of paper by the Returning Officer, the slips are folded by the Returning Officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the Returning Officer and the Candidate whose name is on the drawn slip is chosen.

### **Result**

The result of the election (including the name of the Candidate elected as Mayor) is:

- (a) to be declared to the Councillors at the Council meeting at which the election is held by the Returning Officer; and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Association of NSW.

(Note: Council has previously utilised the ordinary ballot system)

### **Recommendation**

That the Returning Officer (being the General Manager) conduct the election of the Mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2005 and that the election be by .....ballot.

Notes:

Council is to determine the method of voting to be preferential ballot, ordinary ballot or open voting. Council has previously utilised the ordinary ballot system.

## **5.2 ELECTION OF DEPUTY MAYOR**

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### **Summary/Purpose**

Council needs to determine if it requires a Deputy Mayor and if so, must conduct an election in the same manner as that of the Mayor.

### **Legal Position**

As mentioned previously, in accordance with Section 227 of the Local Government Act, 1993, the election of Mayor is to be by the Councillors from among their numbers. Section 231 provides for the Deputy Mayor to be elected similarly if Council so determines that a Deputy Mayor is required.

### **Recommendation**

1. That a Deputy Mayor be elected by the Councillors from among their numbers.
2. That the Returning Officer (being the General Manager) conduct the election of the Deputy Mayor in accordance with Schedule 7 of the Local Government (General) Regulation 2005 and that the election be by .....ballot.

### **Notes:**

Council is to determine the method of voting to be preferential ballot, ordinary ballot or open voting. Council has previously utilised the ordinary ballot system.

### 5.3 ORDINARY MEETING CYCLE 2011/12

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#### Summary/Purpose

The purpose of this report is to identify Council Meeting dates and times for the 2011/12 calendar year.

#### Background Information

Under the Local Government Act 1993, Council is required to hold at least 10 monthly Ordinary meetings per year.

The Code of Meeting Practice provides that:

At a Council Meeting held in September each year, or at the first meeting following a general election of Councillors, Council decides on the dates and times for meetings of Council and Committees for the succeeding twelve months.

#### Report

Currently the Ordinary Meeting is held on the fourth Monday of each month (except December and January) commencing at 3.30 p.m. In December the meeting is held on the third Monday due to Christmas and no Ordinary meeting is scheduled in January. Accordingly, Council has eleven Ordinary Meetings each year.

#### Recommendation

That Council adopt the following Ordinary Council meeting dates:

Monday, 24 October 2011, 3.30 p.m.
Monday, 28 November 2011, 3.30 p.m.
Monday, 19 December 2011, 3.30 p.m.
Monday, 27 February 2012, 3.30 p.m.
Monday, 26 March 2012, 3.30 p.m.
Monday, 23 April 2012, 3.30 p.m.
Monday, 28 May 2012, 3.30 p.m.
Monday, 25 June 2012, 3.30 p.m.
Monday, 23 July 2012, 3.30 p.m.
Monday, 27 August 2012, 3.30 p.m.
Monday, 24 September 2012, 3.30 p.m.

## 5.4 REVIEW OF COMMITTEE STRUCTURE

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### Summary/Purpose

This report presents to Council a review of the Committee structure as recommended by the Governance Committee.

### Community Strategic Plan Item(s)

- Governance and Community Service

### Background Information

The Current Committee structure and membership for Council appears below:

### Council Committees 2010-11

Committee	Councillor Member(s)
Community, Cultural & Economic	Mayor Councillor Zito Councillor Dwyer Councillor Wilson
Governance	Mayor Councillor Wilson Councillor Zito
Local Emergency Management	Councillor Wilson
Traffic	Councillor Leadbeatter
General Manager's Review	Mayor Deputy Mayor Councillor Cooper (effective 1 October 2010)
Planning & Environment	Mayor Councillor Zito Councillor Brown
Waste & Water	Mayor Councillor Cooper Councillor Dwyer Councillor Brown

### Previous Council Consideration

At the August Ordinary meeting the following was resolved:

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That a report on Council Committee Structure that focuses on three (3) committees based on the existing directorates are provided to the September Ordinary Meeting.

## **Report**

The report requested by the Governance Committee was to focus on three committees based on existing directorates. Each committee would consider policy and strategic issues including (but not limited to) the following functions of Council.

### Technical Services Committee

- Local, Regional and State Roads construction and maintenance
- Bridge construction and maintenance
- Quarries management and budget
- Road network issues
- Water Supplies
- Sewerage Services
- Stormwater
- Flood Mitigation
- Emergency Services

### Planning and Environmental Services Committee

- Development Applications
- Local Environment Plans (LEP's)
- Car Parking
- Other planning issues
- On-site Sewerage Management
- Waste Services
- Landfill Operations
- Parks Gardens & Crown Reserves
- Regulatory Services
- Cemeteries
- Swimming Pools

## Corporate and Community Services Committee

- Community Services
- Cultural Services
- Public Library
- Finance
- Community Engagement
- Administration
- Insurance and Risk Management
- Internal and external audit
- Plant management
- Economic Development

The proposed membership of each of the Committees would be:

- The Mayor
- Four Councillors
- The General Manager
- The Director of the appropriate Department
- Other staff as required for specific issues under consideration

The proposed meeting date for all Committee meetings is the second Monday of each month. This will be the scheduled Committee meeting day and an agenda will be prepared when there are items for consideration. There may be months when there will be no meeting held for a committee/s.

By having the meeting on the second Monday there will be sufficient time to include the minutes in the business paper for the next ordinary meeting.

In addition to the three new Committees the following Committees will need to remain

The Local Emergency Management Committee (one Councillor)

Traffic Committee (one Councillor)

General Managers Review Committee (Mayor, Deputy Mayor, one Councillor)

### **Recommendation**

1. That Council adopts the amended Committee Structure;
2. Council appoints Councillors to be members of the following Committees for the 2011/2012 year

<b>Committee</b>	<b>Member(s)</b>
Technical Services Committee	Mayor, 4 Councillors (XXXX)
Community & Cultural Services Committee	Mayor, 4 Councillors (XXXX)
Planning & Environment Committee	Mayor, 4 Councillors (XXXX)
Traffic Committee	1 Councillor (X)
Local Emergency Management Committee	1 Councillor (X)
General Manager's Review Committee	(Mayor, Deputy Mayor, one Councillor)

3. That council sets the following dates for Committee Meetings for the 2011/2012 year

<b>Date</b>
10 October, 2011
14 November, 2011
12 December, 2011
13 February, 2012
12 March 12, 2012
10 April 10, 2012 (Tuesday due to Easter Holiday)
14 May 14, 2012
June 11, 2012 (Tuesday due to Queens Birthday Holiday)
9 July, 2012
13 August 13, 2012
10 September 10, 2012



## 5.5 COUNCIL DELEGATES 2011/12

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### Summary/Purpose

The purpose of this report is to identify Council Delegates and their membership for the upcoming twelve months.

### Report

A summary of the Organisations to which Council has Councillor delegates appears below;

Organisation	Delegate(s)
Australia Day Committee – Kyogle Woodenbong	Councillor Dwyer
Australia Day Committee –Woodenbong	Councillor Passfield
Australia Day Committee – West of the Range	Councillor Cooper
Rural Financial Counselling Service NSW Northern Region	Councillor Zito
Kyogle Chamber of Commerce	Councillor Dwyer
NSW Rural Fire Service “Service Level Agreement” Committee	Mayor
NOROC (Northern Rivers Regional Organisation of Councils)	Mayor
Downs to Rivers Action Committee	Councillor Passfield
Summerland Way Promotional Committee	Councillor Passfield
Kyogle Bushfire Management Committee	Councillor Leadbeatter
Far North Coast Weeds	Councillor Bennett
Richmond-Upper Clarence Regional Library Committee	Councillor Dwyer Councillor Zito
Shires Association of New South Wales “A” Division	Mayor
National Timber Councils Taskforce	Councillor Bennett Councillor Passfield
Timber Industry Working Party	Councillor Passfield Councillor Bennett Councillor Dwyer
Police Accountability Community Team (PACT)	Mayor

## Recommendation

1. That the current Delegates list and memberships be received and noted;
2. That Council adopts the following Delegates List and memberships (Councillor and staff) as:

Organisation	Delegate(s)
Australia Day Committee – Kyogle	Councillor
Australia Day Committee –Woodenbong	Councillor
Australia Day Committee – West of the Range	Councillor
Rural Financial Counselling Service NSW Northern Region	Councillor
Kyogle Chamber of Commerce	Councillor
NSW Rural Fire Service “Service Level Agreement” Committee	Mayor
NOROC (Northern Rivers Regional Organisation of Councils)	Mayor
Downs to Rivers Action Committee (Tenterfield Council Secretariat)	Councillor
Summerland Way Promotional Committee	Councillor
Kyogle Bushfire Management Committee	Councillor
Far North Coast Weeds	Councillor
Richmond-Upper Clarence Regional Library Committee	Councillor Councillor
Shires Association of New South Wales “A” Division	Mayor
National Timber Councils Taskforce	Councillor Councillor
Timber Industry Working Party	Councillor Councillor Councillor
Police Accountability Community Team (PACT)	Mayor

## **ITEM 6 QUESTION TIME**

Nil.

## **ITEM 7 PUBLIC ACCESS**

A request for public access has received from;

- Mr Tom Fitzgerald on behalf of the Kyogle Museum/Art Gallery Project to discuss resubmission of application for funding.

## **ITEM 8 CONFIRMATION OF MINUTES**

### **8.1 CONFIRMATION OF ORDINARY MINUTES**

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#### **Summary/Purpose**

A copy of the Minutes for the Ordinary Meeting held on 22 August, 2011, is included in the attachments to the business paper.

#### **Recommendation**

That the Minutes of the Ordinary Meeting held on 22 August, 2011, be adopted.

#### **Attachments**

1. Minutes of the Ordinary meeting held on 22 August, 2011 (Separately attached)

## **8.2 CONFIRMATION OF EXTRAORDINARY MINUTES**

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### **Summary/Purpose**

A copy of the Minutes for the Extraordinary Meeting held on 12 September, 2011, is included in the attachments to the business paper.

### **Recommendation**

That the Minutes of the Extraordinary Meeting held on 12 September, 2011, be adopted.

### **Attachments**

1. Minutes of the Extraordinary meeting held on 12 September, 2011 (Separately attached)

**ITEM 9 MAYORAL MINUTE**

Nil.

**ITEM 10 NOTICES OF MOTION**

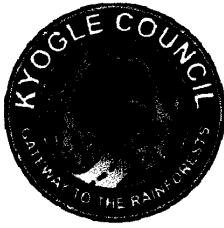
**10.1 NOTICE OF MOTION, COUNCILLOR ROBERT DWYER - LEP NO CONFIDENCE**

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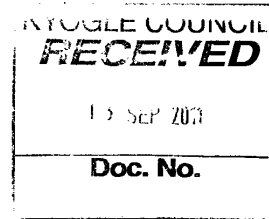
**Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Robert Dwyer for the Ordinary meeting to be held on 26 September 2011.

Report



**NOTICE OF MOTION**



**I Councillor Robert Dwyer, hereby give notice that at the next Ordinary Meeting of Council I will move;**

**That Kyogle Councillors adopt a position of no confidence in, or alternatively, totally reject , in it's current form, the contents of the Kyogle draft L.E.P.**

**Signed:** *R. C. Dwyer*

**Date:** *12-9-2011*

**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 determination.

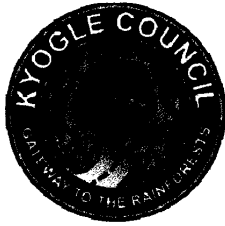
## **10.2 NOTICE OF MOTION, COUNCILLOR ROBERT DWYER - LEP & RU1**

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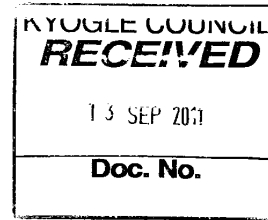
### **Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Robert Dwyer for the Ordinary meeting to be held on 26 September 2011.

Report



**NOTICE OF MOTION**



**I Councillor Robert Dwyer, hereby give notice that at the next Ordinary Meeting of Council I will move;**

**1**

**That prior to any exhibition of any further draft L.E.P'S., for the Kyogle shire, that contain any zoning of peoples property other than R.U.1, that the relevant property owner be extended the courtesy of being made aware of the proposed zoning and any restrictions that may apply as a result.**

**2**

**That any property owner with property subject to zoning, other than R.U.I., be notified via personal and confidential correspondence. This will avail the property owner with a document they can refer to should the need arise,**

**Signed:** *R. C. Dwyer*

**Date: 12-9-2011**

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 determination.



### **10.3 NOTICE OF MOTION; CLR ROBERT DWYER - LIONS ROAD**

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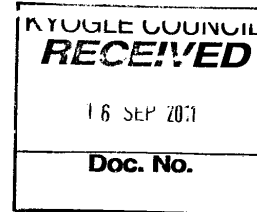
#### **Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Robert Dwyer for the Ordinary meeting to be held on 26 September 2011.

Report



**NOTICE OF MOTION**



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

**1**

**That the engineering department undertake a costing of the proposed works the Kyogle Lions Club are anticipating having carried out on the Lions Road.**

**2**

**That a report be presented to council on the scope of the anticipated works along with the costing.**

**3**

**That council consider matching the cost of this project on a dollar for dollar basis subject to available funds.**

**4**

**That council staff bring a report to council on how savings, or other means, within the current budget, may be achieved to ensure council have these available funds.**

**Signed:** *R. C. Dwyer*  
**Date:** 15-9-2011

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 determination.

## 10.4 NOTICE OF MOTION; CLR ROBERT DWYER - HURFORDS SAWMILL OPERATION TIMES

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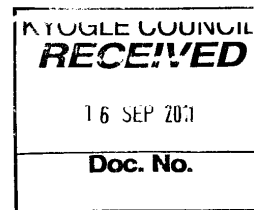
### Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Robert Dwyer for the Ordinary meeting to be held on 26 September 2011.

### Report



### NOTICE OF MOTION



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

**1**

That council be provided with a full report relating to the circumstances as to why Hurford's sawmilling company were instructed to cease operating their Kyogle complex of a week-end after having being given prior consent to do so..

**Signed:**

**Date:**

*R. C. Dwyer*  
**15-9-2011**

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 determination.

## **10.5 NOTICE OF MOTION; CLR JANET WILSON - CULTURAL PRECINCT PLANNING & DEVELOPMENT COMMITTEE**

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### **Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Janet Wilson for the Ordinary meeting to be held on 26 September 2011.

### **Report**

#### **NOTICE OF MOTION**

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

- 1. That council reconvene the Cultural precinct planning and development committee, to include the arts council, the Kyogle Gallery, the Museum, Library, Reconciliation, Youth services and the Assets Manager, with a view to examining reasons why the application for a grant to build a hub for creative industries and heritage was rejected and compiling an amended application for round 2, November 2011, which includes consideration of the following matters:**
  - How Project planning, management procedures and protocols to support roles and responsibilities between council and the community based organisations involved in the project can be achieved by making best use of expertise within the Arts/heritage programs which council currently manages.**
  - Recommendations on the future management plan for the creative industries and heritage precinct.**
  - Recommendations on how the KMI Hall should be incorporated into the overall management plan for the creative industries and heritage precinct.**
  
- 2. Provide a further report to council at the November cycle of meetings with recommendations related to the above matters to be considered for inclusion in the revised application.**

Signed:



Date: 19<sup>th</sup> September 2011

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 determination.

**10.6 NOTICE OF MOTION; CLR JANET WILSON - HEALTH CARE SERVICES  
BONALBO**

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**Summary/Purpose**

This item presents to Council a Notice of Motion received from Councillor Janet Wilson for the Ordinary meeting to be held on 26 September 2011.

**Report**

**Notice of Motion**

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

**That council contacts the Bonalbo Hospital chief executive officer to discuss how the hospital and council can collaborate to develop a community action plan for future primary health care services in Bonalbo.**

**That council discuss the opportunities for a role in the development of the community action plan with the Active Kyogle Program.**

**That a report about the outcomes of those discussions be provided to the October Ordinary meeting of council with recommendations about the best way to proceed.**

Signed:  .....

Date: 18/9/2011

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 determination.



## 10.7 NOTICE OF MOTION; CLR TOM COOPER - WORKSHOP LEP AND OTHER INFORMATION

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### Summary/Purpose

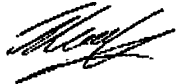
This item presents to Council a Notice of Motion received from Councillor Tom Cooper for the Ordinary meeting to be held on 26 September 2011.

### Report

#### NOTICE OF MOTION

To enable concillors to respond to the Submission to the current draft LEP at a workshop to be convened in November. Staff obtain copies of the current adjoining LEP's of Tenterfield, Clarence Valley, Tweed and Many Waters LGA's, with a comparison of major issues raised by rate payers in relation to our draft LEP.

Tom Cooper



### Recommendation

For Council's determination.

## 10.8 NOTICE OF MOTION; CLR TOM COOPER - DRAFT LEP

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### Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Tom Cooper for the Ordinary meeting to be held on 26 September 2011.

### Report

#### Notice of Motion

Due to the underlying concerns of our residents and rate payers in relation to our current Draft LEP – Council organizes an Open Forum on the philosophy behind the Environment Planning Instruments contained in LEP's to be explained to the general public, by inviting State Members Mr Thomas George, Don Page, Jeff Provis, Minister Hazzard, Premier Barry O'Farrell and Deputy Director for Planning Tom Gellybrand. For this forum to be organized in near future.

Tom Cooper



### Recommendation

For Council's determination.

**ITEM 11            QUESTIONS WITH NOTICE FROM COUNCILLORS**

Nil.

**ITEM 12            DELEGATES REPORTS**

Nil.

**ITEM 13            INFORMATION PAPERS**

**13.1 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING, AUGUST 2011**

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**Summary/Purpose**

This report presents the minutes of the Local Emergency Management Committee Meeting held on Tuesday, August 30, 2011.

**Community Strategic Plan Item(s)**

- Governance and Community Service

**Report**

**KYOGLE COUNCIL  
LOCAL EMERGENCY MANAGEMENT COMMITTEE  
MINUTES OF MEETING HELD ON TUESDAY AUGUST 30, 2011**

The meeting commenced at 7.00 pm at the Kyogle SES Headquarters, Ettrick Street, Kyogle

**Attendance**

Cr Ernie Bennett	Kyogle Council
Graham Kennett	Kyogle Council
Brian Hoffman	Kyogle SES
Neville O'Malley	Tabulam SES
Raymond Box	Tabulam SES
Bob Crawford	Fire & Rescue NSW
Daniel Ainsworth	RFS
Peter Mair	DEMO
Ken Smith	Transport
Noelle Lynden-Way	Red Cross

**1. Apologies**

Frank Winter	Kyogle Council (LEMO)
Mary Mackney	Dept Family and Community Services
Val Ferris	Red Cross

Peter Doyle                      Urbenville Hospital  
Chris Bond                      Fire & Rescue NSW  
Department of Agriculture Representatives

It was resolved that the apologies be accepted.

## 2. Confirmation of Minutes

It was resolved that the minutes of the meeting held on May 10, 2011 be confirmed with the inclusion of an apology which was received from Mary Mackney.

## 3. Matters Arising from the Minutes

There were no matters arising from the previous minutes.

## 4. Correspondence

Inward

- From the Ministry for Police & Emergency Services advising of a name change for the agency that collects fire and emergency service contributions.
- From the office of the Commissioner for the SES advising of the reappointment of the Unit Controllers for the Kyogle, Tabulam and Urbenville SES, being Brian Hoffman, Neville O'Malley and Mick Francis.
- From Tweed Shire Council who provided copies of the Tweed Shire Disaster Plan 2010.

## 5. Reports

Report from **Fire and Rescue NSW** presented by Bob Crawford:

The brigade received 18 calls in the three month period including:

### Calls:

14/06/11	45kg gas cylinder leak	Summerland Way
20/06/11	MVA	Anzac Drive
14/07/11	Smoke filled house	Marwick Street
16/07/11	Oil spill	Kyogle Road
26/07/11	MVA	Groom Street
7/08/11	MVA	Anzac Drive
23/08/11	20litre petrol container fire	Groom Street

### Other Activities:

27/05/11	Attended Kyogle Primary School Fete
20/06/11	Kyogle Preschool station visit
21/06/11	BA Drill truck
8/07/11	2 fire fighters attended Armidale Training College (2 days)

61 hydrants were checked, cleaned and left ready for service

84 smoke detector batteries were changed and 3 new detectors installed in senior citizens homes

Fire fighters from Kyogle Station relieved at Evans Heads and Goonellabah stations

Report from the **Rural Fire Service** presented by Daniel Ainsworth:

Weather conditions within the LGA and surrounding areas for the last four months have been varied with a dramatic increase in grass fires up until two weeks ago with grass growth that has not been seen in the western parts for nearly thirty years. Crews used this period to get a lot of hazard reduction planned and completed, in particular around the Tabulam area. Fortunately the wet weather returned and we have put back the start of the bush fire danger period to 1<sup>st</sup> of October.

For the reporting period we have received 38 calls:

- 20 grass fires
- 2 house fires in Sextonville and Mummulgum areas
- 3 car fires
- 6 false alarms
- 7 MVA's to provide fire protection.

This is a large increase in grass fires due to increased growth and heavy frost that was experienced over this period. One house was destroyed by fire in the Sextonville area and one chimney fire occurred in the Mummulgum area.

Volunteers have attended training courses including Advanced Fire Fighter course and a Crew Leader course.

Report from the **Kyogle SES Unit** presented by Brian Hoffman:

Over the last quarter Kyogle unit had had a fair mix of jobs:

- Call out for a bogged car with two adults and two small children stranded for twenty four hours
- Assist Casino with flood rescue
- Tree over Bentley Road
- Assist Ambulance
- Assist Urbenville unit with recovery of a lady at White Swamp
- Two road crash jobs
- Assist Urbenville with VR job

Training is ongoing with members keeping up three currencies in road crash and vertical rescue.

We have had four members complete a recertification in First Aid.

Six members are doing their General Rescue training.

Community Events include:

- School fete
- Assist Casino with parking for Primex
- Storm awareness at the Kyogle Bazaar

Report from the **Tabulam SES Unit** presented by Neville O Malley:

The unit has received 8 call outs over the past period being:

- 1 assist Police with lighting at a crime scene
- 2 MVA's
- 1 vehicle into house – stabilise house for vehicle removal.
- 1 general rescue call to supply CPR
- 1 assist Urbenville unit with recovery of an injured bushwalker
- 2 assist community, stranded people

Other activities were:

- Supply first aid at 3 football games in Mallanganee
- Supply first aid at Pony Club Gymkhana, Tabulam and Mallanganee camp drafts
- Supply traffic control to the RFS for a hazard reduction
- Had a display at the Bonalbo Multi cultural day

Training:

- 2 members attended a Crash Free Driving course on Grafton over two weekends
- 2 members attended a Swift Water Awareness course at Penrith White Water Park
- 3 members completed an induction course
- 5 members completed an RFA On Line course at Tweed Heads
- 3 members completed a General Rescue course at Lismore over two weekends
- We had members assist Urbenville unit with their RCR course

After years of trying, with the help of the local Police Sergeant, we have formed an Emergency Management Committee for the Tabulam / Bonalbo area. At our first meeting on 26<sup>th</sup> of June with representatives from Police, SES, RFS Mallanganee, Tabulam, Ewingar, Ambulance, Red Cross and local CWA we looked at what support each of us could offer the other services and having a register of Evacuation Centres, also supplying a list of contacts in case of emergencies.

Report from the **DEMO** presented by Peter Mair:

Northern Rivers Emergency Management District will become part of the new North Coast Emergency Management District which covers 16 local government areas. At this point there are still two DEMO's operating across the new district as per the previous district boundaries, but the new emergency management districts have been developed, the previous process of combining the old districts will likely result in the new DEMO being based out of Coffs Harbour. The DEMO advised that he had attended the Local Government in Emergency Management conference in Sydney in June, 2011.

## **6. Emergency Risk Management**

No new emergency risk management issues were raised

## **7. DISPLAN Review**

The DEMO advised that the DEMC was preparing an Action Plan which included the review of existing ERMP with assistance from the NSW Government to update and standardise these plans across the state. Similarly there will need to be a review of the existing DISPLANS to include some additional requirements resulting from recent changes in legislation. There is also a need to review ERM studies and ensure that plans are developed for any areas of high risk identified in these studies where a plan has not yet been prepared by the relevant agency. The DEMO advised that a letter would be sent to the LEMC requesting a timetable for the critical items in the DEMC action plan, and that this would include a checklist for the review of the DISPLANS.

It was agreed that the Committee would wait for the checklist and action plan to be received and use this as the starting point for the review of the DISPLAN and discuss the matter in more detail at the next meeting.

## **8. Recovery Planning**

The DEMO advised that the NSW government is in the process of reviewing the roles of the various agencies in the natural disaster declaration process and the recovery process through the new Ministry of Police and Emergency Services. The Department of Community Services is seeking to remove itself from the role of lead agency in the establishment and co-ordination of disaster recovery, and prefers to focus on its service provision role. It is proposed that the Police determine if recovery is required in the 24 hours after an event, and whether this can be done without additional assistance, or if the establishment of recovery centres is required. The procedures for the establishment of recovery centres are currently under review; as revised guidelines for natural disasters are produced they are made available from the Ministry of Police and Emergency Services web site.

## **9. General Business**

### Haystack Repeater Site

Daniel Ainsworth advised that the repeater networks were to be upgraded at critical sites, including the Haystack repeater, which is managed and controlled by a users group involving the many agencies who have equipment at the site including NSW Police, Council, RFS, Fire and Rescue NSW, Forests NSW, NPWS, Essential Energy, NSW Ambulance Service and Tenterfield Shire Council. The users group are assessing options for these upgrade works with contributions from each of the agencies using the site.

The committee was advised that the NPWS have recently advised this group that they are withdrawing from the Haystack tower users group and constructing their own new smaller pole type tower near the haystack site, and that this structure will only be able to be utilised by Essential Energy and the NPWS. The NPWS representative at this meeting was alleged to have advised the users group that and that the Haystack tower is not structurally stable with the current level of utilisation. No formal assessment of the structure or its loading was provided to the group.

With the NPWS and Essential Energy pulling out of the existing Haystack tower, the remaining members of the users group are investigating options to formalise the ongoing tenure for the site, including the possibility of an individual organisation being responsible for the site and the users obtaining access through formal lease agreements.

The Committee agreed that Council should seek additional information from the Haystack Users Group through the Chairperson, Mr Michael Brett of the RFS, on this matter and that NPWS should be requested to provide any structural assessment reports that have been undertaken on the site and that clarification be sought from both NPWS and Essential Energy as to why they have elected to move away from the site without including the other users.

#### Upcoming RFS Cross Border Exercise

Daniel Ainsworth advised the committee that the RFS is planning a cross border exercise involving all fire agencies being the RFS, FRNSW, NPWS and State Forests to be held at the Kyogle Fire Control Office. The exercise will be on Wednesday October 26, 2011 from 0800hrs to 1700hrs, with a start up meeting on the 25<sup>th</sup> at 1330hrs and a debrief on the 28<sup>th</sup> (time to be advised). An invitation was extended to the LEMC agencies to take part in the exercise and/or be present as observers. The LEMC members present agreed that the LEMC would not take on a formal role in the exercise, but those who wished to attend as observers were welcome to do so.

#### Cross Border Agreements

Peter Mair advised that the NSW and QLD Premiers have signed a Cross Border Agreement for emergency services to cover the Tweed Shire Council area. The DEMOs are also already actively involved as observers in the district emergency management level across the NSW/QLD border, and this may be extended to include the local emergency management level, and that it is likely that Council will be approached in the near future by the Scenic Rim Regional Council in relation to this matter.

#### Training Calendar 2011 to 2012

Graham Kennett tabled the North Coast Emergency Management District Training Calendar 2011 to 2012, and the DEMO provided an additional document outlining the NSW Emergency Management Training Structure to accompany the training calendar, for the information of the committee members.

### **10. Items for Rescue Committee**

The DEMO tabled a letter from the State Rescue Board of NSW in relation to the types of rescue required in the local government area. It was noted that there were no further actions required in response to this correspondence.

### **11. Next Meeting**

Next meeting will be at Kyogle SES headquarters, Ettrick Street, Kyogle on Tuesday, November 8, 2011 commencing at 7 pm.

There being no further business, the meeting closed at 8.05pm.

## **Recommendation**

That the minutes of the Local Emergency Management Committee meeting held August 30, 2011 be received and noted.

## **13.2 WORKS PROGRAM REPORT**

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### **Summary/Purpose**

This report presents an update to Council on progress of the works program on Local, Regional and State roads to September 16, 2011.

### **Community Strategic Plan Item(s)**

- Roads and Infrastructure

### **Report**

#### Rural and Urban Roads

Rainfall during August delayed the rural roads maintenance program. During the month, grading has been carried out on Sextonville Road, Coxs Road, Terrace Creek Road, Findon Creek Road and Sawpit Creek Road and is continuing in the Sextonville and Findon Creek areas.

Repairs to landslips on Williams Road have been completed and work is in progress on a slip repair on Sextonville Road.

The new bridge on Terrace Creek Road is expected to be completed before the end of September.

Footpath construction on Summerland Way between the Post Office and the swimming pool is in progress.

Repairs to a causeway on Mockharra Lane and installation of additional drainage pipes on Ironpot Creek Road near Ghinni Ghi Road have been completed.

#### Regional and State Roads

Rehabilitation on the Summerland Way at Roseberry has been completed with the final seal sprayed on September 7. Work is in progress on completion of the landslip restoration on Summerland Way near the State border.

Table drain restoration has been undertaken on Bruxner Highway near Tabulam.

Upgrading of steel culverts near Old Grevillia is in progress and construction of the Boomi Creek Bridge on Clarence Way is continuing with pile driving completed and abutment construction in progress.

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Repairs to a slip at "Devil's Elbow" on Clarence Way near Bonalbo have been completed.

### Action Requests

A total of 43 action requests relating to roads were received during August, summarised as follows:

#### Requests for attention to unsealed Roads

Mummulgum Creek Road, Bottle Creek Road, Paddys Flat Road, Masterson Lane, Williams Road, Sextonville Road, Coxs Road, Hereford Road, Imbreys Road, Sargents Road, Old Cob O Corn Road, Connells Road, Dyraaba Road, Heyward Ridge, Brown Knob Road, Newtons Road, Hills Road, Main Creek Road, Hillyards Road, Boorabee Creek Road.

#### Requests for attention to sealed roads

Summerland Way, Ironpot Creek Road, Mt Lindesay Road, Clarence Way

#### Requests for attention to culverts, bridges and causeways

Brown Knob Road, Paddys Flat Road, Tunglebung Creek Road, Boorabee Creek Road, Mockharra Lane.

#### Requests for attention to urban streets, drainage and footpaths

Willock Street, Tooloom Street-Mallanganee, Saville Street, Sandilands Street-Bonalbo, Geneva Street, Chauvel Street, Kyogle Road, Groom Street, Short Street.

#### Requests for attention to signs:

Junction Street

#### Requests for attention to trees, vegetation

Tallowood Road, Knights Road.

### Financial Performance Major Works

An updated report on the financial performance of major works as at September 9, 2011 is included in the attachments.

### **Recommendation**

That the Works Program report be received and noted.

## 13.3 FINANCIAL REPORTS - AUGUST 2011

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### Summary/Purpose

This report presents financial reports to Council for information.

### Community Strategic Plan Item(s)

- Governance and Community Service

### Background Information

#### Legislative Requirements

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

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

### Report

The following information is presented for information only, with additional detail available through inspection of the monthly cheque warrant.

#### 1. (A) Finance Reports

Summary reports outlining Council's financial position as at 30 August 2011. The reports presented include:

- Rates Statement
- Statement of Bank Balances

- Summary of Investments

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

## **2. (B) Councillors Travel Expenses Report**

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

### **Recommendation**

That the information contained in the Monthly Finance Report – August 2011 be received and noted.

### **Attachments**

1. Financial Reports
2. Councillors Travel

## **13.4 PLANT BUDGET REPORT - AUGUST 2011**

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### **Summary/Purpose**

This report presents information relating to plant costs and performance as at August 30, 2011 for Council's information.

### **Community Strategic Plan Item(s)**

- Roads and Infrastructure

### **Report**

Copies of the following reports appear below:

Plant and Depot Operations Budget  
Plant Replacement Schedule  
Plant Budget Report (by plant item).

### **1. Plant Acquisitions/Sales 2011/2012**

<b>PLANT ACQUISITIONS/SALES 2011/2012</b>						
<b>as at 31 August, 2011</b>						
	<b>Estimated Cost</b>			<b>Actual Cost</b>		
<b>to be replaced</b>	<b>Purchase</b>	<b>Trade</b>	<b>Net</b>	<b>Purchase</b>	<b>Trade</b>	<b>Net</b>
<b>Light Vehicles</b>						
4wd wagon	130,000	105,000	25,000	0	0	0
4wd Utility	195,000	125,000	70,000	0	0	0
Utility/Van	107,000	70,000	37,000	0	0	0
	<b>432,000</b>	<b>300,000</b>	<b>132,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Quantities</b>						
4wd Wagon	3	4	(1)	0	0	0
4wd Utility	10	9	1	0	0	0
Utility	7	7	0	0	0	0
<b>Heavy Plant - (Trade)</b>						
Grader	375,000	130,000	245,000			
Truck - 10m Tipper	200,000	50,000	150,000			
W/Shop Truck	65,000	10,000	55,000			
Truck-Tipper 4 Tonn	60,000	15,000	45,000			
	<b>700,000</b>	<b>205,000</b>	<b>495,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Small Plant</b>						
Misc.	45,000		45,000	0	0	0
PA Ride on mowers	16,000	4,000	12,000	0	0	0
	<b>61,000</b>	<b>4,000</b>	<b>57,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
	<b>1,193,000</b>	<b>509,000</b>	<b>684,000</b>	<b>0</b>	<b>0</b>	<b>0</b>
** Trade related to 2009/2010 purchase						

## 2. Plant Budget Report (by plant item)

As at 31 August, 2011				
	PLANT ITEM	INCOME	EXPENDITURE	PROFIT/LOSS
3	CAT 12H GRADER	11,550	2,583	8,967
4	CAT 140H GRADER	21,780	5,164	16,616
5	JOHN DEERE 770D GRADER	21,230	4,620	16,610
6	JOHN DEERE 770 G GRADER	11,770	2,845	8,925
24	DINGO K94 MINI DIGGER	2,277	177	2,100
25	MINI EXCAVATOR	13,462	755	12,707
26	STREET SWEEPER	2,204	1,087	1,117
27	CLARK BOBCAT	1,616	454	1,162
28	CAT 938G LOADER	2,430	1,649	781
32	CAT 324DL EXCAVATOR	24,255	6,994	17,261
33	CAT 324DL EXCAVATOR	13,310	4,464	8,846
34	CATERPILLAR IT28G LOADER	12,825	5,659	7,166
35	CATERPILLAR 966H LOADER	2,090	2,251	-161
36	CATERPILLA 816F COMPACTOR	7,600	2,271	5,329
40	FRANNA MOBILE CRANE	15,225	1,197	14,028
41	CAT FORKLIFT	989	651	338
51	HYSTER DRAWN GRID ROLLER	2,426	176	2,250
52	GRID ROLLER-COATES	2,116	3,864	-1,748 *
62	JOHN DEERE 315SG BACKHOE	1,680	493	1,187
63	CAT 432D BACKHOE	3,010	652	2,358
64	KOMATSU WB97S BACKHOE	10,312	2,410	7,902
71	CASE MX90C TRACTOR	1,073	593	480
72	CASE MX200 TRACTOR	7,912	2,541	5,371
73	CASE MX210 TRACTOR	6,900	3,333	3,567
78	MCCORMICK MC105	3,737	2,020	1,717
79	MCCORMICK MC115	1,820	1,192	628
80	JOHN DEERE 2085 TRACTOR	503	433	70
88	MCCONNEL REACH MOWER	2,760	8,365	-5,605 **
101	ISUZU NPR250 CAB CHASSIS	967	493	474
135	ISUZU JETMASTER 2000	18,160	3,309	14,851
137	ISUZU NPR 400 TIPPER MAXIL	9,460	776	8,684
139	ISUZU GIGA 385CXY TIPPER	13,860	3,860	10,000
140	ISUZU NPR 400L CRANE/TIPPE	11,266	1,327	9,939
141	ISUZU FVZ1400M TRUCK/WATER	6,650	2,680	3,970
142	ISUZU NPR400L TIPPER	13,072	1,705	11,367
143	ISUZU FVZ1400L CRANE TRUCK	18,305	2,415	15,890
144	ISUZU NPR400L TIPPER	9,567	1,031	8,536
145	ISUZU NPR400L TIPPER	13,072	2,092	10,980
146	ISUZU NPR400L TIPPER	6,305	1,706	4,599
147	ISUZU FRR525 TIPPER	8,041	2,145	5,896
148	ISUZU FVZ1400 TIPPING TRUCK	6,175	859	5,316
149	KENWORTH T401 PRIME MOVER	22,500	6,795	15,705
150	KENWORTH T350 TIPPER	17,955	6,248	11,707
151	KENWORTH T350 TIPPER	18,900	7,094	11,806
152	ISUZU FXZ 1500 TIPPER	10,855	2,056	8,799
	Notes			
	* Roller drum refaced ( major job required each five years)			
	**Refitted hydraulic pump and motor			

### 3. Plant and Depot Operations

	Original budget	Budget YTD	31.08.11	COMMENTS
<b>PLANT &amp; DEPOT OPERATIONS</b>				
<b>OPERATING</b>				
<u>PLANT INCOME</u>	2,701,221	650,200	747,614	
<u>PLANT EXPENDITURE</u>				
FRINGE BENEFIT TAX	16,974	5,500	4,303	
PLANT M & R	1,471,738	245,290	263,936	
DEPRECIATION EXP VEHICLE FLEET	874,333	145,722	145,722	
	2,363,045	396,512	413,961	
<b>NET SURPLUS/(LOSS)</b>	338,176	253,688	333,653	
<u>PROFIT ON SALE OF PLANT</u>				
PROCEEDS ON SALE OF PLANT & EQUIPMENT	509,000	0	7,140	
BOOK VALUE OF SOLD PLANT & EQUIPMENT	301,661	0	0	
	207,339	0	7,140	
<u>OTHER INCOME</u>				
PRIVATE USAGE CONTRIBUTIONS STAFF VEHICLES	42,858	7,500	8,724	
OTHER INCOME	0	0	0	
	42,858	7,500		
<u>DEPOT EXPENSES</u>				
KYOGLE DEPOT	66,641	18,500	15,072	
BONALBO DEPOT	24,397	6,000	4,508	
WOODENBONG DEPOT	7,501	2,500	1,666	
	98,539	27,000	21,246	
<b>TOTAL OPERATING</b>	<b>489,834</b>	<b>234,188</b>	<b>319,547</b>	
<b>CAPITAL</b>				
<u>NON CURRENT ASSETS</u>				
DEPOT IMPROVEMENTS	82,400	55,000	41,867	
PLANT PURCHASES	1,193,000	0	0	
BOOK VALUE SOLD ASSETS	(301,661)	0	0	
ACCUMULATED DEP N - VEHICLE FLEET	(874,333)	(145,722)	(145,722)	
	99,406	(90,722)	(103,855)	
<b>TOTAL CAPITAL</b>	<b>99,406</b>	<b>(90,722)</b>	<b>(103,855)</b>	
<b>NET SURPLUS/(COST) OF ACTIVITY</b>	<b>390,428</b>	<b>324,910</b>	<b>423,402</b>	

#### Recommendation

That the Plant Budget Report be received and noted.

## 13.5 QUARRIES REPORT

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### Summary/Purpose

This report is to advise Council of quarry operations and budget to September 9, 2011.

### Community Strategic Plan Item(s)

- Roads and Infrastructure

### Report

Material from Millers, Medhursts and Lloyds Pits is being used for rural road maintenance and flood damage restoration works.

No crushing has been carried out in the past month.

### Budget & Financial Aspects

The following is a summary of the quarries budget for 2011/12 at September 9, 2011.

QUARRY	Budget Annual	Budget YTD	YTD 9/09/2011	Comments
<u>MEDHURSTS</u>				
SALES	56,000	9,333	0	
COST OF SALES	42,000	7,000	0	
NET PROFIT / (LOSS)	14,000	2,333	0	
<u>GRIFFITHS</u>				
SALES	60,000	10,000	0	
COST OF SALES	45,000	7,500	0	
NET PROFIT / (LOSS)	15,000	2,500	0	
<u>MILLERS</u>				
SALES	155,000	25,833	28,823	
COST OF SALES	133,610	22,217	24,788	
NET PROFIT / (LOSS)	21,390	3,616	4,035	
<u>LLOYDS</u>				
SALES	40,000	6,667	0	
COST OF SALES	34,400	5,733	0	
NET PROFIT / (LOSS)	5,600	934	0	



QUARRY	Budget Annual	Budget YTD	YTD9/09/11	Comments
<b><u>SUMMARY</u></b>				
SALES	311,000	51,833	28,823	
COST OF SALES	255,010	42,450	24,788	
<b>NET PROFIT / (LOSS)</b>	55,990	9,383	4,035	

### **Recommendation**

That the Quarries Report be received and noted.

## **13.6 OUTSTANDING COUNCIL RESOLUTIONS**

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### **Summary/Purpose**

This report presents to Council a list of outstanding resolutions as at 31 August, 2011.

### **Community Strategic Plan Item(s)**

- Governance and Community Service

### **Report**

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

### **Recommendation**

That the Outstanding Council Resolutions report be received and noted.

### **Attachments**

1. Outstanding Council Resolutions as at 31 August, 2011. (Separately attached)

## 13.7 QUESTIONS FROM AUGUST ORDINARY MEETING

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### Summary/Purpose

This report presents responses to questions raised at the July 2011 Ordinary meeting.

### Community Strategic Plan Item(s)

- Governance and Community Service

### Report

#### Question 1

Enquired if a response has been received from the Minister following the motion put forward at the recent Shires Association Conference on unpaid rates from the failed Management Investment Schemes (MIS)?

#### Response

Correspondence was received from the Shires Association of NSW on 1 September, 2011 enclosing a letter from the Minister for Local Government which advised :

“Rates and charges that remain outstanding due to circumstances surrounding the operation of businesses within a council area are matters for resolution between the council and the relevant business administrators. There are strict rules regarding the priority of creditors in such situations. As such it would not be appropriate for me as Minister to attempt to interfere or influence the outcome.

The Local Government Act empowers councils to sell land to recover unpaid rates and charges. Vacant land can be sold if rates are unpaid for more than one year; other land can be sold if rates remain unpaid for more than five years.”

#### Question 2

What is the Council’s position as far as liabilities are on products that we produce? e.g. water?

#### Response

In relation to Councils position as far as liability for the water we provide Council is referred to the following section of the *Water Management Act 2000*: -

#### **398 Exclusion of Crown liability**

*(1) Neither the Crown nor any other person is subject to any action, liability, claim or demand arising:*

*(a) from the unavailability of water, or*

*(b) from any failure in the quantity or quality of water, as a consequence of anything done or omitted to be done in good faith by the Minister, by a prescribed authority or*

*by any person acting on behalf of the Minister or a prescribed authority, in the exercise any functions under this Act or the State Water Corporation Act 2004.*

*(2) Neither the Crown nor any other person is subject to any action, liability, claim or demand arising as a consequence of:*

*(a) the use in good faith of any water management work, or*

*(b) the release in good faith of water from any water management work, by the Minister, by a prescribed authority or by any person acting on behalf of the Minister or a prescribed authority, in the exercise of any functions under this Act or the State Water Corporation Act 2004.*

*(3) In this section, **prescribed authority** means:*

*(a) the Ministerial Corporation, or*

*(b) a water supply authority, or*

*(c) State Water Corporation.*

The effect of the legislation is that Council cannot be held legally liable for any damage caused by water it has supplied as long as it has acted in good faith.

### **Question 3**

Asked if all Local Environmental Planning (LEP) submissions (including generic ones) will be counted and acted upon?

#### **Response**

All submissions received by Council throughout the public exhibition period will be counted and acted upon.

It should however be noted that a number of the generic submissions do not include details of any address and/or the name of the person lodging the submission is not legible and in these cases it will not be possible to provide a response to the submission.

### **Question 4**

Asked if Council could obtain a quote for painting the storage house in Bloore Street?

#### **Response**

A formal quotation has not been obtained however estimates have been provided which indicate the cost of painting the exterior is approximately \$8,000 and the interior \$5,000.

### **Question 5**

Also requested a report be provided to the next Council meeting, on how the proposed flood mitigation works would reduce the extent of flood prone land in the Kyogle CBD?

#### **Response**

The proposed flood modification works do not reduce the extent of the flood prone land as the flood prone land is defined by the extent of the Probable Maximum Flood (PMF) event and this event is not affected by any of the proposed works. The flood modification works will however, reduce the extent impact and flood heights for events up to and including the 1 in 100 year event. The degree of reduction in impacts varies for each flood event, with further details provided for each of the events modeled in the Kyogle Floodplain Risk Management Plan and the Kyogle Floodplain Risk Management Study.

### **Question 6**

Requested information is provided on costing to Council on the recent sealing of two driveway entrances off Summerland Way, outside the Brown & Hurley complex.

**Response**

The sealing of the two driveways and the truck parking area near Brown and Hurley cost approximately \$13,000 in total. This work was for the restoration of damage caused during the upgrade of the water main in the area, and the works were to restore these areas to the same standard as they were prior to the commencement of works for the water main construction.

**Question 7**

Requested a letter of congratulations be provided to Woodenbong Central School on winning prizes at the recent Royal Queensland Show (Brisbane Ekka).

**Response**

Letter has been sent as requested.

**Question 8**

Requested that in future, any information pertaining to Council meetings be provided prior to the day of the meeting.

**Response**

Wherever possible, all information is distributed with the business paper on the Tuesday prior to the Council meeting.

There were three items provided in hard copy on the day of the August Council Meeting. They were as follows:

1. Report on June Quarter Budget/Management Plan Review – The attachment to this report was distributed with the business paper on the Tuesday prior to the Council meeting, however the report was not contained within the business paper.
2. Destination 2036 Communique dated 18 August, 2011 along with handouts provided during the Destination 2036 Workshop – This information was distributed by email on Friday 19 August, 2011 (the first day it was available) with a hard copy provided on Monday, 22 August, 2011.
3. Organisational Review - Terms of Reference – This document was still being finalised at the time of distribution of the business paper.

**Question 9**

Requested a report be provided on what grants Council has applied for and what grants have been received in the 2010/2011 financial year?

**Response**

The following summarises grant information for the 2010/2011 year.

<b>Grant Name</b>	<b>Purpose</b>	<b>Amount</b>	<b>Successful/Unsuccessful</b>
Youth Week	Funds to conduct event	\$1,780	Successful
International Women's Day	Funds to conduct event	\$1,000	Successful
Safer Suburbs Program	Funds for Youth Centre and Memorial Park	\$70,000	Successful

Regional Development Australia Fund	Museum/Gallery	\$4,214,905	Unsuccessful
Strengthening Communities Program	Subsidy CDO Wages	\$11,000	Successful
Accessible Communities Program	Lift for Grove House	\$35,000	Unsuccessful
Commonwealth Local Government Reform Fund	Assistance with Asset Management Planning	\$38,000	Successful
Library subsidy		\$38,093	Successful
Dept Lands	Removal of Weeds on Crown Reserves	\$5,000	Successful
LEP Acceleration Fund	Assist with preparation of section 68 report	\$75,000	Successful
Financial Assistance Grant	General Purpose/Roads/Bridges	\$3,703,110	Successful
NSW Health	Balance of Fluoride	\$12,662	Successful
NOW Grant	Part Bonalbo Plant	\$143,000	Successful
Dept Commerce	Flood Grant	\$37,921	Successful
RLCIP	Round 3	\$157,000	Successful
Dept Environment Climate Change Water. +	Flood modification Works Floodplain Mgt Program	\$82,000	Successful

**Question 10**

Requested a report from the Technical Services Department on the best option for improving the bitumen section of Tunglebung Road?

**Response**

A total length of 5.2km of Tunglebung Road is bitumen surfaced. Five sections of the road, totalling 1,500metres in length were resealed in 2010/11 and these sections are in good condition. The remaining sections of the road between Clarence way and Armstrongs Road, totalling 1,300 metres in length require approximately 25% of the surface to be heavy patched prior to resealing. The estimated cost to patch and reseat these sections is \$91,000.

Three sections of the road between Armstrongs Road and the end of the bitumen, totaling 2.25km in length are in very poor condition and require full rehabilitation at an estimated cost of \$450,000.

In summary, the estimated cost to bring the full 5.2km sealed section of Tunglebung Road to good condition is \$541,000. including \$62,000 for heavy patching, \$29,000 for resealing after patching and \$450,000 for rehabilitation and sealing

### **Recommendation**

That the Questions from August Ordinary Meeting report is received and noted.

## **13.8 REVISED STAFF PROFILE**

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### **Summary/Purpose**

This report presents to Council an updates staff profile as recommended to Council by the Governance Committee

### **Community Strategic Plan Item(s)**

- Governance and Community Service

### **Previous Council Consideration**

That a report on Council staff profile be provided to the September Ordinary Meeting.

### **Report**

#### **Staff Profile:**

As at 30 June 2011 Councils employees base comprised:

#### **Employment Status:**

	<b>Male</b>	<b>Female</b>	<b>Total</b>
<b>Fulltime</b>	69	10	<b>79</b>
<b>Partime</b>	4	6	<b>10</b>
<b>Fixed Term</b>	0	2	<b>2</b>
<b>Casual</b>	18	9	<b>27</b>
	93	28	121

#### **Breakdown by Department:**

<b>Department</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
GM	2	1	<b>3</b>
Corporate & Community	9	13	<b>22</b>
Technical Services	62	2	<b>64</b>
Planning & Environment	20	12	<b>32</b>
<b>Total</b>	93	28	<b>121</b>

**Age profile:**

Description	Male	Female	Total
<20	4	2	6
20-25	3	3	6
26-35	7	1	8
36-45	14	16	30
46-55	39	5	44
56-65	24	1	25
>65	2	0	2
<b>Total</b>	<b>93</b>	<b>28</b>	<b>121</b>

**Workforce Age Average:**

	Male	Female	Total
<b>Average Age</b>	48.13	40.39	46.23
<b>Total Staff @ 30 June 2011</b>	93	28	121

The staff profile forms part of the Human Resources Strategy and this updated profile has been included in that document.

The staff profile will also be reported to the Consultative Committee for information at the meeting to be held on October 11, 2011.

**Recommendation**

That the revised staff profile be received and noted



**ITEM 14            GENERAL MANAGER 'S REPORT**

**ITEM 14A         TECHNICAL SERVICES REPORT**

**14A.1             NAMING OF BRIDGE ON THE LIONS ROAD**

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**Summary/Purpose**

This report is to advise Council of a request to name a bridge on the Lions Road at Cougal "Murphy's Culvert".

**Community Strategic Plan Item(s)**

- Roads and Infrastructure

**Report**

The Kyogle Lions Club has written to Council requesting that the bridge on Lions Road over Logans Creek at Cougal be named "Murphy's Culvert" in honour of the late Murphy Standfield.

The original bridge which was a timber deck constructed on reinforced concrete abutments was built under the supervision of Murphy Standfield with funds provided to the Lions Club under the Federal Government's Regional Employment Development (RED) Scheme in 1975. Murphy Standfield was a member of the Lions Club and was involved in the Lions Road project from its beginning in 1970 until his death in 2010.

The bridge was replaced by Council in 2004 with a further grant provided by the State government and was officially opened with other improvements on the Lions Road by the then Roads Minister Carl Scully on December 15, 2004.

The request from the Kyogle Lions Club and information relating to the bridge copied from the book "The Lions Road" by the late Jack Hurley are included in the attachments to the business paper.

**Recommendation**

That the request to name the bridge over Logans Creek at Cougal on the Lions Road "Murphys Culvert" be advertised and public submissions invited and that a further report be presented to Council on any submissions received.

## **Attachments**

1. The request from the Kyogle Lions Club and information relating to the bridge copied from the book "The Lions Road" by the late Jack Hurley

**ITEM 14B PLANNING SERVICES REPORT**

**14B.1 DEVELOPMENT APPLICATIONS RECEIVED, OUTSTANDING AND DETERMINED FOR THE PERIOD AUGUST 1, 2011 TO AUGUST 31, 2011**

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**Report**

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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2007/188

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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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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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: Applicant to advise

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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: Applicant to advise

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2010/88  
Property: Lot 77 DP 751059 Donaldson Parish, Buller County.  
Address: Recreational Road off Lindsay Creek Rd Woodenbong  
Applicant/Owner: Dean Jeffery / WG Jeffery  
Proposal: Dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting Applicant's Comments

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2010/95  
Property: Lot 7002 DP 96390 Sandilands Parish, Drake County.  
Address: Bruxner Hwy Mallanganee  
Applicant/Owner: West of the Range Pony Club / NSW Dept of Lands  
Proposal: Storage Shed  
Received: Referred To DMP For Comment  
Status: Awaiting Applicant's Comments

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2010/122  
Property: Lot 1 DP 595113 Toonumbar Parish, Rous County.  
Address: Crossleys Road, Toonumbar  
Applicant/Owner: Riordans Consulting Surveyors / Dr BK Perry  
Proposal: Subdivision 2 Lots  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/132  
Property: Lot 102 DP 755707 Fairy Mount Parish, Rous County.  
Address: Walters Rd Horseshoe Creek  
Applicant/Owner: Kyogle Dirt Bike Club / KE & V Kook  
Proposal: Trail Bike Rides  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2010/150  
Property: Lot 122 DP 806090 Jiggi Parish, Rous County.  
Address: Kyogle Rd Cawongla  
Applicant/Owner: Newton Denny Chapelle / DH Sleeth & ZM Armstrong  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/13	Property: Lot 1 DP 790288 Tabulam Parish, Rous County. Address: Clarence Way Tabulam Applicant/Owner: Murray David Ings Proposal: Quarry Received: Referred To DMP For Comment Status: Awaiting DMP Comments
2011/20	Property: Lot 13 DP 1081723 Fairy Mount Parish, Rous County. Address: Kyogle Rd Homeleigh Applicant/Owner: Coastline Building Certification / PJ & SJ Owen Proposal: Dwelling Received: Referred To DMP For Comment Status: Awaiting DMP Comments
2011/28	Property: Lot 3 DP 759111 Donaldson Parish, Rous County. Address: MacPherson St Woodenbong Applicant/Owner: Genesis Two Pty Ltd / TH Strand Proposal: Renovation & Licenced Cafe Received: Referred To DMP For Comment Status: Awaiting DMP Comments
2011/30	Property: Lot 21 DP 869244 Sandilands Parish, Drake County. Address: Bruxner Hwy Mallanganee Applicant/Owner: Ardill Payne & Associates / FK & JB Holmes Proposal: Quarry Extension Received: Referred To DMP For Comment Status: Awaiting DMP Comments
2011/34	Property: Lot 12 DP 582916 Stratheden Parish, Rous County. Address: Edenville Rd Cedar Point Applicant/Owner: Rodney John Graham / PA Carlill Proposal: Quarry Received: Referred to DMP for Comment Status: Awaiting DMP Comments
2011/37	Property: Lot 24 DP 6798 Runnymede Parish, Rous County. Address: Highfield Rd Kyogle Applicant/Owner: Unique Building Solutions / GA Johnston Proposal: Duplex Received: Referred To DMP For Comment Status: Awaiting Applicant's Comments
2011/39	Property: Lot 3 DP 260848 Etrick Parish, Rous County. Address: Afterlee Rd Smiths Creek Applicant/Owner: D & J Lamberton / DA Lamberton & Jonathan Proposal: Multiple Occupancy Received: Referred To DMP For Comment

Status:	Awaiting DMP Comments
<hr/>	
2011/78	
Property:	Lot 1 DP 435758 Ettrick Parish, Rous County.
Address:	Ghinni Ghi Rd Ghinni Ghi
Applicant/Owner:	PD Wallbank / PD & A Wallbank
Proposal:	Subdivision For Boundary Adjustment
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/79	
Property:	Lot 6 DP 623399 Runnymede Parish, Rous County.
Address:	Summerland Way Kyogle
Applicant/Owner:	Stephen Fletcher & Associates / Mr Fr Vary
Proposal:	Subdivision (staged) to create 124 industrial lots
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/80	
Property:	Lot 11 DP 1101053 Hanging Rock Parish, Rous County.
Address:	Williams Rd Barkers Vale
Applicant/Owner:	GM Project Development / GA Little & GF Behrend
Proposal:	Expansion of a Landsharing Community
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/84	
Property:	Lot 24 DP 755750 Unumgar Parish, Rous County.
Address:	Hildebrands Road, Dairy Flat
Applicant/Owner:	Riordans Consulting Surveyors / H & H Tribolet
Proposal:	Subdivision by Boundary Adjustment
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/85	
Property:	Lot 1 DP 626397 Bonalbo Parish, Buller County.
Address:	Dyraaba Street Bonalbo
Applicant/Owner:	JA Lord / JA Lord
Proposal:	Dwelling
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/89	
Property:	Lot 2 DP 811042 Fairy Mount Parish, Rous County.
Address:	Ettrick Street Kyogle
Applicant/Owner:	BA Taylor / MJ & BA Taylor
Proposal:	Shed
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/97	
Property:	Lot 69 DP 751059 Donaldson Parish, Rous County.
Address:	Macpherson Street Woodenbong
Applicant/Owner:	PL Taylor / PL & KJ Taylor
Proposal:	Dwelling

Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/99

Property: Lot 2 DP 263202 Jiggi Parish, Rous County.  
Address: Oxbow Road Cawongla  
Applicant/Owner: L Trantino / L Trantino & D Trantino  
Proposal: Multiple Occupancy  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/101

Property: Lot 52 DP 1076878 Geneva Parish, Rous County.  
Address: Ettrick Street Kyogle  
Applicant/Owner: AR Davie / BE & IM McGrath  
Proposal: Shed addition  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/102

Property: Lot 11 DP 1058287 Fairy Mount Parish, Rous County.  
Address: Andrew Street Kyogle  
Applicant/Owner: DW McNamara / McNamara & Tierney Pty Ltd  
Proposal: Change of use for landscaping/storage  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/103

Property: Lot 5 Sec 2 DP 17765 Robertson Parish, Rous County.  
Address: Carey Street Bonalbo  
Applicant/Owner: JA Bradshaw / JH Weir  
Proposal: Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/105

Property: Lot 10 DP 1135559 Runnymede Parish, Rous County.  
Address: Summerland Way Kyogle  
Applicant/Owner: RD Hanby & Associates Pty Ltd / SM & JM Scarrabelotti  
Proposal: Shed, fence and retaining structure  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/108

Property: Lot 8 DP 249222 Geneva Parish, Rous County.  
Address: Omagh Road Geneva  
Applicant/Owner: Newton Denny Chapelle / JR & JD Singh  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/109

Property: Lots 22, 23, 48 & 49 DP 751069 Lindsay Parish, Rous County.  
Address: Clarence Way Urbenville

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Applicant/Owner: Newton Denny Chapelle / BA & HJ Hill  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/116

Property: Lot 11 DP 628570 Loadstone Parish, Rous County.  
Address: Gradys Creek Road Gradys Creek  
Applicant/Owner: DW & KA Gibson  
Proposal: Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/120

Property: Lot 1 DP 1161835 Runnymede Parish, Rous County.  
Address: Summerland Way Kyogle  
Applicant/Owner: LW Rixon  
Proposal: Relocated dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/123

Property: Lot 1 DP 527983 Sandilands Parish, Rous County.  
Address: Bruxner Highway Sandilands  
Applicant/Owner: Envirolink Consulting / SH & KA Larsson  
Proposal: Change of Use  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/124

Property: Lot 141 DP 1035844 Geneva Parish, Rous County.  
Address: Afterlee Road, Horsestation Creek  
Applicant/Owner: JR & KA Burley / HG Mueller & JR & KA Burley  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/125

Property: Lot 42 DP 751062 Evans Parish, Rous County.  
Address: Lower Bottle Creek Road, Bottle Creek  
Applicant/Owner: Newton Denny Chapelle / JT & RS McMahon  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/126

Property: Lot 24 DP 755750 Unumgar Parish, Rous County.  
Address: Hildebrands Road Dairy Flat  
Applicant/Owner: Riordans Consulting Surveyors / H & H Tribolet  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/128

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Property: Lot 22 DP 751062 Evans Parish, Rous County.  
Address: Clarence Way Bottle Creek  
Applicant/Owner: Envirolink Consulting / Darcy Dancer Co Pty Ltd  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/132

Property: Lot 1 DP 1091730 Fairy Mount Parish, Rous County.  
Address: Groom Street Kyogle  
Applicant/Owner: JC Harley  
Proposal: Dwelling additions  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/134

Property: Lot 46 DP 755704 Dyraaba Parish, Rous County.  
Address: Pigman Road Dyraaba  
Applicant/Owner: Newton Denny Chapelle / JG & FJ Lindstrom  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/135

Property: Lot 1 DP 708624 Geneva Parish, Rous County.  
Address: Old Cob'o'Corn Road, Horse Station Creek  
Applicant/Owner: DC Clark / DC & KT Clark  
Proposal: Dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/137

Property: Lot 7007 DP 1075470 Donaldson Parish, Rous County.  
Address: Glennie Street Woodenbong  
Applicant/Owner: Industry and Investment NSW  
Proposal: Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/138

Property: Lot 11 DP1033388 Geneva Parish, Rous County.  
Address: Saville Street Geneva  
Applicant/Owner: JJ Hurley / RB & ML Harrison  
Proposal: Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/141

Property: Lot 79 DP 6317 Fairy Mount Parish, Rous County.  
Address: Gardner Lane Kyogle  
Applicant/Owner: PA Lewis / D & KJ Ambler  
Proposal: Relocated dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/142

Property: Lot 3 DP 263932 Hanging Rock Parish, Rous County.  
Address: Lillian Rock Road Lillian Rock  
Applicant/Owner: Basix Services / MK Schnerring  
Proposal: Shed  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/146

Property: Lot 1 DP 456720 Wiangarie Parish, Rous County.  
Address: Summerland Way Kilgra  
Applicant/Owner: Newton Denny Chapelle / SG Penman  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting RFS Comments

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2011/147

Property: Lot 290 DP 755732 Queebun Parish, Rous County.  
Address: Eggins Road Doubtful Creek  
Applicant/Owner: Newton Denny Chapelle / JG & FJ Lindstrom  
Proposal: Subdivision  
Received: Referred To DMP For Comment  
Status: Awaiting RFS Comments

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2011/148

Property: Lot 241 DP 1055836 Wyndham Parish, Rous County.  
Address: Olympian Road Wyneden  
Applicant/Owner: Newton Denny Chapelle / WJ & KJ Farrah  
Proposal: Subdivision  
Received: Referred To RFS For Comment  
Status: Awaiting DMP Comments

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2011/149

Property: Lot 103 DP 1018683 Loadstone Parish, Rous County.  
Address: Fernhill Drive Gradys Creek  
Applicant/Owner: Newton Denny Chapelle / Ozwide Formwork Pty Ltd & AJ Parker  
Proposal: Subdivision  
Received: Referred To RFS For Comment  
Status: Awaiting DMP Comments

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2011/150

Property: Lot 46 DP 755708 Findon Parish, Rous County.  
Address: Terrace Road Terrace Creek  
Applicant/Owner: Riordans Consulting Surveyors / AE & LG Maclean  
Proposal: Subdivision  
Received: Referred To RFS For Comment  
Status: Awaiting DMP Comments

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2011/153

Property: Lot 9 DP 1152135 Dyraaba Parish, Rous County.  
Address: Dyraaba Road Dyraaba  
Applicant/Owner: PR Clarke / PR & RA Clarke  
Proposal: Relocated dwelling  
Received: Referred To DMP For Comment

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Status:	Approved subject to conditions
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2011/154	
Property:	Lot 1 DP 223989 Fairy Mount Parish, Rous County.
Address:	Campbell Road Kyogle
Applicant/Owner:	MW Geyle / MW Geyle & CM Geyle
Proposal:	Dwelling additions
Received:	Referred To DMP For Comment
Status:	Approved subject to conditions
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2011/155	
Property:	Lot 542 DP 1132735 Geneva Parish, Rous County.
Address:	Saville Street Geneva
Applicant/Owner:	MA Holbut / MA Holbut & GM Fieck
Proposal:	Dwelling
Received:	Referred To DMP For Comment
Status:	Approved subject to conditions
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2011/156	
Property:	Lot 1 DP 622655 Geneva Parish, Rous County.
Address:	Anzac Drive Geneva
Applicant/Owner:	AJ Coote
Proposal:	Sheds
Received:	Referred To DMP For Comment
Status:	Approved subject to conditions
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2011/157	
Property:	Lot 100 DP 862741 Fairy Mount Parish, Rous County.
Address:	Homeleigh Road Homeleigh
Applicant/Owner:	MJ & LM Olive
Proposal:	Dwelling additions
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/158	
Property:	Lot 13 DP 1160578 Runnymede Parish, Rous County.
Address:	Durhams Road Cedar Point
Applicant/Owner:	Atlas Awnings / CL McLaughlin & KJ Jones
Proposal:	Dwelling additions
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/159	
Property:	Lot 149 DP 4517 Fairy Mount Parish, Rous County.
Address:	Irwin Street Kyogle
Applicant/Owner:	CC & HM Capon
Proposal:	Dwelling & Garage
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/160	
Property:	Lot 117 DP 4517 Fairy Mount Parish, Rous County.
Address:	Groom Street Kyogle
Applicant/Owner:	LI Reed

Proposal: Dwelling additions  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2011/161

Property: Lot 1 DP 180223 Wiangaree Parish, Rous County.  
Address: Collins Creek Road Fawcetts Plain  
Applicant/Owner: Unique Building Solutions / DJ & PJ Chisholm  
Proposal: Dwelling additions  
Received: Referred To DMP For Comment  
Status: Approved subject to conditions

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2011/162

Property: Lot 51 DP 805297 Warrazambil Parish, Rous County.  
Address: Collins Creek Road Collins Creek  
Applicant/Owner: DJ Burt  
Proposal: Dwelling additions  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/163

Property: Lot 18 Sec G DP 1160578 Robertson Parish, Rous County.  
Address: Gill Street Bonalbo  
Applicant/Owner: KJ & GA Gooding  
Proposal: Relocated dwelling  
Received: Referred To DMP For Comment  
Status: Awaiting DMP Comments

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2011/164

Property: Lot 22 DP 1091117 Fairy Mount Parish, Rous County.  
Address: Fawcetts Plain Road Fawcetts Plain  
Applicant/Owner: MA Sneath / AG, JR, MA & RL Sneath  
Proposal: Private Quarry  
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 1 August 2011 to 31 August 2011 be received and noted.

2. That the information contained in the report Development Applications Received, Determined and Outstanding for the period 1 August 2011 to 31 August 2011 only in relation to DA./... and DA./.... In which Councillors ..... have declared an interest be received and noted.

## **14B.2 DEVELOPMENT APPLICATION 2011.146**

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### **Summary**

This report is compiled to facilitate a determination of Development Application 2011.146, being for the subdivision of land described as Lots 1-4 on Deposited Plan 456720, Lots 1 and 2 on Deposited Plan 111279, Lot 14 on Deposited Plan 111280, Lot 1 on Deposited Plan 183658, and Lots 10 and 11 on Deposited Plan 42399, County of Rous, Parish of Wiangaree.

### **Community Strategic Plan Item(s)**

- Environmental and Planning

### **Background Information**

On 30 June 2011 Newton Denny Chapelle lodged an application to subdivide ten (10) lots with a sum area of 89.5 hectares into two (2) lots of 34.5 hectares and 55 hectares respectively. The Development Application comprises a Statement of Environmental Effects and plans by Newton Denny Chapelle, and an objection under *State Environmental Planning Policy No 1-Development Standards* to create a lot under 40 hectares in area.

### **Previous Council Consideration**

Nil.

### **Report**

The particulars of Development Application 2011.146 are as follows:

Applicant:	Newton Denny Chapelle
Owner:	SG Penman
Property:	Lots 1-4 DP 456720, Lots 1 & 2 DP 111279, Lot 14 DP 111280, Lot 1 DP 183658, and Lots 10 & 11 DP 42399
Area:	County of Rous, Parish of Wiangaree
Zone:	Non-urban "A" & Non-urban "B"

Locality: 659 & 654 Summerland Way, Kilgra  
Proposal: Subdivision  
Zoning Requirements: Permissible with development consent

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

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

The subject land is situated approximately 7 kilometres north of Kyogle on the Summerland Way and comprises ten (10) lots with a sum area of 89.5 hectares. The land is being used for extensive agriculture and has been developed with two (2) dwelling houses, with rural address numbers 659 and 654 Summerland Way, Kilgra.

The land is severed by the Summerland Way, Baileys Bridge Road and the railway corridor, and is bound by the Richmond River to the west and managed agricultural land.

The subject land is dual zoned Non-urban "A" and Non-urban "B" pursuant to *Interim Development Order No 1-Shire of Kyogle* and RU1 Primary Production and RU2 Rural Landscape in draft Kyogle Local Environmental Plan 2011.

The property is not bushfire prone pursuant to Council's Bush Fire Prone Land Map.

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

The proposed development involves subdivision by boundary adjustment and consolidation to create two (2) lots from the existing ten (10) lots, being proposed Lot 1 (34.5 hectares) and Lot 2 (55 hectares). Lot 1 is proposed to be situated entirely to the west of the Summerland Way while Lot 2 is proposed to contain the land situated to the east of the Summerland Way plus a part of land fronting the Richmond River.

An existing dwelling house will be situated on each proposed lot, with existing access provisions to the Summerland Way.

Due to the 40 hectare minimum subdivision lot size established for the Non-urban "A" and Non-Urban "B" zones in the *Interim Development Order No 1-Shire of Kyogle*, the proposal to create Lot 1 with an area of 34.5 hectares requires authorisation from the Department of Planning and Infrastructure. This is obtained through an objection against the 40 hectare planning standard empowered by *State Environmental Planning Policy No 1-Development Standards*. As the variation is greater than 10 percent, the Development Application is to be determined by full council (rather than the General Manager or nominated staff).

### **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:**

On 4 July 2011 the Development Application was referred to the NSW Department of Planning and Infrastructure to permit a determination on the *State Environmental Planning Policy No 1-Development Standards* objection submitted by the Applicant. That determination was made in correspondence to Council dated 11 August 2011.

## **Public Notification**

The Development Application did not require notification or publication pursuant to Council's *Development Control Plan No. 9 – Public Notification of Development Applications*.

## **Section 79C(1) Environmental Planning and Assessment Act 1979**

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)(i) the provisions of any environmental planning instrument**

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

The land is currently zoned Non-urban "A" and Non-urban "B" under the IDO. Pursuant to Clause 3(b) of the IDO the proposed development is permissible subject to development consent.

In order to create Lot 1 under the prescribed 40 hectare development standard of clause 12(1) of the IDO, the Applicant has sought authorisation to vary the standard through the provisions of *State Environmental Planning Policy No 1-Development Standards*. This approval was conferred by the Department of Planning in correspondence to Council dated 11 August 2011 as follows:

"Concurrence was granted in this instance for the following reasons:

- Consolidation of the 10 existing lots onto two lots with a dwelling house on each proposed lot is an acceptable outcome for the rural area, consistent with the dwelling density allowed in the zones; and
- The proposal raises no issues of State or regional significance."

No alterations to the aesthetics of the landscape or alterations to the provision of water, sewerage and drainage are proposed.

#### North Coast Regional Environmental Plan

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

With regard to rural development, the REP aims:

- (a) to conserve the productive potential of agricultural land,
- (b) to provide for new forms of agricultural development and changing patterns of existing agricultural development,
- (c) to ensure that commercial agriculture is not affected adversely by incompatible uses which impair its long term sustainability, and

- (d) to ensure that industries and services that support agriculture are not disrupted.

The proposed subdivision is considered to have a positive externality on agricultural enterprises by converting ten (10) existing titles into two (2) titles. This provides greater opportunity for the sustainable undertaking of rural activities and precludes the fragmentation of those activities through the on-sale of existing land titles.

#### State Environmental Planning Policies ("SEPPs")

There are two (2) SEPPs which are considered relevant to Council's assessment of the Development Application, being *State Environmental Planning Policy No. 1-Development Standards* (as addressed above) and *State Environmental Planning Policy (Rural Lands) 2008*.

The Rural Lands SEPP requires the following matters to be taken into account:

- (a) the existing uses and approved uses of land in the vicinity of the development,
- (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
- (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,
- (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

Land in the vicinity of the development site is used for extensive agriculture (grazing and cropping) and transport (the Summerland Way and the rail corridor adjoin the land). The subdivision does not intensify the existing interactions between these land uses and the subject land in that it creates no additional lots or dwelling entitlements and does not exacerbate any potential for land use conflict. Accordingly the development is compatible with the existing environment and the predominant land uses in the vicinity.

#### **(a)(ii) draft environmental planning instruments**

Council has one draft environmental planning instrument, being draft Kyogle Local Environmental Plan 2011. This is a comprehensive LEP intended to replace the current Interim Development Orders and several State policies, including the North Coast Regional Environmental Plan.

The land sits under a minimum subdivision lot size of 40 hectares under the draft LEP. The draft plan permits, with the concurrence of the Director-General, the subdivision of the land where one (1) lot diverges from the minimum subdivision lot size by no more than 10 percent. This means that the proposed 34.5 hectare lot could not be made under the draft plan, thereby necessitating the subdivision to create a compliant lot and a lot with a minimum land area of 36 hectares. The variation between the draft development control and the existing process is negligible, and as the draft plan is not near and certain, it should not be used to impede the proposed development.



Each proposed lot will have a dwelling house and these rights would be upheld by the draft LEP.

The land is under proposed zones RU1 Primary Production and RU2 Rural Landscape, with the proposed subdivision being consistent with the draft objectives for each.

**(a)(iii) development control plans**

Kyogle Council *Development Control Plan No 1-Subdivision* requires the development to conform to a number of development controls which address design and construction, road networks, utility services, effluent disposal, hazards and amenity.

It is considered that the proposed development is consistent with the DCP, or can be conditioned so as to be consistent with the DCP.

**(a)(iiia) 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.

**(a)(iv) the regulations (prescribed matters)**

There are no prescribed matters which are considered to affect the proposal.

**(b) the likely impacts of the development**

No adverse impacts are envisaged through the proposed development.

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

The proposed development is suitable for the rural context of the site and meets the Department of Planning's *Boundary Adjustments Policy* principles. There are no adjoining land uses or uses on the subject land which constrain the proposed development, which in itself creates no additional lots or dwelling entitlements.

**(d) any submissions made**

No submissions were received as no notification was made for the development in accordance with the requirements of Council's *Development Control Plan No. 9 – Public Notification of Development Applications*.

**(e) the public interest**

The proposed development is consistent with the relevant planning instruments. Where there is an exception to the forty (40) hectare minimum subdivision lot size standard under the IDO, it has been demonstrated by the applicant that the development standard is unreasonable and unnecessary in the circumstance. The development is accordingly considered to be in the public interest.

## Recommendation

That Council issue Development Consent Notice 2011/146 for the development of a subdivision cancelling Lots 1-4 on Deposited Plan 456720, Lots 1 and 2 on Deposited Plan 111279, Lot 14 on Deposited Plan 111280, Lot 1 on Deposited Plan 183658, and Lots 10 and 11 on Deposited Plan 42399, County of Rous, Parish of Wiangaree, to create two (2) lots being Lot 1 (34.5 hectares) and Lot 2 (55 hectares), as subject to survey and the following conditions of consent:

1. The development shall be in accordance with development application number 2011-146 submitted by the Applicant on 30 June 2011, and in accordance with the following:

Statement of Environmental Effects entitled "Statement of Environmental Effects For Proposed Rural Subdivision at Summerland Way & Baileys Bridge Road, Kyogle" as prepared by Newton Denny Chapelle on behalf of estate of late AL Penman.

Subdivision Plan prepared by Newton Denny Chapelle

Reference No: 11/238

Revision: Unrevised

Name of Plan: Plan 3 - Proposed Subdivision

Scale: 1:5000 @ A3

Date: 17 May 2011

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. Prior to the issue of a Subdivision Certificate the Proponent must submit to the Council a report addressing compliance with all relevant conditions of this consent.
4. This development consent is limited to a period of five (5) years in accordance with Section 95(1) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless work relating to the subdivision is physically commenced before the date on which the consent would otherwise lapse.
5. Apart from developer funded works, no improvements to existing roads, access and services will be provided by Council or any other utility authority.
6. The development 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, light, traffic generation or otherwise.
7. All works must accord with the Kyogle Council *Development Control Plan No 1 – Subdivision* current at time of works.
8. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
9. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
  10. That no tree in the road reserve shall be damaged, destroyed or removed without the written consent of the Council.
  11. 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.
  12. The road frontage of the proposed allotments is to be fenced out completely to the standard required by Council's Road Reserve Management Plan.
  13. An all weather vehicular access shall be constructed and maintained from the point of connection to Council's road network to the existing dwelling site in accordance with Council's Property Access and Addressing Management Plan and the Northern Rivers Development and Design Manuals. This requires that the grade of the access does not exceed a grade of 1 in 6 or 16.67% within the road reserve, and does not exceed a grade of 1 in 4 or 25% within private property. Any section of the access that exceeds a grade of 1 in 8.3 or 12% shall be provided with a sealed surface on a suitable pavement. The access road is to be a minimum of 4m wide, with a minimum pavement depth of 150mm of compacted gravel, a maximum crossfall of 10%, and the radius on the inside of any bends shall not be less than 6m.
  14. The applicant is to make written application to Council (accompanied by a location plan) for a vehicular access on each proposed subdivision allotment or part of any allotment separated by a constructed public road. Council shall not certify the final plan of subdivision until the applicant has received written approval for, and constructed in accordance with Council's approval an access on each allotment. No other accesses may be constructed or opened onto a Council road without the prior written approval of Council. (Refer to Council's Property Access and Addressing Management Plan).
  15. 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 Council's Property Access and Addressing Management Plan.
  16. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.

17. 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.

### **Advice to Applicant or any party acting upon this consent**

Council, in determining the subject application, requests you to take note of the following advice and where pertinent to convey the advice to future owners or tenants.

1. The proponent must apply for an Aboriginal Heritage Impact Permit in accordance with the *National Parks & Wildlife Act 1974* (NPW Act) prior to disturbing, damaging or destroying Aboriginal objects that occur on the land.

If Aboriginal cultural objects are uncovered due to development activities, all works should halt in the immediate area to prevent any further impacts to the find or finds, to resume only in accordance with the requirements of the Office of Environment & Heritage and the NPW Act.

2. Clearing native vegetation may require a clearing consent from the Northern Rivers Catchment Management Authority under the *Native Vegetation Act 2003* prior to the conduct of works.

3. Approval under the *Threatened Species Conservation Act 1995* may be required to clear native vegetation consisting only of groundcover.

4. Any dams constructed on the subject land must not exceed the Maximum Harvestable Right Dam Capacity without a licence being issued by the NSW Office of Water.

Water extracted under Basic Landholder Rights in the *Water Management Act 2000* cannot be used for commercial purposes and the NSW Office of Water should be contacted prior to undertaking any such extraction.

### **Division:**

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

**Summary/Purpose**

This report presents the unconfirmed minutes of the Planning and Environment Committee Meeting held Wednesday, July 27, 2011.

**Community Strategic Plan Item(s)**

- Environmental and Planning

**Report****Kyogle Council**

**Unconfirmed Minutes of the Planning & Environment Committee Meeting held in the Council Chambers, Stratheden Street, Kyogle, on July 27, 2011.**

**PRESENT**

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

**IN ATTENDANCE**

The General Manager, the Acting Director of Technical Services, the Director of Planning & Environmental Services, the Environmental Health Officer and the Personal Assistant to Planning and Environmental Services.

**MEETING COMMENCEMENT**

The Mayor declared the meeting open at 2.00 p.m.

**ITEM 1 APOLOGIES**

An apology was received from Lynette Zito.

**RESOLVED**

Moved Councillor Ross Brown, seconded Councillor Ernie Bennett.

That the apology be accepted.

**CARRIED****ITEM 2 OPENING PRAYER**

The Mayor read the opening prayer.

**ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**

The Mayor read the traditional lands acknowledgement.

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## **ITEM 4 DECLARATION OF INTERESTS**

Nil

## **ITEM 5 REPORTS**

### **Item-5.1 DEVELOPMENT APPLICATION 2011-105 - STORAGE SHED, BOUNDARY FENCE, BED LEVEL CROSSING AND MINOR RETAINING STRUCTURE**

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

Moved Councillor Ross Brown, seconded Councillor Ernie Bennett

That the report Development Application 2011-105 - Storage Shed, Boundary Fence, Bed Level Crossing and Minor Retaining Structure be received and noted.

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

Moved Councillor Ross Brown, seconded Councillor Ernie Bennett

That the report be submitted to the Ordinary Meeting of Council, with a request for supplementary information to be provided with regard to impact of water flows in the area.

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

### **Item-5.2 RECREATION DIRT BIKE RIDING IN THE KYOGLE LOCAL GOVERNMENT AREA**

The Chair adjourned the meeting at 2.10pm for the purpose of discussion.

Kylie Thomas addressed the meeting in relation to the report and posed the following questions. Responses to the questions were provided by staff.

1. Names/numbers of staff members who disseminated the information.
2. Author of the report.
3. Of the 6 late submissions received, were they for or against and were they included in the assessment.
4. Would the people who submitted pro forma submissions receive written response from Council.
5. What is the process to choose representatives of Focus Group/Committee for DCP 11.

The Chair resumed the meeting at 2.16pm.

### **Committee's Recommendation**

Moved Councillor Ross Brown, seconded Councillor Ernie Bennett

1. That the report Recreation Dirt Bike Riding in the Kyogle Local Government Area be received and noted.
2. That Council adopt the proposed amendments to DCP 11 to include those matters discussed at the Planning and Environment Committee Meeting and as prescribed by the POEO Act.
3. That the provisions of DCP 11 with respect to bike riding be reviewed at the expiration of 12 months.
4. That the amnesty to allow riders to ride under the conditions of proposed DCP 11 continue until consideration of the matter at the August Ordinary Meeting.

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

### **Item-5.3 USE OF ROAD RESERVES FOR COMMERCIAL USE INCLUDING PLACEMENT OF SIGNAGE**

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

Moved Councillor Ross Brown, seconded Councillor Ernie Bennett

1. That the Use of Road Reserves for Commercial Use Including Placement of Signage report be received and noted.
2. That the Road Reserve Management Plan be amended as per the recommendations within this report and that the amended Road Reserve Management Plan be brought to Council for approval prior to public display.

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 2.52 p.m.

#### **Recommendation**

1. That the minutes of the Planning and Environment Committee Meeting held on Wednesday, July 27, 2011 be received and noted.
2. That the report be submitted to the Ordinary Meeting of Council, with a request for supplementary information to be provided with regard to impact of water flows in the area.
2. That Council adopt the proposed amendments to DCP 11 to include those matters discussed at the Planning and Environment Committee Meeting and as prescribed by the POEO Act.
3. That the provisions of DCP 11 with respect to bike riding be reviewed at the expiration of 12 months.

4. That the amnesty to allow riders to ride under the conditions of proposed DCP 11 continue until consideration of the matter at the August Ordinary Meeting.
2. That the Road Reserve Management Plan be amended as per the recommendations within this report and that the amended Road Reserve Management Plan be brought to Council for approval prior to public display.



**ITEM 14C ENVIRONMENT SERVICES REPORT**

Nil.

**ITEM 14D CORPORATE SERVICES REPORT**

**14D.1 RATEPAYER PAYMENT INCENTIVE SCHEME**

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**Summary/Purpose**

This report provides information to Council on the Ratepayer Incentive Scheme and seeks the drawing of the three prize winners.

**Background Information**

For the 2011/2012 financial year the Rates Payment Incentive Scheme has been continued. Ratepayers who make full payment of their rates before the date the first instalment is due (August 31, 2011) will be entered into a prize draw.

Three equal prizes will be offered of \$500 value. The prize will be in the form of a voucher that is redeemable at a business within the Kyogle Local Government Area.

**Report**

The Conditions of Entry, which were adopted by Council, are as follows:

1. Unless ruled ineligible, you only have to pay your rates in full by 31 August 2011, to be automatically entered into this competition. You do not have to request entry. However you do have to tell us if you do not wish to participate.
2. Councillors and employees are not eligible to enter.
3. Prize Winners will be determined when the winning entries are drawn from a barrel containing the computer generated entry slips.
4. The draw will be made at the September Ordinary Council Meeting. Members of the public are welcome to attend.
5. Prize winners will be notified by mail and a notice will be published in the Council newsletter
6. Council will not enter into any dispute regarding the conduct of the competition.
7. Cheques presented as payment must be cleared to retain eligibility.

Council has previously requested some figures to measure the effectiveness of offering this incentive. The incentive prize was offered initially in the 2007/2008 financial year. The following is a summary of the percentage (%) of rates collected at August 30.

2006	33.83%
2007	37.06%

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2008	36.63%
2009	36.93%
2010	36.09%

This indicates an increase of 3-4 % since the incentive prize was introduced.

### **Recommendation**

1. That Council draw three winning entries and that subject to eligibility, prize winners be notified by mail.
2. That the winners names be published in Council's Newsletter.

## **14D.2 MINUTES OF INTERNAL AUDIT COMMITTEE MEETING 15 SEPTEMBER 2011**

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### **Summary/Purpose**

This report presents the minutes of the Internal Audit Committee Meeting held 15 September, 2011.

### **Report**

The minutes of the meeting appear below:

#### **Kyogle Council**

**Unconfirmed Minutes of the Internal Audit Committee Meeting held in the Council Chambers, Stratheden Street, Kyogle, on 15 September, 2011.**

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#### **PRESENT**

Cr. L. Zito, (Mayor in the Chair), Mr John Watkins, and Mr Andrew Stevens.

#### **IN ATTENDANCE**

The Director of Corporate & Community Services.

#### **MEETING COMMENCEMENT**

The Chairperson declared the meeting open at 11.05 am.

#### **ITEM 1 APOLOGIES**

Nil

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

The Chairperson read the opening prayer.

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

The Chairperson read the traditional lands acknowledgement.

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

Nil

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## **ITEM 5 REPORTS**

### **Item-5.1 INTERNAL AUDIT COMMITTEE CHARTER**

#### **RECOMMENED**

That the Internal Audit Committee Charter be adopted.

Next meeting November 7, 2011, 8.00 am

#### **MEETING CLOSURE**

There being no further business the Chairperson declared the meeting closed at 12:12 p.m.

#### **Recommendation**

That the Internal Audit Committee Charter be adopted.

#### **Attachments**

1. Draft Internal Audit Committee Charter – separate attachment

**Summary/Purpose**

This report presents to Council information regarding legislative changes that strengthen protection for public officials who make public interest disclosures.

**Community Strategic Plan Item(s)**

- Governance and Community Service

**Background Information**

Council currently has in place an Internal Reporting Policy – Protected Disclosures Act 1994, this policy was initially adopted when the Act was introduced and based on a model policy issued by the Department of Local Government.

**Report**

Circular 11-13 has recently been received which advised councils of recent changes in legislation to protect public officials who disclose wrongdoing in accordance with the Public Interest Disclosures Act 1994.

The Protected Disclosures Act 1994, has been renamed the Public Interest Disclosures Act 1994, and sets out a comprehensive framework for protecting public officials who disclose wrongdoing in accordance with the Act.

The purpose of any protected disclosure system is to promote integrity and to enable councils to fix problems. Councillors and those who work for a council are often the best placed to identify and report problems. It is therefore in the public interest, and in the council's interest, that councillors and members of staff are encouraged to come forward with information of this kind and are supported when they do so.

Legislative changes to strengthen protections for public officials who disclose wrongdoing took effect on July 1 2011.

The circular required local councils to ensure that they:

- Are aware of the changes and make sure councillors and staff throughout the organisation are aware
- Operate in accordance with the new procedures
- Adopt, by October 1, 2011 a policy for receiving, assessing and dealing with protected disclosures.

The current policy has been reviewed and the following amendments made:

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- Reference to Protected Disclosures Act changed to the Public Interest Disclosures Act
- Validity - clause added
- Applications of Policy – clause added
- Minor corrections and editing
- Checked references to sections of Act were still correct

### **Recommendation**

1. That the report on the Public Interest Disclosure Act 1994 be received and noted
2. That the amended Internal Reporting Policy - Public Interest Disclosure Act 1994 be adopted.

### **Attachments**

1. Amended Internal Reporting Policy - Public Interest Disclosure Act 1994.

## 14D.4 UNION PICNIC DAY

---

### **Summary/Purpose**

This report provides Council with information and seeks Council's adoption of a date for the Council Picnic Day.

### **Background Information**

Clause 18B (Holidays) of the Local Government (State) Award provides:

- (i) Union Picnic Day shall for the purposes of this award be regarded as a holiday for employees who are financial members of the union(s). The Union Picnic Day shall be on such day as is agreed between the council and the union(s).
- (ii) The union(s) shall advise the council of financial members as at the time of the Union Picnic Day. Such advice must be given at least two weeks prior to the Union Picnic Day.
- (iii) Employees who are not financial members of the union(s) and who *are* required to work on Union Picnic Day, shall be paid ordinary pay for their normal working day.
- (iv) Employees who are not financial members of the union(s) and who are not required to work on Union Picnic Day, may apply to council to take annual leave, time off in lieu of overtime, leave without pay, such other leave as may be approved by council, or may be required by council to make up time.

### **Report**

Council has received a request for the Picnic Day holiday to be on Tuesday 1 November, 2011.

It is recommended that this date be approved in accordance with the Award provisions.

### **Recommendation**

That Council designate Tuesday 1 November, 2011 as a Union Picnic Day holiday.

**Summary/Purpose**

This reports seeks a resolution of Council regarding the conditions of the new occupation agreement for Grove House.

**Community Strategic Plan Item(s)**

- Governance and Community Service

**Previous Council Consideration**

This item was considered by Council in June 2011, the report appears below:

Background Information

Council has an occupation agreement with the Kyogle Community Technology Centre Inc. for Grove House. The original agreement was for the period March 20, 2009 to March 20, 2011. The period of this agreement tied in with the Area Assistance funding that has been provided for the Technology and Enterprise Centre Co-ordinator.

Previous Council Consideration

At the Ordinary meeting held March 16, 2009 , the following was resolved.

That Council authorise the General Manager and Mayor to sign the Service Agreement and Occupation License with the Community Technology Centre Inc. for the Community Enterprise Centre located at 8 Geneva Street Kyogle.

That Council authorise the General Manager and Mayor to affix the Council seal to the Service Agreement and Occupation License with the Community Technology Centre Inc. for the Community Enterprise Centre located at 8 Geneva Street Kyogle.

Report

A meeting was held with two members of Kyogle Together on June 15, 2011. The purpose of the meeting was to discuss the establishment of a new Occupation Agreement.

The Board of Kyogle Together is to meet and detail what they would like included in the terms of a new Occupation Agreement. A proposed agreement will be presented to the July Ordinary Meeting.

It is proposed that the conditions of the existing agreement (currently extended to July 1, 2011) continue until the matter is considered at the July Meeting.

Recommendation

1. That the report on the Occupation Agreement for Grove House be received and noted.
2. That the conditions of the existing Occupation Agreement continue until 31 July 2011.

## **Report**

A meeting was held between Council staff and representatives of Kyogle Together to discuss the Occupation Agreement. At this meeting the representatives from Kyogle Together indicated that they would like to request some changes to the existing document for the new term.

This request was received in writing after the August Business Paper was closed off. The correspondence appears below:



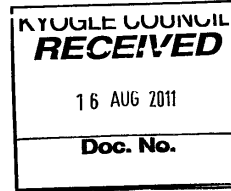


## Kyogle Together

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Carol O'Neill  
Director, Corporate and Community Services  
Kyogle Council  
PO Box 11  
Kyogle NSW 2474

15 August 2011



Dear Carol,

I'm writing about the new licence for Kyogle Together of Grove House. As we discussed in our meeting with Kyogle Together Board representative Dale Oxtoby in June, we'd like to request the following inclusions in the next licence:

- A licence period of three years, with the option of a three year renewal.
- Free / peppercorn rent – as Kyogle Together provides a broad range of community services which assist Council in meeting the requirements of its Social Plan, and as we have been informed that we are the only community organisation in Kyogle which currently pays rent on a Council-owned building.

While we're aware that not receiving rent for Grove House would be a reduction of Council income, we're also aware that this is a very small part of Council's operating budget. Furthermore, the benefits that Council realises in services provided by Kyogle Together and its sub-tenants would be far greater in dollar value terms than the amount of rent.

We have recently implemented a new statistics collection system for Kyogle Together and Grove House, which could assist Council in reporting on its Social Plan; please let us know if this data would be useful in Council's reporting requirements.

- Install lift as per original building plan – this is very important for disability access to not only the CTC, but also the disability employment service providers, all of whom will be located upstairs from this November, making this now a matter of urgency.
- Install wall in kitchen to make new office. John Hession and I had an informal yet generative conversation about Grove House a few weeks ago, and he informed me that this was part of the original plan for the building; given the limited office space available, this would allow for more community work to be delivered out of Grove House.

---

Postal Address: PO Box 751 KYOGLE NSW 2474  
Street Address: Grove House 8 Geneva Street KYOGLE NSW 2474  
Phone: 02 6632 1833 Fax: 02 6632 1855 Email: [info@kyogletogether.org.au](mailto:info@kyogletogether.org.au)  
ABN 16 530 482 569

- 
- Install concertina divider for meeting room, to allow project staff and other room hirers to have access to kitchen, which would make the building safer and more efficient as a workplace.
  - Complete building and infrastructure changes as per Council's own safety inspection, carried out some time ago. John informed me that Council had done an assessment of Grove House, and that some tasks were still required to make the building compliant with relevant health and safety legislation and standards.

I hope the above is clear and makes sense; please don't hesitate to contact me if you require any further information.

I'd like to take this opportunity to thank Council for its support of Kyogle Together over the last 12 months. As you know, this has been a busy time, with many new large projects being brought to the LGA, including the Active Kyogle project, the Food Links village showcase, and the Kyogle Community Gym; we're also about to give the CTC a major upgrade of both equipment and client service quality.

Kyogle Together continues to improve the range of services that it offers to the community, the level of employee skills, and the quality of governance and oversight at Board level. Now that we have the organisational capacity to take on projects supported by state and federal funding, we look forward to bringing more employment to the area, as well as delivering projects and programs that have clear benefits for the community.

Regards,

Mark Trudinger

Chief Executive Officer  
Kyogle Together

In response to the requests the following information is provided:

Term of three years with three year extension

The request for an extended term is considered reasonable.

Free/Peppercorn rent

The rent paid is currently \$500 per month.

It is considered that it is not possible to consider a reduction in rental. In 2011 the rates and charges totalled \$4,232.40 and insurance on the building was \$1,194.85. The total of these two items is \$5,427.25 with \$6,000 rent being paid annually. This difference is used in minor maintenance works and further building works have been requested.

Maintenance Works

There is no allocation in the 2011/2012 budget to fund the requested works. This will need to be further investigated, costed and considered in next years budget. There is a budget allocation for a lift but it is insufficient to fund the project and would require a successful grant application.

### **Recommendation**

That Kyogle Together be offered a new Occupation Agreement for a period of three years with a three year renewal option, with a monthly rental of \$500 to be reviewed at the end of the initial three years.

## **ITEM 14E      COMMUNITY SERVICES REPORT**

### **14E.1           AUSTRALIA DAY COMMITTEES**

---

#### **Summary/Purpose**

This report seeks a resolution from Council to Delegate Authority to the Kyogle Australia Day Committee and the Woodenbong Australia Day Committee under section 355 of the Local Government Act.

#### **Community Strategic Plan Item(s)**

- Governance and Community Service
- Village Life

#### **Background Information**

The East of the Range Australia Day Committee has previously had Authority Delegated to it. This new delegation reflects the new arrangement with separate celebrations being held each year in both Kyogle and Woodenbong.

#### **Previous Council Consideration**

At the Ordinary meeting of Council held August 21, 2011 Council resolved:

That the East of the Range Australia Day Committee be advised that approval is given to hold separate Australia Day celebrations in Kyogle and Woodenbong, however funding levels are to be;

- \$3,914 for West of Range Australia Day celebrations
- \$3,000 for Woodenbong Australia Day celebrations
- \$3,000 for Kyogle Australia Day celebrations

and that this budget variation be brought to the September budget review.

#### **Report**

Under the Local Government Act 1993, Section 355, Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community people to manage its facilities or functions through a committee of management.

The committees provide a mechanism by which interested persons can have an active role in the provision / management of Council facilities or services. This provides a two

fold benefit by giving protection to the committee operating under the banner of Council, and by providing Council with assistance in the carrying out of its functions.

The Committee is covered by the public liability policy of Council. This insurance does not preclude the committee from due diligence and all council policies must be adhered to.

### **Recommendation**

1. That the Kyogle Australia Day Committee be delegated authority under section 355 of the Local Government Act
2. That the Woodenbong Australia Day Committee be delegated authority under section 355 of the Local Government Act

## **14E.2 FUTURES FUNDING APPLICATIONS**

---

### **Summary/Purpose**

This report presents the Futures funding applications to Council for consideration.

### **Community Strategic Plan Item(s)**

- Village Life
- Economic Development

### **Report**

An advertisement was placed Council newsletter and the Express Examiner calling for applications for the 2011/2012 Futures Fund.

Seven applications were received.

#### LGA wide projects

Nil

#### Kyogle projects

1. Kyogle and District Chamber of Commerce - application for funding of \$4,000 to conduct the Kyogle Musical Instrument Expo.
2. Kyogle Preschool & Outside School Hours Care - application for funding of \$13,000 for the purchase and installation of playground equipment and soft fall area.

3. Kyogle PA & H Society Inc - application for funding of \$4,000 for the running of the annual show.
4. Branching Out Counselling Service - application for funding of \$37,800 (\$13,000 available) for the provision of counselling services.
5. Kyogle Little Athletics - application for funding of \$22,000 (\$13,000 available) for the upgrade of the Kyogle High School Oval.

#### Range to Range Projects

Wadeville Reserve Trust – application for funding of \$3,500 to conduct an event that will be focused on adults. Futures funding has been awarded three times in the past.

The project has links to Council's Sense of Place document, Social Plan and the newly adopted Economic Development policy. It will also add to the tourism value of the area.

#### Mummulgum / Mallanganee / Tabulam Projects

Mummulgum Parents and Citizens - application for funding of \$6,500 (\$3,500 available) for the upgrade of a safe parking area

#### **Budget & Financial Aspects**

An allocation of \$40,000 has been included in the 2011/2012 Management Plan; this is to be allocated as follows:

LGA Projects	\$13,000
Kyogle Projects	\$13,000
Bonalbo / Old Bonalbo Projects	\$ 3,500
Woodenbong / Urbenville Projects	\$ 3,500
Mummulgum / Mallanganee / Tabulam Projects	\$ 3,500
Range to Range (Cawongla / Barkersvale) Projects	\$ 3,500

#### **Recommendation**

That Council allocate Futures funding to:

1. Kyogle Chamber of Commerce \$4,000 to conduct the Kyogle Musical Instrument Expo.
2. Wadeville Reserve Trust \$3,500 for an event that will be focused on adults.

#### **Attachments**

1. Funding Applications – separate attachment for Councillors

## 14E.3 FINANCIAL ASSISTANCE APPLICATIONS

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### Summary/Purpose

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

Applications from local organisations and individuals were invited up until 31 August 2011 for amounts of up to \$1,000 and \$500 respectively.

### Community Strategic Plan Item(s)

- Governance and Community Service

### Report

Twenty Three (23) applications have been received for funding;

- 17 from local organisations and
- 5 applications from individuals.

These are summarised as follows:

Request for Assistance - Local Organisations			
Applicant	Reason for Request	Funds received within past 2 years	Funds requested
Urbenville RSL Sub-Branch	Replace timber rail to boundary fence surrounding Urbenville War Memorial.	-	200
Bonalbo Charity Rodeo Committee	To assist with running expenses for 2011 Charity Rodeo in October	-	1,000
Northern Region Westpac Life Rescue Helicopter	To purchase software system Air Maestro to enhance safety, compliance and efficiency of organisation.	-	1,000
Upper Clarence Valley Senior Citizens - Bonalbo	To assist with providing a meal at Christmas for the Senior Citizens community of Bonalbo and district.	-	500
Upper Clarence Valley Seniors Week - Woodenbong	To assist with an event at Woodenbong Hall to celebrate Seniors Week in March 2012	-	1,000

<b>Request for Assistance - Local Organisations</b>			
<b>Applicant</b>	<b>Reason for Request</b>	<b>Funds received within past 2 years</b>	<b>Funds requested</b>
	involving seniors from all of Kyogle LGA.		
Cross Roads Ministries Inc.	To assist with payment of Council Development application fees to extend building to accommodate children from abusive homes.	-	1,000
Little Athletics Kyogle	Purchase equipment to replace damaged sustained by January 2011 floods	-	1,000
P & C Committee Kyogle Public School	Canteen facilities upgrade	-	1,000
P & C Committee Afterlee Public School	To assist with costs associated with taking Years 5/6 students to Canberra for an excursion.	-	1,000
Social Team - Fun Festival	To purchase biodegradable products and purchase local healthy produce to encourage healthy sustainable lifestyles at a community event.	-	500
Kyogle Pony Club	To beautify recently completed project; creating cross country/fitness track, by planting trees, placing guards and building a fence and starting gate.	-	1,000
Woodenbong Amateur Swimming Club	To pay for the training of a lifeguard who will be able to run the Club nights at Woodenbong Pool.	16/11/09 \$500	800
Eden Creek Public Hall & Recreation Trust	To purchase tables, chairs and fridge to host community events.	-	1,000
"Branching Out" Counselling Service	To supply free counselling to all community members.	-	1,000
Quota International of Kyogle Inc.	To assist with an annual seniors luncheon to be held in Kyogle in September.	-	500
Mummulgum Community Playgroup	To purchase play equipment art/craft supplies and a safety barrier gate for new community playgroup	-	1,000
P & C Mummulgum	To upgrade an area for a carpark to allow a safe drop off and pick up area off the busy highway.	-	1,000
<b>Total</b>			<b>\$14,500</b>



<b>Request for Assistance - Individuals</b>			
<b>Applicant</b>	<b>Reason for Request</b>	<b>Funds received within past 2 years</b>	<b>Funds requested</b>
Doug Reid	To produce a timeline of the Woodenbong District through a database available by either web or book.	-	500
Rachelle Crane	To assist with costs following being selected to sing at the Sydney Opera house representing	-	500
Alison Treanor	To develop Management Plan for all weather, multi-purpose sand arena for horse riding sports and Activities at Kyogle Showground.	-	500
Catriona Bain	To assist with costs associated with competing in Australian Slalom Championships and Australian Schools Whitewater National Championships in Tasmania in 2012.	-	500
Anna Bain	To assist with costs associated with competing in Australian Slalom Championships and Australian Schools Whitewater National Championships in Tasmania in 2012.	-	500
<b>Total</b>			<b>\$2,500</b>

## **Budget & Financial Aspects**

Council's Financial Assistance Policy states;

### **Maximum Assistance**

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

Organisations     \$1000 (Total available funds annually \$15 500)  
 Individuals         \$ 500 (Total available funds annually \$4 500)

### **Timing of Assessing Assistance**

Applications from organisations will be considered at the Ordinary Meeting of Council in November of each year. If the annual funding allocation is not expended in November a further round of funding will be advertised and will be considered by Council at the Ordinary Meeting in May the following year.

Applications from individuals will be considered at the Ordinary Meeting of Council in August, November and March each year. \$1500 will be allocated for both the August and November Meetings and the remainder of unspent funds be distributed at the March Ordinary meeting.

### Assessment for Organisations

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

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

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

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

### Recommendation

That Council grant financial assistance to the following applicants:

#### Local Organisations

Applicant	Reason for Request	Funds requested
Urbenville RSL Sub-Branch	Replace timber rail to boundary fence surrounding Urbenville War Memorial.	200
Bonalbo Charity Rodeo Committee	To assist with running expenses for 2011 Charity Rodeo in October	500
Upper Clarence Valley Senior Citizens - Bonalbo	To assist with providing a meal at Christmas for the Senior Citizens community of Bonalbo and district.	500
Upper Clarence Valley Seniors Week - Woodenbong	To assist with an event at Woodenbong Hall to celebrate Seniors Week in March 2012 involving seniors from all of Kyogle LGA.	500
Cross Roads Ministries Inc.	To assist with payment of Council Development application fees to extend building to accommodate children from abusive homes.	1,000
Little Athletics Kyogle	Purchase equipment to replace damaged sustained by January 2011 floods	500
Woodenbong Amateur Swimming Club	To pay for the training of a lifeguard who will be able to run the Club nights at Woodenbong Pool.	800
Eden Creek Public Hall & Recreation Trust	To purchase tables, chairs and fridge to host community events.	500
Quota International of Kyogle Inc.	To assist with an annual seniors luncheon to be held in Kyogle in September.	500
Mummulgum Community	To purchase play equipment art/craft supplies and a	500

Playgroup	safety barrier gate for new community playgroup	
<b>Total</b>		<b>\$5,500</b>

### Individuals

<b>Applicant</b>	<b>Reason for Request</b>	<b>Funds requested</b>
Doug Reid	To produce a timeline of the Woodenbong District through a database available by either web or book.	500
Rachelle Crane	To assist with costs following being selected to sing at the Sydney Opera house representing	500
Alison Treanor	To develop Management Plan for all weather, multi-purpose sand arena for horse riding sports and Activities at Kyogle Showground.	500
Catriona Bain	To assist with costs associated with competing in Australian Slalom Championships and Australian Schools Whitewater National Championships in Tasmania in 2012.	500
Anna Bain	To assist with costs associated with competing in Australian Slalom Championships and Australian Schools Whitewater National Championships in Tasmania in 2012.	500
<b>Total</b>		<b>\$2,500</b>

### Attachments

1. Financial Assistance Applications - Separately attached for Councillors.

**ITEM 14F      GENERAL MANAGER'S REPORT**

**14F.1          ACTING GENERAL MANAGER**

---

**Summary/Purpose**

The purpose of this report is to request Council to appoint staff to the position of Acting General Manager while the General Manager is on leave.

**Background Information**

Section 334 of the Local Government Act provides that:

(1) A council must appoint a person to be its general manager. The person must not be a body corporate.

**Report**

The General Manager will be on leave from 17 October, 201 to 21 October, 2011 inclusive and from 31 October, 2011 to 4 November, 2011 inclusive.

**Recommendation**

That Mr. Frank Winter be appointed as Acting General Manager for the following periods:

- 17 October, 2011 to 21 October, 2011 inclusive; and
- 31 October, 2011 to 4 November, 2011 inclusive.

**ITEM 15            URGENT BUSINESS WITHOUT NOTICE**

Nil.

**ITEM 16            QUESTIONS FOR NEXT ORDINARY MEETING**

Nil.

**ITEM 17            CONFIDENTIAL BUSINESS PAPER**

**17.1 STORMWATER AND FLOOD MANAGEMENT**

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**Reason for Confidentiality**

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

- (a)            personnel matters concerning particular individuals



APPENDIX / ATTACHMENTS

# KYOGLE COUNCIL



# ATTACHMENTS

## ORDINARY COUNCIL MEETING

ON 26 SEPTEMBER 2011

## 13.2 WORKS PROGRAM REPORT

FINANCIAL PERFORMANCE MAJOR WORKS (RTA AND COUNCIL)							
	Aug-11						%
RTA WORKS		TOTAL BUDGET	EXPENDITURE 2010/11	BUDGET 2011/12	EXPENDITURE YEAR TO DATE	COMPLETE	COMMENTS
FLOOD RESTORATION ROADS DEC 2010		211,350		211,350	165,385	80	
MR 361 - REHAB SMITHS PIT NORTH STAGE 2		214,000		214,000	0	2	Drainage works completed Roadworks to commence October 2011
MR 361 - REHAB SMITHS PIT SOUTH		174,000		174,000	13,855	2	Drainage works completed Roadworks to commence October 2011
MR 361 - REHAB BOOMI CREEK APPROACHES		254,000		254,000	0	0	Works to commence October 2011
MRS44 - REHAB BENTLEY ROAD		470,000		470,000	0	0	Programmed for March 2012
BRIDGE REPLACEMENT - BOOMI CREEK		600,000	107,180	492,820	0	20	Contract - in progress.
		<b>1,923,350</b>		<b>1,816,170</b>	<b>179,240</b>		
<b>COUNCIL WORKS</b>							
MAN STREET WORKS - RLCP		1,200,000	489,579	710,421	171,513	50	In progress - Completion expected February 2012
FLOOD RESTORATION ROADS DEC 2010		1,529,226	44,000	1,485,226	396,977	30	In progress - included in maintenance program
REHAB DUCK CK ROAD		85,778	323	85,455	0	0	Programmed for November 2011
RESHEETING EAST / WEST CONNECTION		150,000		150,000	0	0	subject to negotiation with State Forests
RESHEETING HILLYARDS ROAD		50,000		50,000	0	0	Programmed for November 2011
TERRACE ROAD BRIDGE 124 - 98		550,000	293,400	256,600	0	80	Contract - Completion expected October 2011
MONTGOMERYS BRIDGE 73 - 4457		128,074	50,307	77,767	0	0	Balance of funding to be used to upgrade abutments
HILLYARDS ROAD - BRIDGE 14 - 712		190,000	97,302	92,693	77,962	98	Completed - Awaiting final costs
GRADYS CREEK BRIDGE 59-1056		100,000		100,000	0	0	
GRADYS CREEK BRIDGE 59-13985		100,000		100,000	0	0	
LIONS ROAD - REPLACE HELCORE CULV		120,000		120,000	0	0	
NEEDHAMS ROAD BRIDGE 50-9824		150,000		150,000	0	0	Programmed for October / November 2011
GHNI GHI ROAD BRIDGE 57-7819		225,000		225,000	0	0	Programmed for Feb / March 2012
TUNGLUBUNG CREEK BRIDGE 131-6437		70,000		70,000	0	0	To be replaced with culvert
REHAB SANDILANDS STREET MALLANGANEE		95,000		95,000	0	0	Programmed for November 2011
REHAB TABULAM ROAD		200,000		200,000	0	0	Programmed for May 2012
REHAB WIANGAREE BACK ROAD		150,000		150,000	0	0	Programmed for February 2012
KYOGLE FLOOD MITIGATION WORKS		250,505		250,505	800	10	Consultants fees, valuations etc.
				<b>4,368,667</b>	<b>647,252</b>		
				<b>6,184,837</b>	<b>826,492</b>		
<b>NB: PROJECTS INCLUDED WHERE TOTAL PROJECT VALUE EXCEEDS \$50,000.</b>							



13.3 FINANCIAL REPORTS - AUGUST 2011

**COUNCILLORS TRAVEL EXPENSES**  
**Aug-11**

COUNCILLOR NAME	KLMS CLAIMED		CURRENT KM RATE	AMT REIMBURSED	
	MONTHS	YTD		MONTH	YTD
E Bennett	0	2,224	0.74	1,645.76	1,645.76
R. Brown	0	0	0.74	0.00	0.00
T. Cooper	0	0	0.74	0.00	0.00
R. Dwyer	0	0	0.74	0.00	0.00
J. O'Reilly	0	294	0.74	0.00	217.56
R. Leadbeatter	0	0	0.74	0.00	0.00
L. Passfield	410	1,021	0.74	303.40	755.54
J. Wilson	0	0	0.74	0.00	0.00
L. Zito	0	0	0.64	0.00	0.00
<b>Total</b>	<b>410</b>	<b>3,539</b>		<b>1,949.16</b>	<b>2,618.86</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.

# Kyogle Council



## Financial Reports 30 August, 2011

### Rates Statement Statement of Bank Balances Summary of Investments

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

### KYOGLE COUNCIL RATES STATEMENT AS AT 2 September 2011

	ARREARS 1-Jul-11	NET CHARGES 2011-2012	PAYMENTS	OUTSTANDING BALANCE	PERCENTAGE COLLECTED
RATES, SERVICES AND INTEREST	862,860.89	6,308,081.23	2,395,059.86	4,775,882.26	33.40%

PRESENTED TO COUNCIL September 2011

**Note:**

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

# KYOGLÉ COUNCIL

## STATEMENT OF BANK BALANCES AS AT

31-Aug-11

FUND	CLOSING BANK BALANCE 31-Aug-11	INVESTMENT BALANCE 31-Aug-11
<b>GENERAL FUND</b>		
UNRESTRICTED	(3,663,987.24)	3,200,000.00
INTERNALLY RESTRICTED	791,937.82	3,500,000.00
STATE HIGHWAYS	2,306,956.10	
QUARRIES	735,836.55	
PLANT	4,888,272.49	
EXTERNALLY RESTRICTED	235,249.55	3,700,000.00
	5,294,265.27	10,400,000.00
<b>RESTRICTED</b>		
WATER SUPPLIES	820,233.33	
SEWERAGE SYSTEMS	830,192.31	500,000.00
DOMESTIC WASTE	440,151.81	
ORDINARY TRUST	47,339.90	
	2,137,917.35	500,000.00
<b>CONSOLIDATED FUNDS</b>	<b>7,432,182.62</b>	<b>10,900,000.00</b>

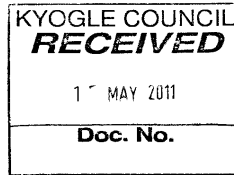
# KYOGLE COUNCIL

## SUMMARY OF INVESTMENTS AS AT 31/08/11

BANK	TYPE	TERM	AMOUNT	RATE P.A.	DUE DATE
SUNCORP METWAY	TERM DEPOSIT	30 DAYS	1,400,000.00	5.70%	September 2, 2011
BANKWEST	TERM DEPOSIT	30 DAYS	1,000,000.00	5.60%	September 8, 2011
SUNCORP METWAY	TERM DEPOSIT	30 DAYS	2,000,000.00	5.75%	September 14, 2011
CITIBANK	TERM DEPOSIT	32 DAYS	2,000,000.00	5.68%	September 19, 2011
BANKWEST	TERM DEPOSIT	62 DAYS	1,500,000.00	5.85%	September 22, 2011
COMMONWEALTH	TERM DEPOSIT	62 DAYS	3,000,000.00	5.60%	October 24, 2011
			10,900,000.00		
<b>PRESENTED TO COUNCIL ON SEPTEMBER 26, 2011</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 )					
<u>RESPONSIBLE ACCOUNTING OFFICER</u>					

President ..... *DEE WATSON*

Secretary ..... *Bill GROVE*



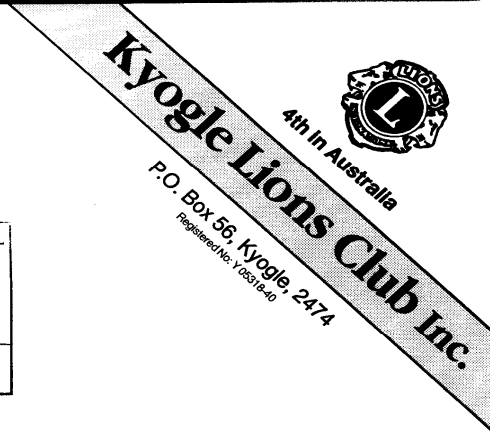
The General Manager  
Kyogle Council  
P O Box 11  
Kyogle 2474  
Dear Sir,

Our Club has a request to make of Council.  
We would like you to name the creek crossing North of Kelly Webb's home, on the Lions Road, "MURPHY'S CULVERT".  
Murphy Standfield (recently deceased) could have his role in district road construction & contribution to Kyogle's past remembered by the placement of such a sign.

Sincerely  
Bill Grove

16<sup>th</sup> May,2011.

**KYOGLE LIONS CLUB**  
**P.O. BOX 56, KYOGLE 2474**  
**kyoglelionsclub@gmail.com**



# Kyogle Council

## Internal Reporting Policy Public Interest Disclosures Act, 1994



### DOCUMENT CONTROL

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*Presented to and adopted by Council February 16, 1998.*

*Resolution 160298 (041) Reviewed July 20, 2009. Reviewed September 26, 2011*

## **Support for persons who make disclosures**

Kyogle Council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money.

Kyogle Council is committed to the aims and objectives of the *Public Interest Disclosures Act*. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff or Councillors, which disclose mis-conduct, maladministration, or serious and substantial waste of public money.

Kyogle Council will take all reasonable steps to provide protection to staff who make such disclosures from any detrimental action in reprisal for the making of the disclosure.

## **Application of Policy**

The Public Interest Disclosures Policy applies to:

- Council employees
- Councillors

As a minimum this policy should be read in conjunction with Council's:

- Code of Conduct
- Fraud Prevention Policy
- Complaint Handling Policy
- Interaction between Councillors and Staff Policy

## **Purpose of the Policy**

To be protected by the Act, a disclosure must be made by a member of staff or Councillor to:

- An investigating authority;
- The General Manager; or
- To another nominated officer of the Kyogle Council in accordance with the Internal Reporting System established under this Policy for the purposes of the Public Interest Disclosures Act.

This Policy establishes an internal reporting system for the reporting of disclosures of corrupt conduct, maladministration or serious and substantial waste of public money by Kyogle Council, its staff and Councillors. The system enables such internal disclosures to be made to the Disclosure Co-ordinator, or the Mayor, as an alternative to the General Manager.

This Policy is designed to complement normal communication channels between supervisors and staff. Staff are encouraged to continue to raise appropriate matters at any time with their supervisors, but as an alternative have the option of making a protected disclosure in accordance with this policy.

## Validity

This policy gains its validity from council resolution 260911XXX

## Object of the Act

*The Public Interest Disclosures Act, 1994 commenced operation on 1<sup>st</sup> March 1995, from July 1, 2011 this Act has been renamed the Public Interest Disclosures Act 1994 No 92. The purpose of the Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that the matters raised in the disclosures are properly investigated.*

The Act aims to encourage and facilitate the disclosure – in the public interest – of corrupt conduct, maladministration and serious and substantial waste in the public sector. This is achieved by:

- Enhancing and augmenting established procedures for making disclosures concerning such matters;
- Protecting persons from reprisals that might otherwise be inflicted on them because of these disclosures; and
- Providing for those disclosures to be properly investigated and dealt with.

## Definitions

Three key concepts in the internal reporting system are “corrupt conduct”, “maladministration” and “serious and substantial waste of public money”. Definitions of these concepts are outlined below.

### 1. Corrupt conduct

*“Corrupt conduct” is defined in the Independent Commission Against Corruption Act, 1988 (sections 8 & 9). The definition used in the Act is intentionally quite broad – corrupt conduct is defined to include the dishonest or partial exercise of official functions by a public official.*

*Conduct of a person who is not a public official, when it adversely affects the impartial or honest exercise of official functions by a public official, also comes within the definition.*

Corrupt conduct can take many forms, i.e. taking or offering bribes, public officials dishonestly using influence, blackmail, fraud, election bribery and illegal gambling are some examples.

### 2. Maladministration

*“Maladministration” is defined in the Public Interest Disclosures Act section 11(2) as conduct that is of a kind that amounts to maladministration if it involves action or inaction of a serious nature that is:*

- (a) contrary to law; or



- (b) unreasonable, unjust, oppressive or improperly discriminatory; or
- (c) based wholly or partly on improper motives

The conduct covered by these terms includes:

- **Contrary to law**
- **Unreasonable**
- **Unjust**
- **Oppressive**
- **Improperly Discriminatory**
- **Based wholly or partly on improper motives**

### 3. **Serious and Substantial Waste**

The term “*serious and substantial waste*” is not defined in the Public Interest Disclosures Act. The Auditor-General provides following working definition:

*Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorized or unauthorized, which results in a loss/wastage of public funds/resources.*

*In addressing any complaint of serious and substantial waste regard will be had, to the nature and materiality of the waste.*

*The following delineation of the definition of serious and substantial waste may be of assistance to public officials and/or public authorities.*

#### **Types:**

**Absolute** - *serious and substantial waste might be regarded in absolute terms where the waste is regarded as significant, for example \$500,000.*

**Systemic** - *the waste indicates a pattern which results from a systemic weakness within the public authority.*

**Material** - *the serious and substantial waste is/was material in terms of the public authority's expenditure or a particular item of expenditure or is/was material to such an extent so as to effect a public authority's capacity to perform its primary functions.*

**Material by Nature Not Amount** – *the serious and substantial waste may not be material in financial terms but may be significant by nature. That is it may be improper or inappropriate (alternatively, this type of waste may constitute “maladministration” as defined in the Public Interest Disclosures Act).*

Waste can take many forms, for example:

- Misappropriation or misuse of public property;
- The purchase of unnecessary or inadequate goods and services;
- Too many personnel being employed in a particular area, incurring costs which might otherwise have been avoided;

- Personnel being remunerated for skills that they do not have, but are required to have under the terms or conditions of their employment;
- Programs not achieving their objectives and therefore the costs being clearly ineffective and inefficient.

Waste can result from such things as:

- The absence of appropriate safeguards to prevent the theft or misuse of public property;
- Purchasing procedures and practices which fail to ensure that goods and services are necessary and adequate for their intended purpose; and
- Purchasing practices where the lowest price is not obtained for comparable goods or services without adequate and appropriate justification.

## **What disclosures are protected under the Act**

### **What disclosures are protected?**

Disclosures are protected under the Act if they:

- a) are made-
  - in accordance with this Internal Reporting Policy; or
  - to the General Manager; or
  - to one of the investigating authorities nominated in the Act; AND
- b) show or tend to show corrupt conduct, maladministration, or serious and substantial waste of public money by Kyogle Council or any of its staff or Councillors; AND
- c) are made voluntarily.

### **What disclosures are not protected?**

A disclosure is not protected under the Act if it is made by a public official in the exercise of a duty imposed by or under an Act.

Protection is also not available for disclosures which:

- Are made frivolously or vexatiously;
- Primarily question the merits of government policy; or
- Are made solely or substantially with the motive of avoiding dismissal or other disciplinary action.

It is an offence to willfully make a false or misleading statement when making a disclosure.

### **Anonymous reports**

The Act does not refer to anonymous disclosures, or impose any obligation on a person to identify themselves in a disclosure.

It seems likely that anonymous disclosure can be protected under the Act in the event that the identity of the person making the disclosure becomes known, Anyone claiming to be the author of an anonymous disclosure would be responsible for proving the claim.

A person's need for protection, and their rights and obligations, are the same whether they made their disclosure anonymously or identified themselves

## Reporting under the Internal Reporting System

The persons or positions to whom internal disclosures can be made in accordance with the Internal Reporting system are:

- The Disclosure Co-ordinator/ Nominated Disclosure Officer (Director of Corporate & Community Services, phone 02-66320 204);
- The General Manager (phone 02-66320 215); or
- The Mayor (if the disclosure concerns or involves the General Manager or a Councillor).

Where persons contemplating making a disclosure are concerned about publicly approaching the Disclosure Co-ordinator, the General Manager or the Mayor, they can ring the relevant official and request a meeting in a discreet location away from the workplace.

### Notes:

1. A Council officer who wishes to make a protected disclosure which involves a Councillor may do so to the Mayor, the General Manager, or an investigating authority (i.e. the ICAC, Ombudsman).
2. A Councillor who wishes to make a protected disclosure which involves another Councillor may do so to the Mayor, the General Manager, or an investigating authority (i.e. the ICAC, Ombudsman).
3. If the Mayor wishes to make a protected disclosure he or she may do so to the General Manager or an investigating authority (i.e. the ICAC or Ombudsman).
4. The Department of Local Government is not an investigating authority under the Act, however, the ICAC, the Ombudsman or a Council may refer a protected disclosure to the Department for investigation, and in such a circumstance any protections conferred under the Act is maintained.

## Roles and Responsibilities

The Internal Reporting Policy places responsibilities upon people at all levels within Kyogle Council.

### 1. Employees

Employees are encouraged to report known or suspected incidences of corrupt conduct, maladministration or serious and substantial wastage in accordance with this Policy.

All employees of Kyogle Council have important role to play in supporting those who have made legitimate disclosures. They must abstain from any activity that is or could be perceived to be victimization or harassment of persons who make disclosures. Further, they should protect/maintain the confidentiality of persons they know or suspects have made disclosures.

## 2. **Nominated Disclosure Officers**

The Nominated Disclosure Officers are responsible for receiving, forwarding and or acting upon disclosures in accordance with the Policy. Nominated Disclosure Officers will:

- a) clearly explain to person making disclosures what will happen relation to the information received;
- b) when requested, make arrangements to ensure that disclosures can be made privately and discreetly (if necessary away from the workplace);
- c) reduce to writing and date any disclosures received orally (and have the person making the disclosure sign the document);
- d) deal with disclosures impartially;
- e) forward disclosures to the General Manager for assessment.
- f) take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential; and
- g) support persons who make disclosures and protect them from victimization, harassment or any other form of reprisal.

## 3. **Disclosure Co-ordinator**

The Disclosure Co-ordinator has a pivotal position in the internal reporting system and acts as a clearing house for disclosures. The Disclosure Co-ordinator will:

- a) Provide an alternative internal reporting channel to Nominated Disclosure Officers and to the General Manager;
- b) Impartially assess each disclosure to determine -
  - i. whether the disclosure appears to be a protected disclosure within the meaning of the Act; and
  - ii. the appropriate action to be taken in relation to the disclosure, for example -
    - no action/decline;
    - the appropriate person to take responsibility for dealing with the disclosure;
    - preliminary or informal investigation;
    - formal investigation;
    - prosecution or disciplinary action;
    - referral to an investigating authority for investigation or other appropriate action; or
    - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- c) Consult with the General Manager.

- d) Be responsible for carrying out or co-ordinating any internal investigation arising out of a disclosure, subject to the direction of the General Manager in carrying out his/her functions.
- e) Report to the General Manager on the findings of any investigation and recommended remedial action;
- f) Take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and persons the subject of the disclosures, are kept confidential;
- g) Support persons who make disclosures and actively protect them from victimization, harassment or any other form or reprisal; and
- h) Report actual or suspected corrupt conduct to the General Manager in a timely manner to enable that officer to comply with the ICAC Act.

#### 4. **General Manager**

Disclosures may be made direct to the General Manager rather than by way of the Internal Reporting System established under this Policy. The General Manager will –

- a) Impartially assess each disclosure to determine:
  - i. Whether the disclosure appears to be a protected disclosure within the meaning of the Act;
  - ii. The appropriate action to be taken in relation to the disclosure, for example –
    - no action/decline;
    - the appropriate person to take responsibility for dealing with the disclosure;
    - preliminary or informal investigation;
    - formal investigation;
    - prosecution or disciplinary action;
    - referral to an investigating authority for investigation or other appropriate action; or
    - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- b) Receive reports from the Disclosure Co-ordinator on the findings of any investigation and any recommendations for remedial action, and determine what action should be taken;
- c) Take all necessary and reasonable steps to ensure that the identity of persons who make disclosures, and the persons the subject of disclosures, are kept confidential;

- d) Have primary responsibility for protecting staff who make disclosures, or provide information to any internal or external investigation of a disclosure, from victimization, harassment or any other form of reprisal;
- e) Be responsible for implementing organizational reform identified as necessary following investigation of a disclosure; and
- f) Report criminal offences to the Police and actual or suspected corrupt conduct to ICAC (under S.11 of the ICAC Act).

## 5. **The Mayor**

The Mayor may receive internal disclosures from any member of staff of the Council or any Councillor concerning the General Manager or a Councillor. The Mayor will:

- a) Impartially assess each disclosure made to him/her about the General Manager or a Councillor to determine -
  - i. Whether the disclosure appears to be a protected disclosure within the meaning of the Act;

Note: In making this assessment the Mayor may seek guidance from: the Disclosure Co-ordinator or General Manager (if appropriate); an investigating authority (i.e. the ICAC, or Ombudsman); or the Department of Local Government.

- ii. The appropriate course of action to be taken in relation to the disclosure (in consultation with the General Manager, if appropriate) for example –
  - no action/decline;
  - the appropriate person to take responsibility for dealing with the disclosure;
  - preliminary or informal investigation;
  - formal investigation;
  - prosecution or disciplinary action;
  - referral to an investigating authority for investigation or other appropriate action; or
  - referral to the police (if a criminal matter) or the ICAC (if the matter concerns corrupt conduct).
- b) Refer disclosures to the General Manager for appropriate action if they concern the Council's Administration, within the day to day responsibilities of the General Manager;
- c) Protect/maintain the confidentiality of:
  - i. The identity of persons who make disclosures (unless any of the criteria in section 22 of the Act apply); and

- ii. The identity of persons the subject of the disclosures (unless disclosure is required to enable the allegations to be investigated or otherwise appropriately dealt with).

## **Alternative Avenues for disclosures**

Alternative avenues available to staff and Councillors for making a protected disclosure under the Act (other than by means of the internal reporting system created under this Policy), are as follows:

- To the General Manager; or
- To one of the investigating authorities under the Act (eg. the ICAC and Ombudsman).

### **Notes:**

1. While the Act includes the Auditor General as an external investigating authority, the Auditor General's jurisdiction relates to State Government authorities and not to local Councils.
2. The Department of Local Government is not an investigating authority under the Act, however, the ICAC, the Ombudsman or a Council may refer a protected disclosure to the Department for investigation, and in such a circumstance any protection conferred under the Act is maintained.

Disclosures made to a journalist or a Member of Parliament will only be protected if certain conditions are met:

1. the person making the disclosure to a journalist or Member of Parliament must have already made substantially the same disclosure through the internal reporting system, or to the General Manager or an investigating authority in accordance with the Act; and
2. the information provided in the disclosure is substantially true; and
3. the investigating authority, public authority or officer to whom the matter was originally referred has –
  - a) decided not to investigate the matter; or
  - b) decided to investigate the matter but not completed the investigation within 6 months of the original disclosure; or
  - c) investigated the matter but not recommended any action in respect of the matter; or
  - d) failed to notify the person making the disclosure, within 6 months of the disclosure, of whether the matter is to be investigated.

## **Rights of persons the subject of disclosures**

The rights of persons the subject of disclosures will also be protected. In this regard:



1. the confidentiality of the identify of persons the subject of disclosures will be protected/maintained (where this is possible and reasonable);
2. disclosures will be assessed and acted on impartially, fairly and reasonably;
3. responsible officials who receive disclosures in accordance with this Policy are obliged to –
  - protect/maintain the confidentiality of the identity of persons the subject of the disclosures;
  - assess disclosures impartially; and
  - act fairly to persons the subject of disclosures;
4. disclosures will be investigated as discreetly as possible, with a strong emphasis on maintaining confidentiality both as to the identity of whistleblowers and the persons the subject of disclosures.
5. where investigations or other enquiries do not substantiate disclosures, the fact the investigation/enquiry has been carried out, the results of the investigation/enquiry, and the identity of persons the subject of the disclosures will be kept confidential, unless the persons the subject of the disclosures request otherwise;
6. the persons the subject of disclosures (whether protected disclosures under the Act or otherwise) which are investigated by or on behalf of a Council, have the right to –
  - a) be informed as to the substance of the allegations;
  - b) be informed as to the substance of any adverse comment that may be included in a report/memorandum/letter or the like arising out of any such investigation; and
  - c) be given a reasonable opportunity to put their case (either orally or in writing) to the persons carrying out the investigation for or on behalf of the Council;

before any decision/determination/report/memorandum/letter or the like is made or finalised;
7. where the allegations in a disclosure have been investigated by or on behalf of a Council, and the person the subject of the allegations is aware of the substance of the allegations, the substance of any adverse comment, or the fact of the investigation, he or she should be formally advised as to the outcome of the investigation, regardless of the outcome; and
8. where the allegations contained in a disclosure are clearly wrong or unsubstantiated, the person the subject of the disclosure is entitled to the support of the Council and its senior management (the nature of the support that would be reasonable and appropriate would depend on the circumstances of the case, but could include a public statement of support or a letter setting out the Council's views that the allegations were either clearly wrong or unsubstantiated).

## **Protection available under the Act**

### **1. Protection against reprisals**

*The Act provides protection by imposing penalties on a person who takes “detrimental action” against another person substantially in reprisal for a protected disclosure. Penalties can be imposed by means of fines and imprisonment. “Detrimental action” means action causing, comprising or involving any of the following:*

- injury, damage or loss;
- intimidation or harassment;
- discrimination, disadvantage or adverse treatment in relation to employment;
- dismissal from, or prejudice in, employment; or
- disciplinary proceeding.

Any member of staff or Councillor who believes that “detrimental action” is being taken against them substantially in reprisal for the making of an internal disclosure to the General Manager or in accordance with this Policy should immediately bring the allegations to the attention of the General manager or Mayor (as appropriate).

If a member of staff or Councillor who made an internal disclosure feels that such reprisals are not being effectively dealt with, they should contact the ICAC, or the Investigations and Review Branch of the Department of Local Government.

If an external disclosure was made to an investigating authority, that body will either deal with the allegation or provide advice and guidance to the person concerned.

### **2. Protection against actions etc.**

The Act provides that a person is not subject to any liability for making a protected disclosure and no action, claim or demand may be taken or made of or against the person for making the disclosure. This provision has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure by a public official.

A person who has made a protected disclosure has a defense of absolute privilege in proceedings for defamation.

A person who has made a protected disclosure is taken not to have committed any offence against an Act which imposes a duty to maintain confidentiality with respect to any information disclosed.

### **3. Confidentiality (section 22)**

The Act requires investigating authorities, public authorities and public officials to who protected disclosures are made or referred, not to disclose information that might identify or tend to identify the person who made the disclosures. The exceptions to the confidential requirement are where:

- The person consents in writing to the disclosure of that information; or

- It is essential, having regard to the principles of natural justice that the identifying information be disclosed to a person whom the information provided by the disclosure may concern; or
- The investigating authority, public authority, officer or public official is of the opinion that disclosure of the identifying information is necessary to investigate the matter effectively; or
- Disclosure is otherwise in the public interest.

Decisions about natural justice, effective investigation and public interest will be made by Kyogle Council. In all cases the person who made the disclosure will be consulted before such a decision is made.

Note: If guidance is needed in relation to the requirements of natural justice, effective investigation and public interest, this may be sought from an investigating authority or the Department of Local Government.

#### **4. Freedom of Information exemption**

Under the Government Information (Public Access) Act 2009 (NSW) (the GIPA Act) a document is exempt from release if it contains matter the disclosure of which would disclose matters relating to a protected disclosure within the meaning of the Act.

#### **Notification of Action taken or proposed**

A person who makes a protected disclosure must be notified, within 6 months of the disclosure being made, of the action taken or proposed to be taken in respect of the disclosure.

If a disclosure is made in accordance with this Policy, the Disclosure Co-ordinator is responsible for the 6 month notification to the person who made the disclosure, unless this responsibility has been retained by or allocated to another officer by the General Manager.

If a disclosure is made to the Mayor under this Policy, the Mayor is responsible for such notification to the person who made the disclosure, unless he or she directs the General Manager, Disclosure Co-ordinator or another nominated officer to assume this responsibility.

The notification provided to the person who made the disclosure should contain sufficient information to demonstrate that adequate and appropriate action was taken, or is proposed to be taken, in respect of the disclosure. This should include a statement of the reasons for the decisions made or action taken in response to the disclosure.

The notification should include sufficient information to enable the person who made the disclosure to make an assessment as to whether the circumstances listed in section 19(3)(a) – (b) of the Act (relating to disclosures to members of Parliament and journalists) apply, i.e. whether:

- a decision was made not to investigate the matter; or
- a decision was made to investigate the matter, but the investigation was not completed within 6 months of the original decision being made; or
- a decision was made to investigate the matter, but the investigation has not been completed within 6 months of the original decision being made; or
- the matter was investigated but no recommendation was made for the taking of any action in respect of the matter.

Without such information it would be difficult for the person to be able to properly assess whether it is appropriate or unwarranted to make a disclosure to a Member of Parliament or journalist.

#### **Further Information**

Further information if required can be obtained from

Independent Commission Against Corruption (ICAC):  
Phone: 02 8281 5999

The Office of the NSW Ombudsman  
Phone: 02 9286 1000

The Department of Local Government  
Phone: 02 9793 0793