



KYOGLÉ COUNCIL

ORDINARY COUNCIL AGENDA

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

ON MONDAY 28 MARCH 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 28 March 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 Question Time
- Item 6 Public Access
- Item 7 Confirmation of Minutes
- Item 8 Matters Determined without further debate
- 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

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

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

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

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

DISCLAIMER

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

(ARTHUR PIGGOTT),
GENERAL MANAGER.

5.7 Question Time (Council Policy)

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

Each speaker has a maximum allowable time of 5 minutes.

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

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

Speakers are not to debate answers.

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

The maximum duration of this session is 30 minutes.

5.8 Public Access (Council Policy)

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

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

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

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

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

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

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

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

ORDINARY COUNCIL AGENDA

Monday 28 March 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 QUESTION TIME

Nil.

ITEM 6 PUBLIC ACCESS

Nil.

ITEM 7 MATTERS DETERMINED WITHOUT FURTHER DEBATE

7.1 MATTERS DETERMINED WITHOUT DEBATE

Summary/Purpose

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

Report

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

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

Recommendation

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

ITEM 8 CONFIRMATION OF MINUTES

8.1 CONFIRMATION OF ORDINARY MINUTES

Summary/Purpose

A copy of the Minutes for the Ordinary Meeting held on 28 February 2011, is included in the attachments to the business paper.

Recommendation

That the Minutes of the Ordinary Meeting held on 28 February 2011, be adopted.

Attachments

1. Minutes of the Ordinary meeting held on 28 February 2011 (Separately attached)

8.2 CONFIRMATION OF EXTRAORDINARY MEETING

Summary/Purpose

A copy of the Minutes for the Extraordinary Meeting held on 14 March 2011, is included in the attachments to the business paper.

Recommendation

That the Minutes of the Extraordinary Meeting held on 14 March 2011, be adopted.

Attachments

1. Minutes of the Extraordinary meeting held on 14 March 2011 (Separately attached)

ITEM 9 MAYORAL MINUTE

Nil.

ITEM 10 NOTICES OF MOTION

10.1 NOTICE OF MOTION - CLR JANET WILSON; PROVIDING ELECTRONIC FORMS & NON-PURCHASING OF ALCOHOL

Summary/Purpose

This item presents to Council a Notice of Motion received from Councillor Janet Wilson for the Ordinary meeting to be held on 28 March 2011.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

The Notice of Motion is as follows;



NOTICE OF MOTION

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

That council seek a report about efficiency savings that can be made in the next financial year through adopting the following practices:

1. Moving to an electronic system for providing councillor information and business papers.
2. By not purchasing alcohol for council hospitality and councillor refreshment.

Comments in relation to motion 1

The Better practice review recommended that council move to an electronic system. Councillors are faced with a problem of disposing of, and storing paper based information and business papers. This is a particular problem in relation to confidential business papers. It is also an environmental consideration.

Comments in relation to motion 2

The role of council in demonstrating leadership in the consumption of alcohol is important to the work of the Active Kyogle program which is managed under partnership with Kyogle together and the Kyogle hospital. This program receives nation attention and aims to improve the population health by encouraging healthy lifestyles and safe behaviours. Council has a responsibility under the Charter of local Government to young people and by not having alcohol as part of council's activities, young people will be exposed to appropriate role modelling.

Signed:

Date:

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.

ITEM 11 QUESTIONS WITH NOTICE FROM COUNCILLORS

Nil.

ITEM 12 DELEGATES REPORTS

Nil.

ITEM 13 INFORMATION PAPERS

13.1 FINANCIAL REPORTS - FEBRUARY 2011

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 28 February 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 – February 2011 be received and noted.

Attachments

1. Financial Reports
2. Councillors Travel

13.2 PLANT BUDGET REPORT - FEBRUARY 2011

Summary/Purpose

This report presents information relating to plant costs and performance as at February 28, 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 2010/2011

PLANT ACQUISITIONS/SALES 2010/2011						
as at 28 February, 2011						
to be replaced	Purchase	Estimated Cost			Actual Cost	
		Trade	Net	Purchase	Trade	Net
Light Vehicles						
4wd wagon	30,000	5,000	25,000	32,366	11,105	21,261
4wd Utility	376,000	218,500	157,500	329,668	83,586	246,082
Utility	52,500	20,000	32,500	46,176	30,618	15,558
	458,500	243,500	215,000	408,210	125,309	282,901
Quantities						
4wd Wagon	1	1	1	1	1	0
4wd Utility	10	10	0	10	3	7
Utility	2	2	0	2	2	0
Heavy Plant - (Trade)						
Grader (2)	414,000	134,000	280,000	0	0	0
2 tonne truck kyogle spray/sign	50,000	0	50,000	45,445	0	45,445
13,000 ltr water tank(141)	45,000	3,000	42,000	41,426	0	41,426
12,000 ltr water tank(355)	30,000	3,000	27,000	22,390	0	22,390
Front deck mower - Kyogle	40,000	5,000	35,000	28,182	0	28,182
Front deck mower - Bonalbo	40,000	0	40,000	28,182	0	28,182
Tractor + bucket - Kyogle sewer	50,000	0	50,000	72,636	0	72,636
Call out trailer - Bonalbo	20,000	0	20,000	0	0	0
(Tipper crane truck)					23,786	-23,786**
	689,000	145,000	544,000	238,261	23,786	214,475
Small Plant						
Misc.	45,000		45,000	55,588	15,089	40,499
PA Ride on mowers	10,000	2,000	8,000	6,682	0	6,682
	55,000	2,000	53,000	62,270	15,089	47,181
	1,202,500	390,500	812,000	708,741	164,184	544,557
** Trade related to 2009/2010 purchase						

2. Plant and Depot Operations Report

	Budget	Budget YTD	YTD	COMMENTS
PLANT & DEPOT OPERATIONS	Annual		28.02.2011	
OPERATING				
<u>PLANT INCOME</u>	3,046,160	2,390,000	2,470,540	
<u>PLANT EXPENDITURE</u>				
FRINGE BENEFIT TAX	16,974	13,000	12,452	
PLANT M & R	1,387,254	1,058,000	873,865	
DEPRECIATION EXP VEHICLE FLEET	628,141	418,761	418,761	
	2,032,369	1,489,761	1,305,078	
NET SURPLUS/(LOSS)	1,013,791	900,239	1,165,462	
<u>PROFIT ON SALE OF PLANT</u>				
PROCEEDS ON SALE OF PLANT & EQUIPMENT	390,500	155,000	164,184	
BOOK VALUE OF SOLD PLANT & EQUIPMENT	292,875	0	0	
	97,625		164,184	
<u>OTHER INCOME</u>				
PRIVATE USAGE CONTRIBUTIONS STAFF VEHICLES	41,610	24,272	25,529	
OTHER INCOME	0	0	0	
	41,610	24,272	25,529	
<u>DEPOT EXPENSES</u>				
KYOGLE DEPOT	58,365	58,000	57,845	
BONALBO DEPOT	23,686	13,800	12,726	
WOODENBONG DEPOT	7,283	5,000	4,863	
	89,334	76,800	75,434	
TOTAL OPERATING	1,063,692	847,711	1,279,741	
CAPITAL				
<u>NON CURRENT ASSETS</u>				
DEPOT IMPROVEMENTS	80,000	0	1,710	Money for fuel storage systems. Not yet purchased
PLANT PURCHASES	1,202,500	750,000	708,741	
BOOK VALUE SOLD ASSETS	(292,875)	0	0	
ACCUMULATED DEP'N - VEHICLE FLEET	(628,141)	(261,725)	(418,761)	
	361,484	488,275	291,690	
TOTAL CAPITAL	361,484	488,275	291,690	
NET SURPLUS/(COST) OF ACTIVITY	702,208	359,436	988,051	

3. Plant Budget Report (by plant item)

As at February, 2011					
	PLANT ITEM	INCOME	EXPENDITURE	PROFIT/LOSS	
2	CAT 12H GRADER	61,400	18,852	42,548	
3	CAT 12H GRADER	62,300	21,379	40,921	
4	CAT 140H GRADER	64,890	18,969	45,921	
5	JOHN DEERE 770D GRADER	71,662	22,606	49,056	
24	DINGO K94 MINI DIGGER	3,435	1,194	2,241	
25	MINI EXCAVATOR	32,225	12,041	20,184	
26	STREET SWEEPER	12,600	3,515	9,085	
27	CLARK BOBCAT	4,625	1,575	3,050	
28	CAT 938G LOADER	24,182	11,555	12,627	
32	CAT 324DL EXCAVATOR	87,570	27,146	60,424	
33	CAT 324DL EXCAVATOR	70,087	19,307	50,780	
34	CATERPILLAR IT28G LOADER	23,205	35,377	-12,172	Transmission rebuild
35	CATERPILLAR 966H LOADER	35,647	15,191	20,456	
36	CATERPILLA 816F COMPACTOR	73,785	18,114	55,671	
40	FRANNA MOBILE CRANE	22,330	7,653	14,677	
41	CAT FORKLIFT	4,880	928	3,952	
51	HYSTER DRAWN GRID ROLLER	8,220	2,549	5,671	
52	GRID ROLLER-COATES	10,570	695	9,875	
62	JOHN DEERE 315SG BACKHOE	6,792	1,820	4,972	
63	CAT 432D BACKHOE	18,427	4,443	13,984	
64	KOMATSU WB97S BACKHOE	25,340	9,379	15,961	
71	CASE MX90C TRACTOR	31,487	4,626	26,861	
72	CASE MX200 TRACTOR	28,595	12,130	16,465	
73	CASE MX210 TRACTOR	36,505	14,257	22,248	
78	MCCORMICK MC105	36,510	13,412	23,098	
79	MCCORMICK MC115	31,740	6,965	24,775	
80	JOHN DEERE 2085 TRACTOR	7,675	2,719	4,956	
88	MCCONNEL REACH MOWER	14,152	2,110	12,042	
101	ISUZU NPR250 CAB CHASSIS	7,780	3,319	4,461	
135	ISUZU JETMASTER 2000	79,818	23,448	56,370	
137	ISUZU NPR 400 TIPPER MAXIL	23,720	3,401	20,319	
139	ISUZU GIGA 385CXY TIPPER	62,270	40,374	21,896	
140	ISUZU NPR 400L CRANE/TIPPE	19,880	4,566	15,314	
141	ISUZU FVZ1400M TRUCK/WATER TANK	18,720	11,926	6,794	
142	ISUZU NPR400L TIPPER	59,580	4,874	54,706	
143	ISUZU FVZ1400L CRANE TRUCK	92,495	10,985	81,510 *	
144	ISUZU NPR400L TIPPER	41,660	7,036	34,624	
145	ISUZU NPR400L TIPPER	35,080	7,303	27,777	
146	ISUZU NPR400L TIPPER	29,730	7,590	22,140	
147	ISUZU FRR525 TIPPER	29,140	5,599	23,541	
148	ISUZU FVZ1400 TIPPING TRUCK	60,150	8,449	51,701	
149	KENWORTH T401 PRIME MOVER	57,332	25,676	31,656	
150	KENWORTH T350 TIPPER	56,290	42,511	13,779	
151	KENWORTH T350 TIPPER	65,845	35,211	30,634	
152	ISUZU FXZ 1500 TIPPER	33,240	7,343	25,897	
	*This is a crane truck used by the bridge crew				
	it has a higher hourly rate than the other trucks				
	as it needs to cover the 10 year crane safety overhaul.				

Recommendation

That the Plant Budget Report be received and noted.

13.3 QUARRIES REPORT

Summary/Purpose

This report is to advise Council of quarry operations and budget to March 14, 2011.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Report

No crushing or stockpiling has been carried out in Council's quarries since the last report in February 2011, however stockpiles in Medhursts and Millers Quarries are almost exhausted and quotations have been invited for crushing of 10,000 tonnes of material in each of these pits to enable flood damage restoration and maintenance gravelling to continue for the remainder of this financial year. This work will be carried out during April.

Budget & Financial Aspects

The following is a summary of the quarries budget for 2010/11 as at March 14, 2011.

QUARRY	Budget Annual	Budget YTD	YTD 14/03/11	Comments
<u>MEDHURSTS</u>				
SALES	173,000	150,000	149,499	
COST OF SALES	129,750	112,500	112,124	
NET PROFIT / (LOSS)	43,250	37,500	37,375	
<u>GRIFFITHS</u>				
SALES	75,000	70,000	75,757	
COST OF SALES	56,250	52,500	56,818	
NET PROFIT / (LOSS)	18,750	17,500	18,939	
<u>MILLERS</u>				
SALES	220,000	170,000	172,893	
COST OF SALES	189,640	146,500	149,033	
NET PROFIT / (LOSS)	30,360	23,500	23,860	
<u>LLOYDS</u>				
SALES	40,000	5,000	4,158	
COST OF SALES	34,400	4,300	3,575	
NET PROFIT / (LOSS)	5,600	700	583	

QUARRY	Budget Annual	Budget YTD	YTD 14/03/11	Comments
SUMMARY				
SALES	508,000	395,000	402,307	
COST OF SALES	410,040	315,800	321,550	
NET PROFIT / (LOSS)	97,960	79,200	80,757	

EXPENSES	Budget Annual	Budget YTD	YTD 14/03/11	Comments
DEPRECIATION	10,984	8,238	8,238	
OTHER EXPENSES	3,075	2,500	2,533	Rates, Phone etc
	14,059	10,738	10,771	
TOTAL OPERATING	83,901	68,462	69,986	

CAPITAL

QUARRY DEVELOPMENT	0	0	0
STOCK MOVEMENT	0	0	0
ACCUMULATED DEPRECIATION	(10,984)	(8,238)	(8,238)
	(10,984)	(8,238)	(8,238)
NET SURPLUS/(COST)	94,885	76,700	78,224

Recommendation

That the Quarries report be received and noted.

13.4 WORKS PROGRAM REPORT

Summary/Purpose

This report provides an update to Council on progress on the works program on Local, Regional and State roads as at the end of February, 2011.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Report

Rural and Urban Works

Grading work has been carried out on Capeen Creek Road, Duck Creek Road, Yabbra Road, Shorts Road, Collins Creek Road, Killaloe Road, Baraimal Lane, Webbs Road and Runnymede Road during the past month and will continue in Afterlee Road, Roseberry Creek Road and the Yabbra Road areas for the next month.

Resealing on Findon Creek Road and Tunglebung Road is scheduled for March / April.

Reconstruction of sections of Sandilands Street and the road to the showgrounds have been completed at Bonalbo. Construction of the concrete footpath across the Memorial Park at Bonalbo and other minor concrete footpath repairs have also been completed.

Work is in progress on replacement of the timber bridge on Ironpot Creek Road approximately 3km from the end of the seal at Montgomerys Bridge. The road is closed to traffic at the worksite with through traffic detoured along Ghinni Ghi Road. This work is expected to take two months to complete.

Regional Roads and State Roads

Sealing has been completed on the approaches to Bean Creek No 4 bridge on Clarence Way, and the restored landslips on Clarence Way and on Summerland Way at the Glen.

The Summerland Way was reopened to interstate traffic on February 23 following the landslip which occurred near the Queensland border in January. Work is still in progress at the site with new pavement being placed, and the new work is expected to be sealed early in April.

Action Requests

A total of 71 action requests were received in February 2011, summarised as follows:

Requests for maintenance to sealed roads:

MacDonalds Bridge Road, Green Pigeon Road, Mt Lindesay Road, Tabulam Road.

Requests for maintenance to unsealed roads:

Clarence Way, Sextonville Road, Findon Creek Road, Boorabee Creek Road, Shorts Road, Sawpit Creek Road, Collins Creek Road, Mockharra Lane, Joes Box Road, Dam Access Road, Williams Road, Forest Road, Roseberry Creek Road, Bulmers Road, Dyraaba Road.

Requests for repairs to bridges, culverts and causeways:

O'Donnell Creek Road, Terrace Road, Findon Creek Road, Ghinni Ghi Road, Williams Road, Gradys Creek Road, Boorabee Creek Road, Theresa Creek Road.

Requests for attention to urban streets, footpaths and drainage:

Barnes Street, Groom Street, Sandilands Street (Bonalbo), Sandilands Street (Mallanganee), Mountain View Place, Lawrence Street (Tabulam).

Requests for attention to trees, vegetation:

Clarence Way, Ettrick Road, Simpkins Creek Road, Findon Creek Road, Pratt Street, Campbell Road, Deep Creek Road, Afterlee Road, Clarence Street, Horseshoe Creek Road, Gonpa Road, Homeleigh Road, Sargents Road, Baileys Bridge Road, Creegans Road, Morphett Street.

Requests for attention to signs:

Webbs Lane, Caldera Lane, Lillian Rock Road, Brays Road

Financial performance major works:

The following is an updated report on the financial performance of major works as at February 28, 2011.

FINANCIAL PERFORMANCE MAJOR WORKS (RTA AND COUNCIL)				
FEBRUARY				
RTA WORKS	BUDGET	EXPENDITURE YEAR TO DATE	% COMPLETE	COMMENTS
FLOOD RESTORATION ROADS - 21 / 5 / 09	155,850	9,360	30	Incorporated with maintenance program
MR 150 - CONSTRUCT TURN OUT TO SH 16	50,000	0	0	Subject to additional RTA funds
MR 361 - REHAB APPROACHES BEAN CK NO. 3	82,370	104,699	100	Overexpenditure to be transferred to Bean Creek Bridge construction
MR 361 - REHAB SMITHS PIT NORTH STAGE 2	214,000	0	0	Programmed April / May 2011
MR 361 - REHAB SMITHS PIT SOUTH	174,000	0	0	Programmed April / May 2011
MR 361 - REHAB BOOMI CREEK APPROACHES	254,000	0	0	To be deferred to 2011/12 on completion of Boomi Creek Bridge
BRIDGE REPLACEMENT - BEAN CK NO. 4	331,720	297,845	95	Construction completed - awaiting final costs
BRIDGE REPLACEMENT - BOOMI CREEK	600,000	0	0	Fresh tenders casled March 19. Unlikely to be completed 2010/11
	1,861,940	411,904		
COUNCIL WORKS				
MAIN STREET WORKS - RLCIP	1,200,000	259,628	15	Delayed due to wet weather and flood emergency work 3 month extension requested programmed completion now Sept 2011
FLOOD RESTORATION ROADS - 21 / 5 / 09	1,189,653	724,007	54	incorporated with maintenance program
RESEAL FINDON CREEK ROAD	60,000	0	0	programmed April 2011
INITIAL SEAL BROWN KNOB ROAD	150,000	126,691	95	Construction completed - awaiting final costs
REHAB FAWCETTS PLAIN ROAD	150,000	180,242	100	Overexpenditure financed from Section 94 funds.
REHAB DMAGH ROAD	90,000	86,269	95	Construction completed - awaiting final costs
REHAB DUCK CK ROAD	85,778	323	0	programmed April 2011
RESHEETING EAST / WEST CONNECTION	150,000	0	0	subject to negotiation with State Forests
RESHEETING YABBRA ROAD	60,000	55,566	90	In progress
RESHEETING NEEDHAMS ROAD	50,000	0	0	Programmed May 2011
RESHEETING HILLYARDS ROAD	50,000	0	0	Programmed April 2011
BRUMBY PLAINS RD BRIDGE 18 - 670	96,978	96,977	0	Budget adjusted as reported Feb 2011.
TERRACE ROAD BRIDGE 124 - 98	400,000	8,400	0	Contract let - Budget to be adjusted
MONTGOMERYS BRIDGE 73 - 4457	278,074	25,080	0	Consultant engaged to complete design.
DUCK CREEK ROAD BRIDGE 138 - 18852	112,457	0	0	Defer to 2011/12 and review funding
DYRAABA CREEK ROAD BRIDGE 54 - 5110	190,000	2,436	0	programmed May/June - Preconstruction costs incurred
IRONPOT CREEK ROAD BRIDGE 73 - 7641	190,000	40,995	0	In progress
SEXTONVILLE ROAD CULVERT (BRIDGE 38 - 12417)	90,000	12,542	0	Programmed April 2011 - Preconstruction costs incurred
HILLYARDS ROAD - BRIDGE 14 - 712	190,000	16,447	0	Programmed April/May - Preconstruction costs incurred
GRADYS CK / LIONS RD REHAB OF 2 CULVERTS	90,000	0	0	programmed June 2011 Scope to be reduced
GRADYS CREEK ROAD REPLACE BOX CULVERT	90,000	106,917	95	Overexpenditure due to cost of side track required and delay due to wet weather.
KYOGLE FLOOD MITIGATION WORKS	368,049	64,213	10	Consultants fees
JUNCTION ST / CURTOIS ST	55,000	0	0	Programmed may/June 2011
BONALBO DRAINAGE	60,000	58,288	98	Completion March 2011
	5,445,989	1,865,021		
	7,307,929	2,276,925		
NB: PROJECTS INCLUDED WHERE TOTAL PROJECT VALUE EXCEEDS \$50,000.				

Recommendation

That the works program report be received and noted.

13.5 OUTSTANDING COUNCIL RESOLUTIONS

Summary/Purpose

This report presents to Council a list of outstanding resolutions as at 30 November, 2010.

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 28 February, 2011. (Separately attached)

13.6 MINUTES OF GOVERNANCE COMMITTEE MEETING 14 MARCH 2011

Summary/Purpose

This report presents the minutes of the Governance Committee meeting held 14 March 2011.

Community Strategic Plan Item(s)

- Governance and Community Service

Report

The minutes of the meeting appear below:

Kyogle Council

Unconfirmed Minutes of the Governance Committee Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 14 March 2011.

PRESENT

Cr. E. Bennett, (Mayor in the Chair), Cr. J. Wilson and Cr. L. Zito.

IN ATTENDANCE

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

MEETING COMMENCEMENT

The Mayor declared the meeting open at 3.34 p.m.

ITEM 1 APOLOGIES

Nil

ITEM 2 OPENING PRAYER

The Mayor read the opening prayer at Council's Waste & Water Meeting held previously at 2.30 pm.

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

The Mayor read the opening prayer at Council's Waste & Water Meeting held previously at 2.30 pm.

ITEM 4 DECLARATION OF INTERESTS

Nil.

ITEM 5 REPORTS

Item-5.1 UPDATE ON INTERNAL AUDIT COMMITTEE

Committee's Recommendation

Councillor Lynette Zito, seconded Councillor Janet Wilson.

That the update report on the establishment of an Internal Audit Committee was received and noted.

CARRIED

FOR VOTE - Unanimous vote

Item-5.2 CONDUCT REVIEW COMMITTEE

Committee's Recommendation

Councillor Lynette Zito, seconded Councillor Janet Wilson.

That the update report on the Conduct Review Committee was received and noted.

CARRIED

FOR VOTE - Unanimous vote

MEETING CLOSURE

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

Recommendation

That the minutes of the Governance Committee Meeting held 7 February 2011 be received and noted.

ITEM 14 GENERAL MANAGER 'S REPORT

ITEM 14A TECHNICAL SERVICES REPORT

14A.1 WASTE AND WATER COMMITTEE MEETING, MARCH 14 2011

Summary/Purpose

This report presents the minutes of the Waste and Water Committee meeting held on March 14, 2011.

Community Strategic Plan Item(s)

- Waste & Water

Report

**Kyogle Council
Unconfirmed Minutes of the Waste & Water Committee Meeting held in the Council
Chambers, Stratheden Street, Kyogle on March 14, 2011.**

PRESENT

Cr. E. Bennett, (Mayor in the Chair), Cr. R. Dwyer and Cr. T. Cooper.

IN ATTENDANCE

Cr. J. Wilson, The General Manager, the Director of Technical Services, the Director of Planning & Environmental Services, the Asset Manager and the Personal Assistant to Technical Services and Planning & Environmental Services.

MEETING COMMENCEMENT

The Mayor declared the meeting open at 2:36pm

ITEM 1 APOLOGIES

An apology was received from Ross Brown

Moved Councillor Robert Dwyer, seconded Councillor Tom Cooper.

That the apology be accepted and the leave of absence be granted.

ITEM 2 OPENING PRAYER

The Mayor read the opening prayer.

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

The Mayor read the traditional lands acknowledgement.

ITEM 4 DECLARATION OF INTERESTS

Nil

ITEM 5 REPORTS

Item-5.1 WASTE MANAGEMENT REPORT

Committee's Recommendation

Moved Councillor Robert Dwyer, seconded Councillor Tom Cooper.

That the Waste Management Report be received and noted.

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

Item-5.2 MAJOR PROJECTS

Committee's Recommendation

Moved Councillor Robert Dwyer, seconded Councillor Tom Cooper.

That the report on Major Projects be received and noted.

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

Item-5.3 DEVELOPER SERVICING PLAN

Committee's Recommendation

Moved Councillor Robert Dwyer, seconded Councillor Tom Cooper.

1. That the report on Developer Servicing Plan be received and noted.
2. That Council adopt the *Draft Kyogle Council Development Servicing Plan 1: Kyogle and Villages water supply, sewerage and stormwater services* as advertised.

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 2:51pm.

Recommendation

1. That the minutes of the Waste & Water Committee meeting held March 14, 2011 be received and noted
2. That Council adopt the *Draft Kyogle Council Development Servicing Plan 1: Kyogle and Villages water supply, sewerage and stormwater services* as advertised.

14A.2 CONSTRUCTION OF TERRACE CREEK BRIDGE

Summary/Purpose

The purpose of this report is to request Council approval to execute contract documents under seal.

Community Strategic Plan Item(s)

- Roads and Infrastructure

Previous Council Consideration

At Council's Ordinary meeting on February 28, 2011, Council resolved to accept the tender from Ozwide Formwork for the construction of the Terrace Creek Bridge for the lump sum of \$494,200 plus GST subject to clarification of the tender submitted.

Report

The tender from Ozwide Formwork was checked to confirm that it included all of the works listed in the tender documents and the tender was awarded on March 3, 2011 in accordance with Council's resolution.

The tender documents have been prepared for signature and it is necessary for Council to authorise their execution under Council seal.

Budget & Financial Aspects

\$400,000 has been allocated in the 2010/11 budget for construction of the Terrace Creek bridge.

In addition to the accepted tender price, additional expenditure of \$53,000 for construction of the bridge approaches and geotechnical work carried out at the site will be required, increasing the total estimated cost of the project \$547,200.

It is proposed that the budget allocation for Terrace Creek bridge be increased to \$550,000 by transferring \$150,000 currently allocated to the Montgomery's Bridge project to Terrace Creek bridge and that funding for Montgomery's bridge be considered in conjunction with the 2011/12 management plan, when the design work currently in progress has been completed and the estimated cost of the required work is known.

Recommendation

1. That the Mayor and General Manager be authorised to execute the contract documents for construction of Terrace Creek Bridge under Council seal.
2. That the budget adjustment detailed in the report be included in the March 2011 budget review.

Summary/Purpose

This report is to update Council on the report prepared for Infrastructure Australia on Regional Towns Water Quality and security Review.

Community Strategic Plan Item(s)

- Waste & Water

Previous Council Consideration

At the ordinary meeting of Council on February 28, 2011, Council considered a report on the Regional Towns Water Quality and Security Review prepared by Aecom for Infrastructure Australia . The report invites feedback by March 25. Council resolved to request an extension of time to submit its feedback and, if the extension is not granted, to hold an extraordinary meeting to determine Council's position.

Report

The Water Directorate, of which Council is a member, has responded to Infrastructure Australia on behalf of its members. NOROC has also submitted an interim response enclosing its submission to the Independent Report into Non Metropolitan Water Supply and Sewerage Services in New South Wales, and advising it will forward a further submission in May after the positions of its member councils have been determined.

A copy of the submission from the Water Directorate is included as an attachment to this report.

The Productivity Commission Inquiry into the Urban Water Sector is also in progress and advice from the Commission is that the Infrastructure Australia report and Independent Report, along with many other submissions, including one from the Local Government and Shires Association, will all be considered in their Inquiry. The productivity Commission Report is expected to be released as a draft in April and submissions will then be invited to that report.

As the Infrastructure Report is predominately a report for submission to the productivity Commission Inquiry and there will be an opportunity to comment on that Inquiry's findings, a submission has been made to Infrastructure Australia by the due date of March 25 attaching Council's submission to the State Government report.

It is suggested that Council's position in relation to the Infrastructure Australia report would be to support the submission of the Water Directorate and the comments of the Local Govt and Shires association relating to lack of consultation, selective use of data and minimal reference to the Independent report .

Recommendation

1. That the Regional Towns Water Quality and Security Review report be received and noted.
2. That NOROC be advised that Council's position in regard to the Infrastructure Australia report is that it supports to submission of the Water Directorate and the Comments of the Local Government and Shires Association relating to lack of consultation, selective use of data and minimal reference to the still current Independent Report into Non Metropolitan Water Supply and Sewerage Services in New South Wales .

Attachments

1. Submission from the Water Directorate (to be provided to meeting)

ITEM 14B PLANNING SERVICES REPORT

14B.1 DEVELOPMENT APPLICATIONS RECEIVED, DETERMINED AND OUTSTANDING FOR THE PERIOD 1 FEBRUARY 2011 TO 28 FEBRUARY 2011

2006/159	
Property:	Lot 2 DP 123265 Boorabee Parish, Rous County
Address:	Mulvena Road, Larnook
Applicant/Owner:	Tony Michael Boyd / Comdox No.203 Pty Ltd
Proposal:	Dwelling
Received:	Referred To DMP For Comment
Status:	Applicant to advise

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

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

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

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

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

2009/6

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

2009/18

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

2009/32

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

2009/46

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

2009/126

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

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

2010/74

Property: Lot 1 DP 1113095 Fairy Mount Parish, Rous County.
Address: Summerland Way Kyogle

Applicant/Owner: Scott Wayne Lynch / SW Lynch & TA Mettam
Proposal: Retaining Wall
Received: Referred To DMP For Comment
Status: Applicant to advise

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

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

2010/93

Property: Lot 1 DP 759088 Wiangarie Parish, Rous County.
Address: Worendo Street, Wiangaree
Applicant/Owner: L Young / L Young & TA Faulks
Proposal: Change Of Use From Church To Health
Received: Referred To DMP For Comment
Status: Applicant to advise

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

2010/107

Property: Lot 1 DP 305744 Fairy Mount Parish, Rous County.
Address: Anzac Dr Kyogle
Applicant/Owner: Stephen P McElroy / Ritchies Stores Pty Ltd
Proposal: Carpark
Received: Referred To DMP For Comment
Status: Awaiting Applicant's Comments

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

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

2010/143
Property: Lot 5 DP 4973 Fairy Mount Parish, Rous County.
Address McDougall St Kyogle
Applicant/Owner: Noel Francis Reynolds / NF Reynolds
Proposal: Garage Extension
Received: Referred To DMP For Comment
Status: Approved by Council

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

2011/7
Property: Lot 563 DP 850175 Runnymede Parish, Rous County.
Address Runnymede Rd Kyogle
Applicant/Owner: Newton Denny Chapelle / RT & CM O'Neill
Proposal: Subdivision
Received: Referred To DMP For Comment
Status: Awaiting RFS & ARTC Comments

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

2011/18
Property: Lot 12 DP 1040514 Queebun Parish, Rous County.
Address: Trentys Lane Doubtful Creek
Applicant/Owner: Harold John Standfield / HJ Standfield
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

2011/22
Property: Lot 270 DP 4517 Fairy Mount Parish, Rous County.

Address: Stratheden St Kyogle
Applicant/Owner: Kyogle Council / Kyogle Council
Proposal: Art Gallery, Museum, Library Extension
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

2011/46
Property: Lot 121 DP 794265 Jiggi Parish, Rous County.
Address: Oxbow Rd Cawongla
Applicant/Owner: Newton Denny Chapelle / Complete Coating Commercial
Proposal: 13 Lot Subdivision And Road
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/47
Property: Lot 24 DP 620409 Fairy Mount Parish, Rous County.

Address: Ettrick St Kyogle
Applicant/Owner: P Lewis / P Lewis & L Woodrow
Proposal: 2 Duplexes
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2011/48
Property: Lot 3 DP 537648 Runnymede Parish, Rous County.
Address: Summerland Way, Kyogle
Applicant/Owner: Stephen Paul McElroy / Duncan's Holdings Ltd
Proposal: 3 Drying Ovens In Three Stages
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/51
Property: Lot 1 DP 532420 Fairy Mount Parish, Rous County.
Address: Summerland Way Kyogle
Applicant/Owner: Eden Creek Fairymount Preschool / Kyogle Citizens Band Inc
Proposal: Shade Sails
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/56
Property: Lot 7 DP 759088 Wiangarie Parish, Rous County.
Address: Summerland Way Wiangaree
Applicant/Owner: Peter David Greenhalgh / EW Hendry
Proposal: Garage
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2011/57
Property: Lot 10 DP 1147040 Geneva Parish, Rous County.
Address: Old Cob-O-Corn Rd Horse Station Creek
Applicant/Owner: Michelle Lee Davis / ML Davis & VG Dawson
Proposal: Dwelling, Studio And Swimming Pool
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/59
Property: Lot 1 DP 531985 Unumgar Parish, Rous County.
Address: Summerland Way Unumgar
Applicant/Owner: MJ Smith Ground Preparation / KJ & II Clark
Proposal: Quarry
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/60
Property: Lot 15 DP 872414 Dyraaba Parish, Rous County.
Address: Bulmers Rd Mummulgum
Applicant/Owner: BM Wilson / BM & EJ Wilson
Proposal: Rural Shed
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/61
Property: Lot 11 DP 1116662 Stratheden Parish, Rous County.

Address	Ellems Rd Edenville
Applicant/Owner:	Newton Denny Chapelle / BA & EE Ellem
Proposal:	Subdivision By Boundary Adjustment
Received:	Referred To DMP For Comment
Status:	Approved by Council
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2011/62	
Property:	Lot 1 DP 881617 Lindsay Parish, Rous County.
Address	Muli Muli Cr Muli Muli
Applicant/Owner:	Muli Muli Local Aboriginal Land Council
Proposal:	Shed/Gym
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/63	
Property:	Lot 27 DP 839822 Tabulam Parish, Drake County.
Address	Bruxner Hwy Tabulam
Applicant/Owner:	KR Codrington / KR & TA Codrington
Proposal:	Decking Roof
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/65	
Property:	Lot 15 DP 872414 Dyraaba Parish, Rous County.
Address	Bulmers Rd Mummulgum
Applicant/Owner:	BM Wilson / BM & EJ Wilson
Proposal:	Dwelling
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/66	
Property:	Lot 236 DP 713932 Capeen Parish, Buller County.
Address	Duck Creek Rd Duck Creek
Applicant/Owner:	Tranquil Pools & Landscapes / TW & WA Weston
Proposal:	Pool
Received:	Referred To DMP For Comment
Status:	Approved subject to conditions
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2011/67	
Property:	Lot 7 DP 759088 Wiangarie Parish, Rous County.
Address	Summerland Way Wiangaree
Applicant/Owner:	PD Greenhalgh / PD & GD Greenhalgh
Proposal:	Relocatable Dwelling
Received:	Referred To DMP For Comment
Status:	Awaiting DMP Comments
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2011/68	
Property:	Lot 3 DP 713191 Runnymede Parish, Rous County.
Address	Summerland Way Kyogle
Applicant/Owner:	Newton Denny Chapelle / WJ & RA Moss
Proposal:	Referred To DMP For Comment
Status:	Approved by Council
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2011/69	
Property:	Lot 51 DP 1121658 Boorabee Parish, Rous County.

Address Boorabee Creek Rd Boorabee Park
Applicant/Owner: Timothy Dilli
Proposal: Dwelling & Studio
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/70
Property: Lot 11 DP 1157394 Queebun Parish, Rous County.
Address: Dunns Rd Doubtful Creek
Applicant/Owner: W Lollback Building Co / HD Constantini
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/71
Property: Lot 2 DP 625142 Roseberry Parish, Rous County.
Address: Lindsay St Old Grevillia
Applicant/Owner: J Walters / J & TL Walters
Proposal: Dwelling Additions
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2011/72
Property: Lot 115 DP 4517 Fairy Mount Parish, Rous County.
Address: Groom St Kyogle
Applicant/Owner: RE Moore / RE & JA Moore
Proposal: Dwelling Addition and Garage
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2011/73
Property: Lot 101 DP 1018683 Loadstone Parish, Rous County.
Address: Gradys Creek Rd Gradys Creek
Applicant/Owner: Cherie Catherine Rixon / CB & EJ Warburton & Others
Proposal: Construct Roof Over Existing Verandah
Received: Referred To DMP For Comment
Status: Approved subject to conditions

2011/74
Property: Lot 11 DP 1160578 Runnymede Parish, Rous County.
Address: Durhams Rd Cedar Point
Applicant/Owner: A Kosmider / JP & LA Reiley
Proposal: Dwelling
Received: Referred To DMP For Comment
Status: Awaiting DMP comments

2011/75
Property: Lot 7 DP 6798 Runnymede Parish, Rous County.
Address: Summerland Way Kyogle
Applicant/Owner: GJ Auckram / GJ Auckram & SL Rose
Proposal: Pool
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/76

Property: Lot 13 DP 113020 Loadstone Parish, Rous County.
Address: Lynchs Creek Road, Lynches Creek
Applicant/Owner: WD Baty / WD & VW Baty
Proposal: Boundary Adjustment
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/77

Property: Lot 19 DP 12117 Fairy Mount Parish, Rous County.
Address: Fisher St Kyogle
Applicant/Owner: DF Doolan / MH & DF Doolan
Proposal: Shed
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

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

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

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: Referred To DMP For Comment
Status: Awaiting DMP Comments

2011/81

Property: Lot 12 DP 1119341 Bonalbo Parish, Buller County.
Address: Farm Rd Bonalbo
Applicant/Owner: Newton Denny Chapelle / R Karni & CL Miller
Proposal: Subdivision For Boundary Adjustment
Received: Referred To DMP For Comment
Status: Awaiting DMP Comments

Recommendation

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

- Cr.....10B.1 Development Applications
Received, Determined and Outstanding DA.../... - Reason for Declaration -

The information contained in the report Development Applications Received, Determined and Outstanding for the period 1 February 2011 to 28 February 2011 be received and noted.

2. That the information contained in the report Development 1 February 2011 to 28 February 2011 only in relation to DA.../... and DA.../.... In which Councillors have declared an interest be received and noted.

14B.2 DEVELOPMENT APPLICATION 2011-7 - SUBDIVISION

Summary/Purpose

This report aims to present to Council for determination a development application for the subdivision of 21 rural residential lots at 57 Runnymede Road, Kyogle.

Background Information

Council received Development Application 2011/0007 on 23 July, 2010 for the closer settlement subdivision.

Report

The particulars of Development Application 2011/0007 received by Council on 23 July, 2010, are as follows:

Applicant:	Newton Denny Chapelle
Owner:	Tom and Carol O'Neill
Property:	Lot 563 in DP 850175
Property Address:	Runnymede Road, Kyogle
Zone:	Non Urban 1A(Part), Non Urban 1B(Part) & Non Urban 1c(Part)
Locality:	Kyogle
Proposal:	Subdivision of 21 lots
Zoning Requirements:	Permissible with Council consent

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

Overview of the Subject Site

The subject site is bound by the northern railway line to the west, Runnymede Road to the south and to the north and east other land which is similarly zoned Non Urban 1(c) on which similar subdivision will occur. The subject site contains a range in topographical structure from about 44 m AHD up to over 80 m AHD.

Overview of the Proposed Development

The proposed development seeks to subdivide the site into 20 lots ranging in area from 5,000 square metres up to 2.49 ha. and a residual lot of 24.24 ha. Due to the proximity of the adjoining rail corridor this has presented a major issue in determining the suitability of part of the proposed development due to the known and continued vibration and noise which will be experienced by many of the proposed allotments within this development.

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:

Details of the development application were referred to:-

- Department of Planning for its concurrence on a State Environmental Planning Policy 1 – Development Standard (residual rural lot area). The Department has responded granting its concurrence;
- Australian Track and Rail Corporation. The Corporation has responded stating that Council must consider noise, vibration, stormwater and fencing in accordance with their publication, “Development Near Rail Corridors and Busy Roads – Interim Guideline” and also that the applicant is to undertake a Traffic Assessment outlining the impacts on the Runnymede Road At Level Rail Crossing and associated back-up of traffic to cross and gain access to the development. The applicant has requested that such an assessment be included in a set of conditions should Council determine in favour of this development application;
- NSW Rural Fire Service. The Service has responded stating that it is prepared to issue an Authority under the provisions of Section 100B of the Rural Fires Act 1997.

Public Notification

In accordance with the provisions of Council's Development Control Plan – Public Notification of Development Applications, adjoining and surrounding property owners were notified by Council of the receipt of the development application on 23 September, 2010 and advised that the development application was available for review and

acceptance of any submissions by 8 October, 2010. One submission was received by Council during the notification period.

The submission states that the development, once established with dwellings may impact on the conduct of the adjoining bus storage area.

COMMENT

Provided that the bus storage use is conducted in accordance with consent approval granted in 2006, the land uses should be compatible and not cause complaints.

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

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

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

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

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

The site is currently zoned Non Urban 1(c) under the IDO. The proposed development is permissible subject to development consent from Council pursuant to Clause 17 AA of the IDO.

Kyogle Structure Plan

Lot size

Under the provisions of the Structure Plan, the site is located within Precinct A which allows for the development of lots of minimum area 5,000 square metres, maximum 5 hectares, with an average of 1 hectare - complies.

Design in Local Context

The proposed subdivision takes into account the separation of future dwellings from watercourses for effluent disposal areas. Based on the Community Facilities Study, no

additional community facilities are required to service the development. Although the application has not included a requirement for a cycleway, this is required to be provided in proximity to the rail corridor for future access under the railway line.

Vegetative and habitat value has been addressed with a commitment to retain some areas of local significance.

The applicant states that Water Sensitive Urban Design elements have been incorporated into the proposal. Due to issues such as the road crossing through a defined and low lying watercourse, a condition should be imposed that works incorporating road and stormwater drainage construction will require approval under the Water Management Act 2000.

Infrastructure and Servicing

Rainwater storage tanks are to be installed upon dwellings being constructed on each future allotment. Similarly each allotment will be connected to power and telecommunications at the time of development of the subdivision.

Flooding

Although a number of sites will be impacted upon by flooding, all sites are able to achieve suitably located dwelling envelopes which are outside of the areas of inundation.

Rural Landscape and Landscaping

A linkage has been provided through the proposed layout which will connect to future development on adjoining land as required by the Structure Plan Future landscaping treatment of the road system is proposed which will provide an attractive environment, whilst certain areas of existing vegetation is proposed to be retained for local conservation significance.

Bushfire

The NSW Rural Fire Service has stated that it is prepared to issue an Authority under the Rural Fires Act.

Land Use Buffers

The proposed layout has predominantly sufficient separation from surrounding land uses. However based on the proximity of proposed Lot 21 and the assessment of the Noise Attenuation Report submitted with the development application, it should be determined that this allotment not be included due to inadequate separation of any future dwelling from the adjoining railway corridor and that this allotment's area be either consolidated into an adjoining rural residential lot or the residual rural lot.

Prime Agricultural Land

Of the 46.04 hectares contained within the subject allotment, 22.79 hectares is now zoned Non Urban 1 (c) so that any intensive agricultural activities on the subject land could result in future land use conflicts with rural residential development on adjoining or surrounding land. The limited agricultural capacity of the subject site has previously been acknowledged prior to the inclusion of this overall area in a Preferred Rural Residential Precinct.

North Coast Regional Environmental Plan 1988

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

Reg 20 – states that subdivision of smaller rural allotments must be undertaken in accordance with an adopted Close Rural Settlement Strategy. The proposed development therefore complies as it accords with the LEP Amendment 19 which was approved by the State on the basis of its compliance with Kyogle Council Closer Rural Settlement Strategy 2006.

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

There are currently no draft environmental planning instruments that directly affect this development.

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

The provisions of Development Control Plan No. 1 – Subdivision apply to the development application.

Section 5 Rural Residential Subdivision outlines the following elements:-

- 5.1 Minimum allotment sizes**
- 5.2 Design**
- 5.3 Movement networks**
- 5.4 Local road networks**
- 5.5 Road design**
- 5.6 Road construction**
- 5.7 Utility services**
- 5.8 Effluent disposal**
- 5.9 Stormwater drainage**
- 5.10 Water quality management**
- 5.11 Flooding**
- 5.12 Rural landscape**
- 5.13 Lot layout**
- 5.14 Bushfire**
- 5.15 Buffers to avoid land use conflicts**
- 5.16 Prime agricultural land**

It is considered that as these matters have been itemised and addressed under the provisions of the Kyogle Structure Plan, that the proposed development generally accords with the provisions of the DCP relating to each of the above elements.

Section 79C(1)(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.

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

There are no prescribed matters which affect the proposal.

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

The development proposes to subdivide the subject site into a rural residential type estate which accords with the provisions of Council's IDO, Clause 17 AA, DCP No. 1 – Subdivision and also the Kyogle Structure Plan. It is therefore established that with the imposition of relevant conditions of approval, the proposed use is not likely to impact on the environment on site or in the surrounding area.

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

The scale and nature of the development is not expected to have any adverse impact upon the amenity of the locality. The site is suitably located and of suitable topography for the proposed use to be undertaken. A minor modification involving the deletion of proposed Lot 21 is considered appropriate due to the level of difficulty in achieving effective separation of a future dwelling from the noise emanating from the adjoining rail corridor and in achieving an appropriate, in terms of an effective or economic solution, to the noise attenuation and mitigation required to be employed in achieving a suitable result.

Section 79C(d) any submissions made

No submissions have been received by Council.

Section 79C(e) the public interest

The proposed development formalises a use which is a desirable means of consolidating rural residential development in a suitable location which is accessible to the existing and developing services of the Town of Kyogle. It is therefore considered that the public interest is well catered for in this instance and with the imposition of relevant conditions of approval.

Recommendation

That Council issue Development Consent Notice 2011/0007 for the proposed Kyogle subject to the following conditions.

Planning and General

1. The development shall be in accordance with development application number 2011-0007 submitted by the Applicant on 23 August 2010, and in accordance with the following:

Development Application with respect to a Proposed Closer Settlement Subdivision at Runnymede Road, Kyogle," prepared by Newton Denny Chapelle on behalf of T. & C. O'Neill.

Amendments dated 29 November, 2010 from Newton Denny Chapelle to Kyogle Council for "Development Application, 2011/0007," reference 06/074.

Subdivision Plan prepared by Newton Denny Chapelle

Reference No. 06/074G
Revision Revised
Name of Plan Plan 3(a) – Proposed Subdivision scale 1:3,000 @ A3
Date 25 November, 2010

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 for any stage of the development, the Applicant, or any party acting upon this consent, 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(2) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless:
 - a. work relating to the subdivision is physically commenced before the date on which the consent would otherwise lapse; or
 - b. application is made to Council for an extension before the date on which the consent would otherwise lapse.
5. Activity approvals required under the *Water Management Act 2000* for work in or within 40 metres of any watercourse, whether perennial or intermittent, must be obtained from the NSW Office of Water prior to the conduct of those works. Documentary evidence demonstrating compliance must be provided to Council prior to the issue of a construction certificate. All works must comply with any approval issued under the *Water Management Act 2000*.
6. The proposal to comply with the requirements of the Work Cover Authority of NSW.
7. All works and designs must accord with the Kyogle Council *Development Control Plan No 1 – Subdivision* current at time of works.
8. Apart from developer funded works, no improvements to existing roads, access and services will be provided by Council or any other utility authority.
9. Payment of contributions levied under Section 94 of the *Environmental Planning and Assessment Act 1979* and the Kyogle Council *Section 94 Development Contributions Plan 2008, Section 94 Contributions Plan Urban & Rural Roads (as amended)* and *Section 94 Contributions Plan 1992 (as amended)* are required. Kyogle Council levies these contributions for the provision of public amenities and/or public services in such a manner as will meet the increased demand for those amenities and/or services arising from this development as identified in the attached schedule. The contributions shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is granted.

The rates and amounts applying at the date of this notice, total **\$99,900**, being \$4,995 per additional allotment, and are set out in the attached schedule for your

information. Where the total contribution payable exceeds \$10,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the granting of the Subdivision Certificate.

Payments are subject to annual indexation in line with Council's chosen Consumer Price Index (CPI), being CPI Brisbane as published by the Australian Bureau of Statistics. Indexation adjustments shall be included in the final calculation of the contribution amount and paid in accordance with Section 2.13 of the Kyogle Council *Section 94 Development Contributions Plan 2008*. Determined amounts of contributions remain valid for a period of three (3) months from date of issue. Unpaid contributions at the expiration of this time period shall be subject to pro rata yearly adjustments or CPI indexation.

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

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

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Environmental

10. 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, traffic generation or otherwise. Burning of site refuse and materials is not permitted and all such materials shall be prevented from escaping onto adjoining land and shall be maintained in a tidy manner on site at all times.

11. The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:

Monday to Friday	- 7.00am to 6.00pm
Saturday	- 8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

12. The proposed landuse shall not result in the emission of offensive noise. Offensive noise means: noise that by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstance, is likely to:
 - a) be harmful to,
 - b) be offensive to,
 - c) interfere unreasonably with the comfort or repose of, a person who is:
 - (i) if the offensive noise is made in premises that are not a public place - outside those premises,
or
 - (ii) if the offensive noise is made in premises that are a public place - within or outside those premises.
13. Prior to the issue of any subdivision certificate Council must be furnished with a report from a qualified practicing geotechnical engineer demonstrating that each proposed allotment for the stage the subject of the subdivision certificate is suitable to be developed for building purposes for a minimum building envelope of 200 square metres and classifying each allotment in accordance with Australian Standard 2870-Residential Slabs and Footings.
14. All waste materials generated from works shall only be disposed at waste management facilities capable of receiving the waste as classified under the POEO Act 1997 and the waste regulations thereunder.
15. On-site sewage management system (OSMS), and reserve effluent disposal fields, must be accurately identified including setback distances to boundaries and intermittent drainage lines as detailed in Councils on-site sewage management Strategy March 2000, to ensure that adequate future provision is made for on-site sewage management. Documentary evidence including plans and appropriate commentary must be submitted to Council and be confirmed prior to issue of a Subdivision Certificate.
16. All lots which exceed a gradient of 10% shall install an OSMS capable of treating effluent to the following parameters:
 - BOD <20mg/l
 - SS <30mg/l
 - Tn 25-50 mg/l
 - Faecal Coliforms disinfected effluent <30cfu /100ml
 - DO >2mg/l
17. All title deeds created by the subdivision shall have placed upon the deed restrictive covenants under Part 6, Division 4 of the Conveyancing Act 1919 to address the following requirements;
 - 1) Dwellings to be located on building envelopes for lots 21, 20, 19, 17, 18, 16, 15, 7, 8, 4, 3, and 2 shall be constructed of material capable of achieving a Weighted Sound Reduction Index of RW 36, windows shall be provided with glazing using 10.38 laminated glass in an acoustic frame.
 - 2) Prior to the release of a Construction Certificate for the dwelling sites proposed on lots 21, 20, 19, 17, 18, 16, 15, 7, 8, 4, 3 and 2 the applicant must submit to Council a report completed by a suitably qualified acoustic

consultant to ensure that the requirements of clause 87 SEPP infrastructure 2007 and table 3 internal noise limits from AS/NZS 2107 can be achieved.

- 3) Any dwellings to be constructed on proposed building envelope's for lots 1, 5, 9, 10, 11, 12, 13, and 14 where windows face the rail corridor, the windows shall be provided with 10.38mm laminated glass.
- 4) That for lots 16, 21, and 1, the property owner shall be responsible for the maintenance and upkeep of the dense landscaping/plantation buffer of minimum 20 metres width along the common boundary with the rail corridor in accordance with the approved landscaping plan.

Utilities

18. Full design plans are required to be submitted for the extension to services in accordance with Council's Development and Design Manual (as amended). All works must accord with the approved plans and a plan checking and supervision fee is payable upon lodgement of plans.
19. Electrical power shall be installed along street frontages that service the proposed development to provide adequate street lighting for the development to the satisfaction of Council.
20. Telephone services must be provided to each proposed lot and a Telecommunications Infrastructure Provisioning Confirmation certificate from Telstra Australia must be supplied to Council prior to the issue of a Subdivision Certificate.
21. Prior to the issue of a Subdivision Certificate Council must be supplied with written advice from Country Energy or an alternative service provider stating that each proposed lot has been provisioned with electrical power, including the full length of battle-axe handles where applicable, and that easements for electricity purposes, satisfactory to Country Energy, are supplied on the linen plan over existing and proposed electricity lines pursuant to Section 88B of the *Conveyancing Act 1919*.

Roads and Drainage

22. The proponent shall provide the roadworks and associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development and Design and Construction Manuals (as amended) to service the development. The proponent shall be responsible for any costs associated with the provision of the works, including the full cost of any associated maintenance works identified by Council during a period of six months from the date of approval of the works.

The proposed new roads are to be designed and constructed to meet the requirements of a rural residential road; ie 6m seal with 1m shoulders, minimum 10m radius on cul-de-sacs, all new roads are to include a 2m wide cycleway on one side, and provide connectivity to the common boundary with Lot 57 DP 838360.

The proposed intersection of Runnymede Road and the new road is to be designed and constructed to meet the requirements of a Type AUR intersection and shall incorporate the requirements of AS 1742.7 with respect to the nearby railway crossing, and shall make provision for school bus set down and pick up.

Full design plans prepared by a suitably qualified engineer or surveyor are required to be submitted and approved by Council prior to the commencement of works. A plan checking and supervision fee is payable upon lodgement of plans.

After satisfactory completion of this work, a suitably qualified surveyor or engineer shall submit a "works-as-executed" set of plans in both hard copy and digital format (Autocad or similar) showing these works. The plans shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and approved design plans.

23. The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Development and Design and Construction Manuals (as amended). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the approved design plans.
24. An all weather vehicular access shall be constructed and maintained from the point of connection to Councils road network to the existing dwelling site in accordance with Councils 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.
25. 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/Subdivision Certificate 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).

The access to the allotment is to be located and constructed in accordance with the vehicular access approval as issued by Council for the allotment. No other accesses may be constructed or opened onto a Council road without the prior written approval of, and constructed in accordance with Council's approval (Refer to Council's Property Access and Addressing Management Plan).

26. All allotments shall have a sealed vehicular access from the existing roadway to the boundary of private property in accordance with Council's Property Access and Addressing Management Plan.
27. If the proposed vehicular access to the development encroaches upon any land, other than the subject land, the vehicular access is to be either relocated solely onto the subject land or a legal right of carriageway must be created over this land to which the access encroaches.
28. The road frontage of the proposed allotments is to be fenced out completely to the standard required by Council's Road Reserve Management Plan.
29. Road names proposed for the subdivision shall be submitted for Council approval prior to lodgement of the Subdivision Certificate. A suitable name for any new road/s shall be subject to Council approval and public consultation.
30. 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 will be required, with all works constructed according to Council's Development and Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.
31. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. A maintenance bond is to be paid prior to the release of the subdivision certificate and shall be returned at the completion of the maintenance period and subsequent approval by Council unless defects are identified that have not been rectified by the developer.
Construction (contract) price Bond
up to \$50,000 - 10% of contract price (minimum bond \$1,000)
over \$50,000 \$5,000 plus 5% of balance over \$50,000
32. Any Crown controlled Public Road Reserve to be constructed upon shall be transferred to Council at no cost to Council. Any area of private land proposed to be utilised for road construction shall be dedicated as public road with the owners consent and at no cost to Council, at a minimum width of 20m or greater as required to accommodate the new road and associated infrastructure.
33. If the existing physical road adjacent to the subdivision encroaches on the land to be subdivided then this area must be surveyed out and dedicated to Council. If the existing road is not dedicated to Council this is to be done for the full frontage of the site as part of the subdivision, at no cost to Council. All costs including legals, surveying and registration fees shall be at the applicant's expense and payable to Council prior to the commencement of works.

34. No vehicular accesses may be constructed or opened onto a Council road without the prior written approval of Council.
35. 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.
36. The consent of all owners through whose property a drainage easement is proposed will need to be submitted to Council in writing, prior to the approval of the engineering design plans, and evidence of such easements being acquired is to be submitted to Council, prior to the release of the linen plan of subdivision.
37. A full and detailed stormwater management plan for the development is to be submitted for approval prior to the issue of the construction certificate. The plan is to be prepared in accordance with the requirements of the Northern Rivers Local Government Handbook of Stormwater Drainage Design, and shall also ensure that the post development flows through the rail corridor do not exceed the pre-development flows up to and including the 1 in 100 year event.
38. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.

Landscaping

39. A detailed landscaping plan shall be submitted to and approved by Council prior to issue of a Construction Certificate. The Landscaping Plan is to include a dense landscaping/plantation buffer of minimum 20 metres width along the eastern frontage of the subject land and the railway corridor for the purposes of visual screening of the rail corridor and noise attenuation. If any landscaping is proposed within any road reserve, detail is to be included in the landscaping plan. Wherever the construction of the subdivision will require the removal of mature trees, the landscaping plan is to include an area or location within the development where similar species of trees can offset such loss. Landscaping shall be provided and maintained in accordance with the approved landscaping plan prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council.
40. That prior to the commencement of any site works, all trees to be retained shall be adequately protected to prevent them from being damaged during the construction period.
41. A security bond to the value of \$5,000 is to be lodged with Council to ensure that all landscaping and buffer plantings are maintained. The bond is to be fully refundable

after a period of three (3) years subject to the plantings being established and maintained to the satisfaction of Council.

42. The common boundary between the subject land and the rail corridor shall be fenced with a 1.8m high mesh fence to the satisfaction of the Australian Rail Track Corporation.

NSW Rural Fire Service

The deemed to comply Bushfire Safety Authority required under Section 100B of the *Rural Fires Act 1997* has been granted subject to the following condition under this integrated approval. The condition is to be made available to future purchasers of lots to ensure compliance.

Asset Protection Zone

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. At the issue of subdivision certificate an in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 6, to a distance of 10 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
3. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006' plus incorporate the following:-
 - A temporary turning head is required at the northern end of the proposed main access road until such time this road becomes a through road.

Advisory Notes:

This approval is for the subdivision of land only. Any further development application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP&A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

Reasons for the imposition of the conditions are set out as follows:

1. To ensure the effective implementation of the objectives of the Environmental Planning and Assessment Act 1979, Local Government Act 1993, the Building Code of Australia and respective Australian Standards where applicable.
2. To ensure that local amenity is maintained and that the development does not adversely impact upon the lawful use of the subject land and its surrounds.

Notes:

1. In accordance with the conditions of Section 83, this decision is effective from March 22, 2010.
2. Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right to appeal to the Land and Environment Court exercisable within twelve (12) months after receipt of this notice.
3. In accordance with Section 95 (2) this development consent lapses on March 22, 2012.
4. In accordance with Section 95 (A) (1), upon receipt and consideration of written application to the Council, an extension of twelve (12) months may be granted. Written notification is to be received one month prior to the consent notice expiry date.
5. In accordance with Clause 69A of the Environmental Planning and Assessment Amendment Regulation 1998, Council's S94 Contributions Plan for rural roads and public reserves may be inspected on the 1st Floor Kyogle Council Chambers, Stratheden Street Kyogle during normal business hours.

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

Summary/Purpose

This report is compiled to facilitate a determination of Development Application 2011.46, being for the subdivision of Lot 121 on Deposited Plan 794265, 97 Oxbow Road, Cawongla.

Community Strategic Plan Item(s)

- Environmental and Planning

Background Information

On 9 November 2010 Newton Denny Chapelle lodged an application to develop Lots 11 and 12 on Deposited Plan 1116662 for the purposes of a subdivision. The Development Application comprises a Statement of Environmental Effects and plans by Newton Denny Chapelle, a contaminated land assessment by EAL Consulting Service, an On-site Sewage Capability Assessment and Bushfire Threat Assessment by BCA Check, and an objection under *State Environmental Planning Policy No 1-Development Standards*.

Report

The particulars of Development Application 2011.46 are as follows:

Applicant:	Newton Denny Chapelle
Owner:	Complete Coating Commercial P/L
Property:	Lot 121 on DP 794265
Area:	Jiggi Parish
Zone:	Non-urban "A", Non-urban "B" and Non-urban "C"
Locality:	97 Oxbow Road, Cawongla
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 comprises Lot 121 on Deposited Plan 794265 and contains a land area of 68.56 hectares.

The land is bound by Oxbow Road and Hanging Rock Creek to the east, Kyogle Road to the west and private land thereafter. A Crown paper road exists in the north of the site and is contiguous with Oxbow Road.

The land is embellished with a dwelling house and associated outbuildings which are in proximity to Olley's Dip on the adjoining Lot 142 DP 740100. The property has been significantly converted to pasture and contains two small dams.

10.7 hectares of the land adjoining Oxbow Road is identified within the Cawongla/Oxbow Road Preferred Area of the Kyogle Structure Plan. This portion of the land has been zoned Non-urban "C" through Kyogle Local Environmental Plan 19.

The property contains a number of Strahler Order 1 streams and has been mapped as bushfire prone.

Overview of the Proposed Development:

The proposed development involves the subdivision of the land into eleven (11) lots ranging from 5,117 square metres in area to the residual parcel of 48.03 hectares. These lots are proposed to be accessed via Oxbow Road (Lots 6 and 11) and two new cul-de-sacs which are proposed to be constructed as part of the subdivision in order to provide access to, and egress from, Oxbow Road.

The subdivision is facilitated by the Non-urban "C" zoning and the classification of that zone under the Kyogle Structure Plan as Precinct "A" land, being land suitable for residential lots between 5,000 square metres and 5 hectares in area. However, a number of the proposed rural residential lots extend beyond the Non-urban "C" zone and into the Non-urban "A" and "B" zones. These zones are privy to a 40 hectare minimum subdivision lot size pursuant to the *Interim Development Order No 1-Shire of Terania*.

The proposal involves the subdivision of Lots 1, 2, 3, 4, 8, 10 and 11 below the relevant 40 hectare minimum lot size standard and requires authorisation from the Department of Planning. This is obtained through an objection against the planning standard under *State Environmental Planning Policy No 1-Development Standards*. As the variation is greater than 10 percent from the development standard (being a variance of up to 96.35%), 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 9 December 2010 the Development Application was referred to the NSW Rural Fire Service under the provisions of the *Environmental Planning and Assessment Act 1979* for integrated development (the delay in making the referral came at the request of the Applicant who submitted an amended development application to Council on 7 December 2010).

The NSW Rural Fire Service issued a bush fire safety authority under section 100B of the *Rural Fires Act 1997* on 7 January 2011 subject to conditions.

On 14 December 2010 the Development Application was referred to the NSW Department of Planning 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 7 February 2011.

Public Notification

The Development Application was notified to adjoining property owners pursuant to Council's *Development Control Plan No. 9 – Public Notification of Development Applications* for developments involving "Residential and Rural Subdivisions creating 5 or more lots." This was undertaken from 30 November 2010 to 23 December 2010 and resulted in two (2) submissions being made to Council.

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 Terania ("IDO")

The site is currently zoned Non-urban "A", Non-urban "B" and Non-urban "C" under the IDO.

Clause 12(1)(a) of the IDO permits subdivisions in land zoned Non-urban "A" or Non-Urban "B" where each separate allotment created has an area of not less than 40 hectares. As Lots 1, 2, 3, 4, 8, 10 and 11 propose land zoned Non-urban "A" or Non-Urban "B" to be subdivided below the 40 hectare minimum allotment standard, the Applicant has sought approval for the development 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 9 February 2011 as follows:

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

- (i) Lot yield is not a major departure anticipated in terms of Kyogle Structure Plan;
- (ii) The residual lot will be able to maintain the agricultural outputs that were being achieved prior to the subdivision proposal as it maintains the development standard for the zone;
- (iii) The 1(a) and 1(b) areas on the fringes of the 1(c) land that will be utilised for rural residential living should not compromise the uses of the land for agricultural purposes."

Kyogle Local Environmental Plan No 19

Kyogle Local Environmental Plan No 19 (LEP 19) establishes that the proposed development is permissible subject to development consent.

LEP 19 stipulates that the subdivision yield must be in accordance with the Structure Plan. The Structure Plan anticipates an estimated yield of 15 lots from Precinct A land within the Cawongla Road/Oxbow Road Preferred Area. The proposed subdivision creates 9 lots within the preferred area (note that proposed Lots 1 and 9 are outside the Preferred Area). Considering that one (1) additional lot

has been created under DA 2010.141 and an additional five (5) lots are anticipated under DA 2010.150, the sum of these developments satisfies the estimated yield.

Each lot must have vehicular ingress and egress and have a sealed road connecting the subdivision to a service centre. All roads in the subdivision are to be sealed and electricity must be supplied or satisfactorily planned for.

All natural watercourses have been retained on the land through the design of the subdivision.

North Coast Regional Environmental Plan

Clause 12 of the *North Coast Regional Environmental Plan* (REP) states that "[t]he council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land."

According to agricultural land classification maps held by Council, prime crop or pasture land occurs within proposed Lot 1. The subdivision does not fragment this pasture land and, by virtue of the existing dwelling house, does not intensify development on that land either.

Amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* came into effect on 25 February 2011 to establish complying development principles for the erection of dwelling houses on the Non-urban "C" zone. These amendments include boundary offsets of 10 metres to side boundaries and 15 metres to rear boundaries, contrary to the NSW DPI handbook *Living and Working in Rural Areas*. The proposed building envelopes comply with the State Policy and should therefore not adversely affect the extensive agricultural operation on the proposed residual Lot 9. It is noted that the recommended minimum buffer prescribed under the NSW DPI handbook is 50 metres between sensitive receivers (dwelling houses as demarcated by indicative building envelopes) and the adjoining extensive agricultural enterprise and that this has been accommodated in the majority of the proposed allotments.

The REP also places development controls on development proposed to occur within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered a number of matters including the need to maintain or improve water quality and flows and to maintain riparian vegetation. Matters such as stormwater runoff, sedimentation and on-site effluent disposal must be considered and may be satisfactorily resolved through conditions of consent in this instance.

State Environmental Planning Policies (SEPPs)

There are three (3) 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), *State Environmental Planning Policy (Rural Lands) 2008* and *State Environmental Planning Policy No 55-Remediation of Land*.

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).

Council has previously considered the development potential of the subject land through its closer rural settlement strategy and subsequent Kyogle Structure Plan. These documents formed the strategic planning for *Kyogle Local Environmental Plan 19* which rezoned part of the land Non-urban "C" and thereby established rural residential development as a preferred land use.

According to the DPI,

"This candidate area immediately adjoins the small village of Cawongla and seems suitably located for rural residential development. The lands is class 4 and class 5 agricultural land and is not regionally significant farmland. There are no obvious land use conflict issues. The management of weeds on the higher and steeper hill country could be a challenge for landholders. Regeneration of this land subject to bush fire risk assessment may be the most suitable long term use of the land and gradually reduce weed pressure."

It is considered that the proposed development will not adversely affect the viability of agriculture in the vicinity. As documented by the Department of Planning, "the residual lot will be able to maintain the agricultural outputs that were being achieved prior to the subdivision proposal."

Considering that there is negligible incompatibility, the proposal is deemed compliant with the abovementioned matters.

State Environmental Planning Policy No 55-Remediation of Land is significant having regard to the conversion of agricultural land for residential purposes. Agricultural land uses have the potential to contaminate the land, and the presence of Olley's Dip on the adjoining lot to the north of the development site is a visual testament to this potential.

A preliminary contaminated land assessment was undertaken on the subject land by EAL Consulting Service, including soil sampling and analysis. It was concluded from the findings of the samples analysed and preliminary investigations that "a detailed investigation or site remediation is not required" and that "the site is not considered to represent a significant risk of harm to end users of the proposed rural-residential use of the allotment."

(a)(ii) draft environmental planning instruments

Council has one draft environmental planning instrument, being draft Kyogle Local Environmental Plan 18, which contains heritage provisions.

There exists no heritage items, areas or sites defined in draft Kyogle Local Environmental Plan 18 on or adjoining the subject land.

Due to the previous development of the land and the nature of the development proposed, it is considered that there is a limited capacity for indigenous heritage to be adversely affected. An advisory note on a consent notice is considered to adequately address this issue in the eventuality that items of cultural heritage are revealed.

(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.

Of significance is the link between the comments of the NSW DPI as received by Council during the rezone process and clause 5.2.9.1 of the DCP which requires the management of rural residential development to provide for the control of weeds.

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

The Kyogle Council *Development Control Plan No 2 - Development in Rural Areas* requires services to be provided such that they are "readily available" to lots within zones Non-urban "A" and "B" and requires the residual Lot 9 to "have an identified site suitable for a farm dam, or alternatively, evidence that a bore or irrigation license will be available."

The Development Application was notified in accordance with Council's *Development Control Plan No. 9 – Public Notification of Development Applications*.

(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

The development will subdivide the land such that an additional ten (10) lots and two (2) roads are created. The Statement of Environmental Effects and professional reports accompanying the development application demonstrate that the impacts of the proposed development are within the ambit of planned growth for

the locality and that any potential adverse impacts can be mitigated through sustainable design and management.

(c) the suitability of the site for the development

The proposed development is demonstrated to be suitable for the site in the context of Council's strategic planning and the land use zones applicable to the land.

(d) any submissions made

Two (2) submissions were received by Council through the notification process undertaken in accordance with the requirements of Council's *Development Control Plan No. 9 – Public Notification of Development Applications*. These submissions raised the following issues:

- The proposed development will adversely increase vehicle movements along Oxbow Road.

Comment: The development will provide for an additional ten allotments with the capacity to be developed with dwelling houses. These properties will require Oxbow Road for ingress and egress and are anticipated to generate an additional 90 vehicle movements per day.

To ameliorate the effects of additional traffic, all lots within the subdivision must have access to the village of Cawongla on a continuous sealed road as per *Kyogle Local Environmental Plan No 19*. This will be undertaken in accordance with Council's design and construction standards prior to the release of a Subdivision Certificate and will ensure that traffic is adequately planned for and safely accommodated.

Existing dust issues from traffic utilising Oxbow Road will be resolved by the development.

- The density of development is excessive for rural residential living.

Comment: The development application was amended by the Applicant in a submission received by Council on 1 February 2011 to reduce the amount of proposed residential lots from twelve (12) to ten (10). This was achieved through the consolidation of the originally proposed Lots 1 and 2 and Lots 4 & 5 as notified.

A mix of lot areas is provided by the Applicant as required by the Character Design Response for the Cawongla Road/Oxbow Road in the Kyogle Structure Plan.

- On-site effluent treatment may lead to pollution.

Comment: Each proposed allotment was assessed for on-site effluent disposal by BCA Check, having regard to the site and soils, watercourses, slopes and potential land application areas. The report contains the following summation:

"Our investigations have revealed that it is possible to provide sustainable wastewater management systems on the proposed sites. Having regard to the site and soil limitations and the likely nature of future development secondary treatment of wastewater is recommended on all allotments."

- Stormwater runoff from the proposed development will exacerbate erosion and stormwater nuisance.

Comment: Subdivision works will be subject to the issue of a Construction Certificate under the *Environmental Planning and Assessment Act 1979* prior to the conduct of works. A Construction Certificate is used to verify, before a developer begins any subdivision work, that:

- the work intended to be carried out complies with Council's engineering specifications; and
- any conditions of a development consent that must be complied with before a construction certificate is issued have been met.

Detailed construction plans and specifications must be submitted to Council for assessment and this process shall ensure that adverse stormwater nuisance is not generated by the development.

- Established trees in Oxbow Road should be retained by the development.

Comment: This is subject to the endorsement of engineer designs for the upgrade of Oxbow Road as necessitated by the subdivision. It is recommended that the development consent be conditioned such that no tree in the road reserve shall be damaged, destroyed or removed without the written consent of the Council.

- The visual impacts of power supply should be taken into consideration.

Comment: Council's policies do not stipulate the need for the subdivision to be developed with underground power. Existing electricity conductors are overhead and it would not be inconsistent for the subdivision to be similarly serviced.

- The development will adversely affect privacy and the existing amenity.

Comment: The Kyogle Structure Plan provides for an estimated yield of 15 lots in the Cawongla Road/Oxbow Road Preferred Area, with all lots to have an area of between 5,000 square metres and 5 hectares. The proposed subdivision provides for lots within the Preferred Area that range from 5,117 square metres to 5.37 hectares and is consistent with both the estimated yield for the area and the minimum subdivision lot size.

- The easement for water supply 3 wide on the deposited plan requires the relevant authorisations prior to abolition.

Comment: This issue will need to be resolved as a civil matter.

(e) the public interest

There is no discernible adverse public interest resulting from the Development Application.

Recommendation

That Council issue Development Consent Notice 2011.61 for the development of a subdivision cancelling Lots 11 and 12 on Deposited Plan 1116662 to create two (2) lots being Lot 1 (4.9 hectares) and Lot 2 (79.98 hectares), as subject to survey and the following conditions of consent:

1. The development shall be in accordance with development application number 2011-46 submitted by the Applicant on 9 November 2010, as amended on 7 December 2010 and 1 February 2011, and in accordance with the following:

Statement of Environmental Effects entitled "Development Application With Respect to a Proposed Closer Settlement Subdivision (Staged Subdivision) at Oxbow Road, Cawongla," as prepared by Newton Denny Chapelle on behalf of S Sherman.

"Contaminated Land Assessment for a proposed Thirteen (13) Lot Subdivision at Lot 121 DP 794265, 97 Oxbow Road, Cawongla, NSW," EAL Consulting Service, 13 October 2010.

"On-site Sewage Capability Assessment," BCA Check, 27 October 2010.

"Bushfire Threat Assessment Report," BCA Check, 22 October 2010.

Subdivision Plan prepared by Newton Denny Chapelle
Reference No. 10/121H
Revision H
Name of Plan Plan 3 - Proposed Subdivision with Aerial Underlay
Scale 1:4000 @ A3
Date 25 January 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 and designs must accord with the Kyogle Council *Development Control Plan No 1 – Subdivision* current at time of works.
8. Activity approvals required under the *Water Management Act 2000* for work in or within 40 metres of any watercourse, whether perennial or intermittent, must be obtained from the NSW Office of Water prior to the conduct of those works.
9. 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.

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. Prior to the issue of a Subdivision Certificate under section 109C of the *Environmental Planning and Assessment Act 1979*, Council must endorse a land management plan funded by the proponent and compiled by a suitably qualified practitioner identifying:
 - (a) the distribution of environmental weed species;
 - (b) areas on the subject land requiring rehabilitation such as riparian zones, existing vegetation remnants, gullies, intermittent watercourses and steep slopes together with opportunities for linking such areas within the property;
 - (c) the proposed method of rehabilitation including specifications for soil preparation, weed control, watering, fertilising, stock control and general maintenance; and
 - (d) suitable management practices to encourage the restoration of threatened species and their habitats.

The plan must be prepared to an auditable standard and must have regard to *Planning for Bushfire Protection 2006* and the use of seed or rootstock derived from local provenance. The land must be managed in accordance with the endorsed land management plan at all times.

11. Prior to the issue of any Certificate under section 109C of the *Environmental Planning and Assessment Act 1979*, Council must endorse a landscape plan for the proposed road in that stage, funded by the proponent and compiled by a suitably qualified practitioner identifying:
 - (a) the location of existing and proposed property boundaries, electricity, telecommunications, roads and footpaths;
 - (b) the proposed locations and types of species to be planted and retained;

- (c) the mature height and expanse of species to be planted;
- (d) the suitability of the species for the proposed location; and
- (e) specifications for soil preparation, root control, weed control, watering, fertilising, and general maintenance.

- 12. Landscaping must be provided and maintained in accordance with the endorsed landscape plan and clause 3.2.5 of the *Kyogle Structure Plan: For Twelve Preferred Areas (Version C December 2007)*.
- 13. A security bond to the value of \$500 must be lodged with Council to ensure that all landscaping in the road is maintained. The bond must be paid within fourteen (14) days of the Council's endorsement of a landscape plan and is fully refundable after a period of three (3) years subject to the plantings being established and maintained to the satisfaction of Council.
- 14. Prior to the issue of a Subdivision Certificate for Stage 2, Lot 9 must have an identified site that is demonstrated to be suitable for a farm dam, or alternatively, evidence that a bore or irrigation license will be available.
- 15. A restrictive covenant under Part 6 Division 4 of the *Conveyancing Act 1919* must be applied to each lot stipulating that the secondary treatment of wastewater is required at a minimum.
- 16. The construction of the subdivision shall 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 or grit, oil or otherwise.
- 17. Notification of appointment of the Principal Certifying Authority must be submitted to the Council two (2) days prior to the commencement of work.
- 18. The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:

Monday to Friday	- 7.00am to 6.00pm
Saturday	- 8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

- 19. The proposed landuse shall not result in the emission of offensive noise.

Offensive noise means: noise that by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstance, is likely to:

- a) be harmful to,
- b) be offensive to,
- c) interfere unreasonably with the comfort or repose of,

a person who is:

(i) if the offensive noise is made in premises that are not a public place - outside those premises,

or

(ii) if the offensive noise is made in premises that are a public place - within or outside those premises.

20. 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. Details of sediment control measures and revegetation works shall be submitted to the Principal Certifying Authority for approval prior to release of the Construction Certificate.

21. Any future dwelling house development must have installed an on-site sewage management facility designed to manage all domestic waste waters within the confines of the allotment and be capable of treating effluent to a secondary standard in accordance with Council's On-Site Sewage and Wastewater Strategy or other policy which is contemporary at the time.

22. All waste materials existing on the site or generated from the development works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008'.

23. Payment of contributions levied under Section 94 of the *Environmental Planning and Assessment Act 1979* and the *Kyogle Council Section 94 Development Contributions Plan 2008, Section 94 Contributions Plan Urban & Rural Roads (as amended)* and *Section 94 Contributions Plan 1992 (as amended)* are required. Kyogle Council levies these contributions for the provision of public amenities and services in such a manner as will meet the increased demand for those amenities and services arising from this development.

The rate and amount to be paid as at the date of this notice is \$6,450 per lot, as described in the Schedule, excluding the residual lot. This amount remains valid for a period of three (3) months from date of issue. Following this period any unpaid contributions will be subject to annual indexation in line with Consumer Price Index (CPI) Brisbane as published by the Australian Bureau of Statistics. Indexation adjustments must be included in the final calculation of the contribution amount and paid to Council.

All contributions must be paid prior to Council granting a Subdivision Certificate. Where the total contribution payable exceeds \$10,000, payment to Council must be by bank cheque or cash (personal cheques are not acceptable).

Proponents of Development may be entitled to a discounted rate of contribution. Eligibility and discount amounts are specified in Section 4 of Council's *Section 94 Contributions Plan Urban & Rural Roads (as amended)*.

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

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

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

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

24. Telephone services must be provided to each proposed lot and a Telecommunications Infrastructure Provisioning Confirmation certificate from Telstra Australia must be supplied to Council prior to the issue of a Subdivision Certificate.
25. Prior to the issue of a Subdivision Certificate Council must be supplied with written advice from Country Energy or an alternative service provider stating that each proposed lot has been provisioned with electrical power, including the full length of battle-axe handles where applicable, and that easements for electricity purposes, satisfactory to Country Energy, are supplied on the linen plan over existing and proposed electricity lines pursuant to Section 88B of the *Conveyancing Act 1919*.
26. A Subdivision Certificate must not be issued until a sealed road connects the subdivision to Cawongla, as defined by the Village or Township zone under *Interim Development Order No 1-Shire of Terania*. Critical works include the upgrade of the Kyogle Road and Oxbow Road intersection inclusive of the provision of turning lanes and bus stop set down areas.
27. That no tree in the road reserve shall be damaged, destroyed or removed without the written consent of the Council.
28. The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). The

proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

RURAL SEAL

- c) Construction of a > wide gravel formation comprising a minimum depth of > mm of compacted gravel, and including a bitumen sealed surface >m wide from > in accordance with >.

A practising qualified surveyor or engineer shall submit to Council for approval prior to the release of the **Subdivision/Interim or Final Occupation Certificate**, a "works-as-executed" set of plans and construction certification. The certification shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and approved design plans.

29. Full design plans of the proposed engineering works to satisfy condition 28 shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.
30. The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the approved design plans.
31. Road names proposed for the subdivision shall be submitted for Council approval prior to lodgement of the Subdivision Certificate. A suitable name for any new road/s shall be subject to Council approval and public consultation.
32. 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.
33. A certified "Works as Executed" plan from a qualified Engineer or Registered Surveyor is to be submitted before the final inspection certifying that the works have been constructed in accordance with the drawings and to the levels specified.
34. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent approval by Council.

Construction (contract) price Bond

up to \$50,000 - 10% of contract price (minimum bond \$1,000)
over \$50,000 \$5,000 plus 5% of balance over \$50,000

35. Where the existing physical road adjacent to the subdivision encroaches on the land to be subdivided it must be surveyed out and dedicated to Council. This must be done for the full frontage of the site except where the land is surveyed by compilation, and shall be at no cost to Council.
36. The applicant will dedicate land as public road at no cost to Council with a minimum width of 20m and greater as required to accommodate the new road.
37. The road frontage of the proposed allotments is to be fenced out completely to the standard required by Council's Road Reserve Management Plan.
38. An all weather vehicular access shall be constructed and maintained from the road pavement to the existing dwelling house in accordance with Council's Design and Construction Specification for Vehicular Access.
39. Axe handle width to be minimum of 7 (rural) metres wide.
40. The access shaft of Lot 9 shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A 4.0 m wide trafficable width pavement shall be constructed for the full length of the shaft commencing from the approved vehicular access and including all necessary drainage structures. Provision of telecommunications and power supply services should be considered during design and construction of access shaft, and where required these services should be installed along the full length of the shaft, prior to construction of the road pavement.
41. The axe handles must be located on topography suitable for construction of the access road.
42. Construction of track in axe handle must not undermine or otherwise damage adjoining property or fences.
43. 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/Subdivision Certificate 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).

The access to the allotment is to be located and constructed in accordance with the vehicular access approval as issued by Council for the allotment. No other accesses may be constructed or opened onto a Council road without the prior written approval of, and constructed in accordance with Council's approval (Refer to Council's Property Access and Addressing Management Plan).

44. All allotments shall have a sealed vehicular access from the existing roadway to the boundary of private property in accordance with Council's Property Access and Addressing Management Plan.
45. If the proposed vehicular access to the development encroaches upon any land, other than the subject land, the vehicular access is to be either relocated solely onto the subject land or a legal right of carriageway must be created over this land to which the access encroaches.
46. Where vehicular access to any allotment requires crossing of a stream or waterway, the applicant is to obtain approval from the Department of Industry and Investment NSW for any structures or works within the stream or waterway and construct them in accordance with any approval issued. Council will require documentary evidence of compliance with any approvals prior to the (approval of the Subdivision Certificate/release of Interim or Final Occupational Certificate).
47. No vehicular accesses may be constructed or opened onto a Council road without the prior written approval of Council.
48. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.
49. Suitable 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. Details of sediment control measures and revegetation works shall be submitted for approval prior to the issue of a Construction Certificate.

Integrated Development

The following approvals have also been granted under Section 91A of the *Environmental Planning and Assessment Act 1979*. The general terms of each approval is given.

NSW Rural Fire Service

The deemed to comply Bushfire Safety Authority required under Section 100B of the *Rural Fires Act 1997* has been granted subject to the following conditions under this integrated approval. The conditions are to be made available to future purchasers of lots to ensure compliance.

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling, to a distance of 20 metres or to the property boundary where insufficient, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
3. Public road access shall comply with section 4.2.3 (1) of 'Planning for Bush Fire Protection 2006'.
4. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

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 Department of Environment, Climate Change and Water 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.
5. 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.

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

14B.4 RECREATION DIRT BIKE RIDING IN THE KYOGLE LOCAL GOVERNMENT AREA

Summary/Purpose

The purpose of this report is to provide Council with information relating to a proposal which provides a means of amending the current Development Control Plans 11 – Exempt Development and 12 – Complying Development by defining the categories, scale, locations and other criteria by which recreational motor bike riding may occur and also at what level a Development Application is required to be lodged and approved for this type of land use.

Strategic Plan Link(s)

Environment and Pastoral

Background Information

As outlined in the previous report on recreational bike riding considered by Council at the Ordinary Meeting held on 25 October, 2011, which concentrated on motor bike use on Crown Lands, there continues to be growth in the riding, issues and the number of complaints being lodged with Council associated with use of dirt bikes / trail bikes on private land throughout the Kyogle Local Government Area (LGA).

In order to facilitate dirt bike riding at a variety of scales and locations on private lands whilst also protecting the interests of adjoining and surrounding property owners it is proposed to clarify the criteria upon which this activity can occur within three defined categories, i.e.

- i) Exempt Development which is development of a type nominated in the Schedule to the Development Control Plan 11 – Exempt Development will be considered to have complied with the provisions of the Plan if it satisfies all the criteria listed for each development type. (No application required);
- ii) Complying Development which is development of a type nominated in the Schedule to the Development Control Plan 12 – Complying Development will be considered to have complied with the provisions of this Plan if it satisfies all the criteria listed for each development type and the conditions of approval. (Complying Development Application required);
- iii) Development which contains numbers of motor bikes and/or riders, particular installations/earthworks/topographical or contouring constraints and includes events/trials/racing of motor bikes over and above that defined within the above categories. (Requires preparation and lodgement of a Development Application including a Statement of Environmental Effects for the consideration and approval of Kyogle Council prior to any commencement or operation on site).

Previous Council Consideration

At its Ordinary Meeting held on 17 May, 2010 Council considered a Notice of Motion received from Cr. Lindsay Passfield and resolved:

1. That Council requests State Forest NSW to convene a meeting of stakeholders to establish a system of regulation and enforcement for recreation dirt bike riding on Crown Lands in Kyogle Local Government Area.
2. That as a minimum this meeting should involve Kyogle Council, NSW National Parks, NSW Lands Department, and Indigenous Representatives, Local Landcare Groups, Progress Associations, tourism operators and Dirt Bike Australia.

At its Ordinary Meeting held on 25 October, 2010 Council resolved:

1. That Council develop a policy for the location and operation of off road motorcycle facilities within the LGA.
2. That Council request Forests NSW to review their multiple land use policy and its application, particularly with respect to managing user conflicts; environmental issues; compliance mechanisms; and the generation of commercial returns.
3. That Kyogle Council request Forests NSW to introduce Recreational Dirt Bike Permits as a means of regulating this activity and generating an income stream to pay for enforcement.
4. That Council implement the accepted recommendation of the Sense of Place Community Advisory Committee regarding the development and printing of an on road motorcycle touring brochure.
5. That Council implement motorcycle education / awareness initiatives, including the use of licensed event organisers such as Australian Dirt Bike Adventures and request all Crown land managers to follow suit.
6. That Council actively participates in any future off road motorcycle compliance initiatives.

Report

The above actions have commenced and there has generally been a level of support from the agencies and members involved in the original discussion which has predominantly focused on dirt bike riding on Crown Lands. The level of commitment has included the appointment of Police Motor Bike Riders patrolling National Parks within the Kyogle Local Government Area in recent months on a trial basis.

Whilst this current report is intended to address dirt bike riding on private lands within the Kyogle LGA, there are instances whereby the proposed initiatives will also apply to Crown Lands, where in such instances the approval of the relevant Minister or their delegate will be required.

The land use definition, motor bike riding, is proposed to be described and to utilise the criteria as included below for the purposes of establishment or operation within the **Exempt Category**:-

Motor bike riding

- Must not involve interference with the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, light, waste water, waste products, grit or oil, traffic generation or otherwise.
- Must not involve the exhibition of any notice, advertisement or sign on any land or in any other medium.
- Must be in a Non Urban A or Non Urban B zone only
- Must not involve more than five (5) riders.
- May only take place between 9 am and 5 pm for a maximum of 2 x 1 hour sessions with a minimum of 1 hour break in between the two sessions.
- The use must be setback at least 500 metres from a dwelling house, dual occupancy (attached), rural worker's dwelling, tourist and visitor accommodation, school, or other sensitive receiver on adjoining or nearby land.
- Native vegetation growing on the land on which the riding is to take place or on adjoining land must not be damaged as a result of the use.
- Must not involve earthworks.
- Must not expose topsoil such that a track of ten (10) metres or greater in length is formed.

The land use definition, motor bike riding, is proposed to be described and to utilise the criteria as included below for the purposes of establishment or operation within the **Complying Category**. The following provisions have previously been endorsed by Council for inclusion into the Draft Kyogle Local Environmental Plan and for the purposes of this report, the term motor bike riding has been specifically included:-

Motor bike riding

Types of development

Note..... Information relevant to this Part is also contained in the Act, *Environmental Planning and Assessment Regulation 2000*, the *Protection of the Environment Operations Act 1997* and the *Roads Act 1993*.

1 Single Day Events

Note 1. In the case of Crown land or land vested in or under the control of a council, permission must be sought from the council or other authority responsible for managing the land concerned before any development is carried out on the land.

Note 2. Under section 68 of the *Local Government Act 1993*, certain activities require approval from the local council.

Note 3. The *Protection of the Environment Operations Act 1997* contains provisions regulating noise and pollution.

Note 4. The use of caravans, campervans and tents is regulated under the *Crown Lands Act 1989*, *Forestry Act 1916*, *National Parks and Wildlife Act 1974* and the *Local Government Act 1993*.

- (a) Does not apply to Residential Zones.

- (b) Must not exceed 16.5 hours in duration.
- (c) Must not be an event to be held on a biennial or more regular basis.
- (d) Must have an approved development application or complying development certificate where required under the provisions of *State Environmental Planning Policy (Temporary Structures) 2007*.
- (e) Must have an approved vehicular access point to a public road constructed to Council's design and construction specifications.

Complying development certificate conditions

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and this Plan.

Note 2. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

Division 1 Conditions applying to a complying development certificate for a single day event

Note. The *Liquor Act 2007* contains provisions regulating the management of liquor.

- (1) The event may take place only within the following times:
 - (a) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
 - (b) 7.30 am to midnight on Friday or Saturday,
 - (c) 8.00 am to 8.00 pm on Sunday.
- (2) All parking, loading, unloading and facility provision in relation to the event must take place wholly within the development site.
- (3) All signage must comply with Schedule 2 of this Plan.
- (4) All event-associated structures (excluding the provision of temporary signage) must not be erected earlier than two (2) days prior to the event and must be dismantled and removed from the land within two (2) days of the cessation of the event.
- (5) Potable water must be available and supplied in accordance with the National Health and Medical Research Council *Australian Drinking Water Guidelines*.
- (6) If the complying development involves a food business within the meaning of the *Food Act 2003* then all such businesses must be notified as required by that Act or licensed as required by the *Food Regulation 2004* and must be registered as a market stall holder with Council prior to operation.

Note. Food preparation, the transportation of food, and the serving of food (including beverages) must be undertaken in accordance with the *Food Act 2003* and Food Standards Australia New Zealand.

- (7) Toilet facilities must be available or provided at the site before the event begins and must be maintained until the event is completed.

Note. The Building Code of Australia, Volume 1, Section F, contains provisions relating to sanitary facilities.

- (8) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.
- (9) Garbage receptacles must be available or provided at the site before the event begins and must be maintained until the event is completed. The garbage receptacles must have tight fitting lids and be suitable for the reception of food scraps and papers.
- (10) All waste and recyclable materials generated by the event must be removed from the site and disposed of at a waste management facility capable of taking the waste.
- (11) Any approval that is required under section 68 of the *Local Government Act 1993* must be held before the event is carried out.
- (12) Trees, landscaping and buildings established on the land and on adjoining land must not be damaged as a result of the event.
- (13) Any land disturbed by the event must be subject to sedimentation controls prior to the disturbance. These controls must be effectively maintained to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land until the site has been stabilised and landscaped.
- (14) The event must be covered by public liability insurance to the value of \$10,000,000 at a minimum.
- (15) In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner or the owner's agent must report the occurrence to Council as soon as it becomes known to the owner or the owner's agent.
- (16) Notification must be made to the NSW Police Service, NSW Rural Fire Service and NSW Ambulance Service a minimum of seven (7) days prior to the conduct of the event.
- (17) Kyogle Council, its officers and employees must be indemnified and held indemnified against any claim by any person or group for damage or injury arising out of or as a consequence of or incidental to the event.

Development Application

In all other instances which are not included in the above categories, the preparation and lodgement of a development application accompanied by a comprehensive Statement of Environmental Effects will be required to be submitted to Council for its assessment and consideration.

Conclusion

The above criteria addresses only those motor bike activities which are of a recreational nature. Where it is inferred by neighbours or other parties not associated with the motor bike riding land use that the activities are impacting on the surrounding area due to Offensive Noise, none of the above criteria detracts from the provisions of the Protection of the Environment Operations Act relating to the emission of, establishment of the act of offensive noise, or the rights of Kyogle Council, the Police or a third party to commence legal proceedings against a person or persons who have committed such an offence.

The content of the above is not intended to, nor will it replace any bona fide, necessary and usual operations of motor bike activities associated with an agricultural use on a working farm, which can necessitate or involve use of motor bikes over the whole of the farmland area.

Recommendation

1. That the report Recreation Dirt Bike Riding in the Kyogle Local Government Area be received and noted.
2. That Council amends the content of Development Control Plan – 11, Exempt Development and Development Control Plan – 12, Complying Development in accordance with the amendments as outlined in the report and places the Draft Amended Development Control Plans on public exhibition for a period of 28 days during which submissions are invited to be lodged with Council.

ITEM 14C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 14D CORPORATE SERVICES REPORT

14D.1 ECONOMIC DEVELOPMENT POLICY

Summary/Purpose

This report presents the Economic Development Policy for adoption.

Community Strategic Plan Item(s)

- Economic Development

Background Information

The draft Economic Development Policy has been developed by the Kyogle Community Economic Development Committee (now know as Growing Kyogle). The initiative has been undertaken with funding from Kyogle Council and NSW Department of Industry and Investment.

The Policy has been developed based on a series of consultation meetings held in February 2010, assessing links with existing Council plans and strategies and assessing links with neighbouring regions. The Kyogle Community Economic Development Committee (Growing Kyogle) engaged Deborah Wilson Consulting Pty Ltd to facilitate the consultation.

Previous Council Consideration

This matter has been reported to Council on several occasions. It was most recently considered at the February 28 Ordinary Meeting where it was resolved:

1. That the report on draft Economic Development Policy was received and noted
2. That a workshop be held to further consider the submissions received in relation to the Draft Economic Development Policy.
3. That Council prepares an updated Draft Economic Development Policy incorporating ideas from the submissions received and presents them to the workshop.

Report

A workshop was held on March 14, 2011 where the draft policy and the contents of the submission were discussed.

The draft policy has now been amended and is now presented for adoption with the following changes:

- The Preamble to the policy has been expanded to include a section that reflects What is special about the Kyogle LGA?
- The Preamble includes a section about making the Kyogle LGA a better place to live, learn work and play.
- Minor wording changes to the Policy

The changes are not significant and it is not considered that a further period of public exhibition is warranted.

Recommendation

That the Draft Economic Development Policy be adopted.

ITEM 14E COMMUNITY SERVICES REPORT

Nil.

ITEM 14F GENERAL MANAGER'S REPORT

Nil.

ITEM 15 URGENT BUSINESS WITHOUT NOTICE

Nil.

ITEM 16 QUESTIONS FOR NEXT ORDINARY MEETING

Nil.

ITEM 17 CONFIDENTIAL BUSINESS PAPER

Nil.

APPENDIX / ATTACHMENTS

KYOGLE COUNCIL



ATTACHMENTS

ORDINARY COUNCIL MEETING

ON 28 MARCH 2011

13.1 FINANCIAL REPORTS - FEBRUARY 2011

Kyogle Council



Financial Reports 28 February 2011

**Rates Statement
Statement of Bank Balances
Summary of Investments**

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

KYOGLÉ COUNCIL RATES STATEMENT AS AT 28 FEBRUARY 2011

	ARREARS 1-Jul-10	NET CHARGES 2010	PAYMENTS	OUTSTANDING BALANCE	PERCENTAGE COLLECTED
RATES	299,307.46	4,361,807.27	3,127,678.47	1,533,436.26	67.10%
SERVICES	368,098.85	2,215,601.88	1,799,958.24	783,742.49	69.67%
INTEREST	75,088.90	32,800.70	31,016.46	76,873.14	28.75%
TOTALS	742,495.21	6,610,209.85	4,958,653.17	2,394,051.89	67.44%

PRESENTED TO COUNCIL MARCH 2011

Note:

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

KYOGLÉ COUNCIL		
STATEMENT OF BANK BALANCES AS AT		
28-Feb-11		
FUND	CLOSING BANK BALANCE 28-Feb-11	INVESTMENT BALANCE 28-Feb-11
GENERAL FUND		
UNRESTRICTED	(540,275.78)	3,200,000.00
INTERNALLY RESTRICTED	791,937.82	3,500,000.00
STATE HIGHWAYS	2,063,507.10	
QUARRIES	593,722.93	
PLANT	3,753,558.65	
EXTERNALLY RESTRICTED	235,249.55	700,000.00
	6,897,700.27	7,400,000.00
RESTRICTED		
WATER SUPPLIES	800,218.92	
SEWERAGE SYSTEMS	689,434.89	500,000.00
DOMESTIC WASTE	360,317.70	
ORDINARY TRUST	33,039.50	
	1,883,011.01	500,000.00
CONSOLIDATED FUNDS	8,780,711.28	7,900,000.00

KYOGLE COUNCIL

SUMMARY OF INVESTMENTS AS AT 28/02/11

	BANK	TYPE	TERM	AMOUNT	RATE P.A.	DUE DATE
1	BANKWEST	TERM DEPOSIT	33 DAYS	1,000,000.00	5.45%	March 1, 2011
2	CITIBANK	TERM DEPOSIT	28 DAYS	1,000,000.00	5.58%	March 14, 2011
3	BANKWEST	TERM DEPOSIT	60 DAYS	1,500,000.00	5.50%	March 22, 2011
4	COMMONWEALTH	TERM DEPOSIT	90 DAYS	3,000,000.00	5.60%	April 25, 2011
5	SUNCORP METWAY	TERM DEPOSIT	60 DAYS	1,400,000.00	5.76%	April 29, 2011
				7,900,000.00		
PRESENTED TO COUNCIL ON MARCH 28, 2011						
I hereby certify that the above investments have been made in accordance with section 625 of the Local Government Act, 1993, the Local Government (General) Regulation 2005 and Councils Investment Policy.						
(GLENN ROSE)						
RESPONSIBLE ACCOUNTING OFFICER						

COUNCILLORS TRAVEL EXPENSES
Feb-11

COUNCILLOR NAME	KLMS CLAIMED		CURRENT KM RATE	AMT REIMBURSED	
	MONTHS	YTD		MONTH	YTD
E Bennett	0	6,500	0.73	0.00	4,745.00
R. Brown	0	0	0.73	0.00	0.00
T. Cooper	0	2,352	0.73	0.00	1,716.96
R. Dwyer	0	0	0.73	0.00	0.00
J. O'Reilly	172	454	0.73	125.56	331.42
R. Leadbeatter	0	152	0.73	0.00	110.96
L. Passfield	0	3,176	0.73	0.00	2,318.48
J. Wilson	0	0	0.73	0.00	0.00
L. Zito	0	0	0.64	0.00	0.00
Total	172	12,634		125.56	9,222.82

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.