

Kyogle Council

Confirmed Minutes of the Ordinary Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 15 February 2010.

PRESENT

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

IN ATTENDANCE

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

MEETING COMMENCEMENT

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

ITEM 1 APOLOGIES

An apology was received from Councillor Janet Wilson.

150210/ 1 RESOLVED

Moved Councillor Ernie Bennett, seconded Councillor Lindsay Passfield.

That the apology be accepted.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 2 OPENING PRAYER

The Mayor read the opening prayer.

ITEM 3 TRADITIONAL LANDS ACKNOWLEDGEMENT

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

ITEM 4 DECLARATION OF INTERESTS

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

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 December 2009 - 31 January 2010 - 2009/18
Reason for Declaration – adjoining land owner

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

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 December 2009 - 31 January 2010 - 2007/188
Reason for Declaration – previous preparation of SOE affects prior to being employed by Kyogle Council.

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

- Item 15B.1 Development Applications Received, Determined and Outstanding for the period 1 December 2009 - 31 January 2010 - 2009/35
Reason for Declaration – sister involved in preparation of rezoning application.

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

- Item 15B.4 Heritage Review & Local Environmental Plan 18
Reason for Declaration – owner of one of the premises in Summerland Way Kyogle.

Cr. Ernie Bennett declared an interest in the following item/s:

- Item 15B.4 Heritage Review & Local Environmental Plan 18
Reason for Declaration – relative owns property mentioned in report.

Cr. Tom Cooper declared an interest in the following item/s:

- Item 15B.4 Heritage Review & Local Environmental Plan 18
Reason for Declaration – Director of Norco Co-op who are lessee of heritage buildings.

Cr. Tom Cooper declared an interest (at Item 16) in the following item/s:

- Item 16.1 Urgent Business Without Notice - Draft Plantations and Reafforestation Bill
Reason for Declaration –owns property affected by the draft bill.

ITEM 5 QUESTION TIME

Cloud addressed the meeting in relation to:-

- The Agenda for the Council meeting of 21st September 2009 states that 113km of Council roads were used as Special Stages for the 2009 Repco Rally Australia.

Asked if Council could provide details in connection with that 113km of shire roads:

1. What percentage of that 113km was graded or had other work done in the 6 months prior to the rally?

2. What was the cost per kilometre of that work?
3. Was any contribution to the cost of those roadwork's made by the NSW State Government or any rally organisation?

Requested the response to Question 3 to be in the form of amounts rather than a mere 'Yes' or 'No'?

The Mayor advised the questions would be taken on notice and a reply provided.

Mr Neville O'Malley, Tabulam SES addressed the meeting in relation to:-

- The Tabulam SES building and his concerns regarding the structural soundness of the building. Advised 30 members train in the building weekly and feels Occupational Health & Safety is a major concern. Also advised white ants were found in the building during recent months and although they have been treated the building is left in an unsound condition. Asked if Council could arrange an inspection on the building.

The Mayor acknowledged the statement and further advised that due to new regulations imposed on local government Council is now required to provide funds approximately double what was provided previously. Advised the matter would also be discussed during Item 12.3.

ITEM 6 PUBLIC ACCESS

A request for public access has been received from;

- Mr Tom Fitzgerald representative of the Planning & Development Committee Kyogle Historical Society Museum Project addressed the meeting on the proposed Feasibility Plan, Kyogle Gallery and Museum (15E.1). Sought Council's full support for this project and requested financial assistance of \$5,000 towards architect's fees. Also advised meetings have been held with the Federal Member for Page the Hon Janelle Saffin, and the State member for Lismore Mr Thomas George, who have both advised the project looks promising for funding. (submission tabled to the meeting - attached)
- Mr Max Cowgill representing the Kyogle & District Arts Council addressed the meeting on the proposed Feasibility Plan, Kyogle Gallery and Museum (15E.1). Requested Council's full support for a purpose built Gallery/Museum for the Kyogle Local Government area. Reminded Council of the need for cultural awareness and reiterated the importance for the community in having a facility such as this. (submission tabled to the meeting - attached)
- Mr Alan Marsh, representing FE Marsh & Company addressed the meeting in relation to Development Application 2010/66 - Item15B.2. Advised the existing "Leverett's Cordial building" is not compliant with Australian building codes, i.e. not structurally sound. Further advised the proposed building

has been architecturally designed following consultation with various parties including a heritage consultant.

ITEM 7 DEPUTATIONS

Nil.

ITEM 8 QUESTIONS WITH NOTICE FROM COUNCILLORS

8.1 QUESTIONS WITH NOTICE; CLR JOHN O'REILLY

A motion was moved by Councillor John O'Reilly, seconded Councillor Lynette Zito.

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

A motion was foreshadowed by Councillor John O'Reilly.

That a report be prepared for Council on the copyright issues for this Council in relation to the preparation of reports and other documents and the requirements to acknowledge sources.

The motion was put to the vote and was CARRIED.

150210/ 2 RESOLVED

Councillor John O'Reilly, seconded Councillor Lynette Zito.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

A motion was moved by Councillor John O'Reilly, seconded Councillor Lynette Zito

That a report be prepared for Council on the copyright issues for this Council in relation to the preparation of reports and other documents and the requirements to acknowledge sources.

The motion was put to the vote and was LOST on the casting vote of the Mayor.

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

ABSENT. DID NOT VOTE - Janet Wilson

ITEM 9 MATTERS DETERMINED WITHOUT FURTHER DEBATE

9.1 MATTERS DETERMINED WITHOUT DEBATE

There were no items identified.

ITEM 10 CONFIRMATION OF MINUTES

10.1 CONFIRMATION OF ORDINARY MINUTES

150210/ 3 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Tom Cooper.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

10.2 CONFIRMATION OF EXTRAORDINARY MINUTES

150210/ 4 RESOLVED

Councillor Robert Leadbeatter, seconded Councillor Lynette Zito.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 11 MAYORAL MINUTE

11.1 MAYORAL REPORT - FLASHING LIGHTS IN SCHOOL ZONES

A motion was moved by Councillor Ross Brown, seconded Councillor Robert Dwyer.

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

A motion was foreshadowed by Councillor Lindsay Passfield.

That Council approach the Roads & Traffic Authority and ask for the removal of signage - designating the reduced speed limits around the Grevillia Public School whilst the school is in abeyance.

The motion was put to the vote and was CARRIED.

150210/ 5 RESOLVED

Councillor Ross Brown, seconded Councillor Robert Dwyer.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

A motion was moved by Councillor Lindsay Passfield, seconded Councillor Lynette Zito

That Council approach the Roads & Traffic Authority and ask for the removal of signage - designating the reduced speed limits around the Grevillia Public School whilst the school is in abeyance.

The motion was put to the vote and was CARRIED.

150210/ 6 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

That Council approach the Roads & Traffic Authority and ask for the removal of signage - designating the reduced speed limits around the Grevillia Public School whilst the school is in abeyance.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 12 NOTICES OF MOTION

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

150210/ 7 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Robert Dwyer.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

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

A motion was moved by Councillor Tom Cooper, seconded Councillor Ernie Bennett.

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

An amendment was moved by Councillor Lynette Zito

That Council refers the matter of funding for flood mitigation works to the Management Plan process for 2010/11.

Councillor Lynette Zito then withdrew the amendment.

The motion was put to the vote and was CARRIED.

150210/ 8 RESOLVED

Councillor Tom Cooper, seconded Councillor Ernie Bennett.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

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

150210/ 9 RESOLVED

Councillor Tom Cooper, seconded Councillor Ernie Bennett.

1. That Council supports the investigation by a structural engineer on the soundness of the SES Shed at Tabulam.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

A motion was moved by Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

2. That a further report be brought back to Council when management establishes ownership of the building and obtains the results of the structural engineer's report.

The motion was put to the vote and was CARRIED.

150210/ 10 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

2. That a further report be brought back to Council when management establishes ownership of the building and obtains the results of the structural engineer's report.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 13 DELEGATES REPORTS

13.1 DEPUTY MAYOR ATTENDANCES

150210/ 11 RESOLVED

Councillor Lynette Zito, seconded Councillor John O'Reilly.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 14 INFORMATION PAPERS

14.1 MONTHLY FINANCIAL REPORT

150210/ 12 RESOLVED

Councillor Robert Dwyer, seconded Councillor Lindsay Passfield.

That the Monthly Finance Report was received and noted.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 15 GENERAL MANAGER 'S REPORT

ITEM 15A TECHNICAL SERVICES REPORT

15A.1 WORKS COMMITTEE MEETING - FEBRUARY

150210/ 13 RESOLVED

Councillor Lynette Zito, seconded Councillor John O'Reilly.

1. That the minutes of the Works Committee meeting held February 8, 2010 were received and noted.
2. That Council provide an estimate for initial sealing on Collins Creek Road between the two recent initial seals carried out as part of development applications and on Hillyard Road from Bentley Road through to the 1st bridge.
3. That Council obtain formal agreement with the affected land owners for the proposed road widening of Shorts Road and compensation methods.
4. That Council proceeds to lodge all necessary road widening and closure applications necessary for the proposed realignment of Shorts Road once agreement has been obtained with the affected land owners.
5. That, subject to the above, Council authorises the Common Seal to be affixed in the presence of the Mayor and General Manager to the documents relating to the realignment of Shorts Road from the Clarence Way through to the western boundary of Lot 49 DP 751050.
6. That Council advertises for submissions from the public on the road naming issue listed below;

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

Proposed Road Name	Lunar Lane
Reason	Un-named road

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

Road No.	To be determined
Description of Route	The new road created within Lot 39 DP 755753, starting from the intersection with Collins Creek Road approximately 7.8km from the intersection with the Summerland Way, created as part of Stage 1 of Development Application 2007-40.

Proposed Road Name	Chisholm Court
Reason	Newly constructed road

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 15B PLANNING SERVICES REPORT

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

150210/ 14 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Robert Leadbeatter.

1. That, with the exception of the following items in which Councillor Ross Brown The General Manager and Director of Planning & Environmental Services have declared an interest,

- Cr Ross Brown 15B.1 Development Applications Received, Determined and Outstanding DA 2009/18
- The General Manager 15B.1 Development Applications Received, Determined and Outstanding DA 2009/35
- Director of Planning & Environmental Services 15B.1 Development Applications Received, Determined and Outstanding DA 2007/188

The information contained in the report Development Applications Received, Determined and Outstanding for the period December 1, 2009 to January 31, 2010 was received and noted.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

Having declared an interest in Item 15B.1 Mayor Ross Brown, The General Manager, left the meeting at 4.26 p.m.

Having declared an interest in Item 15B.1 The Director of Planning & Environmental Services left the meeting at 4.27 p.m.

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

150210/ 15 RESOLVED

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

2. That the information contained in the report Development December 1, 2009 to January 31, 2010 only in relation to DA09/18, DA09/35 and DA07/188, in which Councillor Ross Brown, the General Manager & the Director of Planning & Environmental Services have declared an interest was received and noted.

CARRIED

FOR VOTE - Unanimous vote
 ABSENT. DID NOT VOTE - Janet Wilson, Ross Brown

Councillor Ross Brown, the General Manager and the Director of Planning & Environmental Services returned to the meeting at 4.28 p.m.

The Mayor Ross Brown resumed the Chair.

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

A motion was moved by Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

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

PLANNING

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

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

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

2. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.
3. This development consent is limited to a period of two (2) years in accordance with Section 95(2) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless:
 - (a) work relating to the development is physically commenced before the date on which the consent would otherwise lapse; or
 - (b) application is made to Council for an extension before the date on which the consent would otherwise lapse.
4. The use of the site must not extend to the road reservation adjoining the premises at any time.
5. The land the subject of this consent notice must be left in a clean and tidy state at all times.
6. The land use must not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.
7. An archival photographic record of the structure known as "Kyogle Leveretts Cordials former" must be made prior to and during the removal of any fabric in general accordance with the NSW Heritage Branch guidelines for archival photography (see www.heritage.nsw.gov.au), including interior and exterior photographs. This record must be presented to the Kyogle Council and the Kyogle and District Historical Society prior to the issue of a construction certificate.
8. The proposed sign must be:
 - directly associated with the use of the premises as offices;
 - professionally designed and legible;
 - structurally sound and not in any way hazardous;
 - located entirely within the boundaries of Lot 4 in DP 730840;
 - designed and situated so as not to obstruct traffic; and
 - non-reflective, non-iridescent and non-illuminated or mobile.

CONSTRUCTION/ DEMOLITION

9. A Construction Certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the Construction Certificate is obtained from an accredited certifier the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.
10. All demolition work must comply with the provisions of AS 2601 – 2001 "The Demolition of Structures" as in force at 1 July 1993.
11. The hours of work for any **offensive noise generating** construction or demolition activity of the proposed development are to be limited to the following time restrictions:

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

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

12. Burning of site refuse and materials is not permitted and all such materials shall be prevented from escaping onto adjoining land.
13. All waste materials generated from construction and demolition works shall only be disposed at waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste 2008* and the *Protection of the Environment Operations Act 1997* and waste regulations there under.
14. Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site and eventually into natural or constructed drainage lines or watercourses. Control measures must be installed prior to the conduct of works and must remain in place and be maintained until the site has been adequately revegetated or landscaped to prevent soil erosion. Work may not proceed until the sedimentation controls are in place. Failure to comply with these requirements may result in penalty notices being issued without further notice.
15. Removal and disposal of asbestos is to be in accordance with the requirements of the WorkCover Authority of NSW.
16. The effects of vibration, dust, noise and concussion on adjoining buildings and their occupants must be minimised, by selecting appropriate demolition methods and equipment.
17. Appropriate signage must be provided on the work site and in a prominent position visible to the public:
 - a) stating that unauthorised access to the work site is not permitted; and
 - b) showing the name of the builder or person responsible for the site and a telephone number at which that person can be contacted outside working hours.
18. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.
19. Should the builder change from the builder nominated on the building application form, Council shall be notified in writing prior to the new builder commencing any works. The written notification shall include written concurrence of the new builder and a photostat copy of his builders licence.

BUILDING WORKS

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

NOTE: All roof capping and flashing to be scribed on a Dwelling.

21. The roofing must have a low reflective finish.
22. All footings shall bear on natural ground having an even, uniform bearing capacity not subject to differential bearing values upon stable, firm and undisturbed foundations, free from roots and fill.
23. The building must be protected against attack by subterranean termites. This can be achieved by:
- a) Soil treatment in accordance with AS 3660.1 - 2000 of the subsoil area beneath all concrete slabs and including additional treatment of a 300mm wide horizontal barrier around the perimeter, edge protection and treatment of all slab penetrations.
 - b) Maintenance of a 75 mm wide strip around the entire slab to allow visual inspection. The area immediately adjoining the external wall is to be kept clear of landscaping or gardens.
 - c) other chemical or physical measures which meet the objective of protecting primary building elements against subterranean termite attack. If this option is chosen, full details are required to be submitted for Council's consideration.

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

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

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

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

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

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

24. Where termite barriers are installed that rely on periodic visual inspection, a minimum of 400 mm clearance between the lowest floor framing member and the finished ground level must be achieved. On sloping sites the 400 mm clearance may be reduced to 150 mm within a distance of 2.0 metres of external walls.
25. The wet areas are to be treated and impervious to moisture at all floor wall junctions with an approved material in accordance with the Building Code of Australia, and Australian Standard 3740. The shower area is to be provided with a completely impervious tray using either a preformed tray of approved material or an in-situ treatment complying with AS 3740. Floor surfaces shall be impervious and graded to a floor waste.
26. Where the height of the structure above finished ground level is greater than 1.0 metre, a continuous balustrade a minimum of:
 - a) 1.0 metre high above the finished floor level of decks, landings, balconies and the like, and
 - b) 865 mm high above the nosings of the stair treads or floor of ramp,must be provided. The maximum permissible opening in the balustrade is 125 mm.
27. Emergency lighting and exit signs shall be installed in accordance with the building code of Australia Volume 1 sec E and AS 2293.1
28. Fire Hose reels shall be installed the building in accordance with Building Code of Australia and AS 1221.
29. Portable fire extinguishers' shall be installed the building in accordance with the Building Code of Australia and AS 2444.
30. Emergency exit plans shall be displayed in the building show means of egress in the event of and emergency.
31. Sanitary Facilities must be provided in accordance with section F of the Building Code of Australia.
32. Access and egress shall be provided to the building in accordance the Building Code of Australia section D.
33. The location of any fixed plant servicing the proposed development must not result in the emission of offensive noise.

Offensive noise means:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
 - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

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

CARPARKING

- 34. Provision shall be made for seven (7) carparking spaces with a bitumen sealed/paved or equivalent surface constructed and landscaped. Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.
- 35. A sign shall be erected to the satisfaction of Council to clearly indicate off-street parking is available.
- 36. One (1) car space shall be set aside, constructed and signposted for disabled carparking in accordance with the provisions of the Building Code of Australia and the requirements of AS2890.1 - 1993 "Off-street Car Parking" Cl 2.4.5(b) and the Proposed Sketch Plan.

WATER/ SEWER

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

44. All house drainage and sanitary plumbing and sewerage work must be carried out in accordance with the requirements of the N.S.W. Code of Practice " Plumbing and Drainage " and the National Plumbing and Drainage Code AS 3500.

ROADS AND DRAINAGE

45. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.
46. The proponents shall construct a new 1.2m wide reinforced concrete footpath for the full frontage of Ettrick Street and Wyangarie Street and provide connectivity to the existing footpath network and the proposed development. All design and construction is to be in accordance with the Northern Rivers Local Government Development and Design and Construction Manuals.
47. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent approval by Council.

Construction (contract) price Bond

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

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

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

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

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

DEVELOPER CONTRIBUTIONS

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

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

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

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

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

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

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

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

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

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

which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

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

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

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

Advisory Note

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

An amendment was moved by Councillor Lynette Zito, seconded Councillor Robert Dwyer.

That the following advisory note is added to the conditions:-

4. That a condition of the DA be that the developer incorporate that section of the "Kyogle Leveretts Cordials former" which has the identifying graphic into the new structure and/or that the developer include a plaque to record the role the "Kyogle Leveretts Cordials former" played in Kyogle's history.

The Mayor adjourned the meeting at 4.35 pm to allow Mr Alan Marsh to address Council on the matter.

The meeting resumed at 4.36 pm.

The amendment was put to the vote and was carried.

The amendment then became the motion.

The motion was put to the vote and was CARRIED.

150210/ 16 RESOLVED

Councillor Lynette Zito, seconded Councillor Robert Dwyer.

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

PLANNING

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

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

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

2. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.
3. This development consent is limited to a period of two (2) years in accordance with Section 95(2) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless:
 - (a) work relating to the development is physically commenced before the date on which the consent would otherwise lapse; or
 - (b) application is made to Council for an extension before the date on which the consent would otherwise lapse.
4. The use of the site must not extend to the road reservation adjoining the premises at any time.
5. The land the subject of this consent notice must be left in a clean and tidy state at all times.
6. The land use must not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.
7. An archival photographic record of the structure known as "Kyogle Leveretts Cordials former" must be made prior to and during the removal of any fabric in general accordance with the NSW Heritage Branch guidelines for archival

photography (see www.heritage.nsw.gov.au), including interior and exterior photographs. This record must be presented to the Kyogle Council and the Kyogle and District Historical Society prior to the issue of a construction certificate.

8. The proposed sign must be:
- directly associated with the use of the premises as offices;
 - professionally designed and legible;
 - structurally sound and not in any way hazardous;
 - located entirely within the boundaries of Lot 4 in DP 730840;
 - designed and situated so as not to obstruct traffic; and
 - non-reflective, non-iridescent and non-illuminated or mobile.

CONSTRUCTION/ DEMOLITION

9. A Construction Certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the Construction Certificate is obtained from an accredited certifier the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.
10. All demolition work must comply with the provisions of AS 2601 – 2001 “The Demolition of Structures” as in force at 1 July 1993.
11. The hours of work for any **offensive noise generating** construction or demolition activity of the proposed development are to be limited to the following time restrictions:
- | | |
|------------------|--------------------|
| Monday to Friday | - 7.00am to 6.00pm |
| Saturday | - 8.00am to 1.00pm |
- No noise generating activities are to take place on Sundays or public holidays.
12. Burning of site refuse and materials is not permitted and all such materials shall be prevented from escaping onto adjoining land.
13. All waste materials generated from construction and demolition works shall only be disposed at waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste 2008* and the *Protection of the Environment Operations Act 1997* and waste regulations there under.
14. Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site and eventually into natural or constructed drainage lines or watercourses. Control measures must be installed prior to the conduct of works and must remain in place and be maintained until the site has been adequately revegetated or landscaped to prevent soil erosion. Work may not proceed until the sedimentation controls are in place. Failure to comply with these requirements may result in penalty notices being issued without further notice.

15. Removal and disposal of asbestos is to be in accordance with the requirements of the WorkCover Authority of NSW.
16. The effects of vibration, dust, noise and concussion on adjoining buildings and their occupants must be minimised, by selecting appropriate demolition methods and equipment.
17. Appropriate signage must be provided on the work site and in a prominent position visible to the public:
 - a) stating that unauthorised access to the work site is not permitted; and
 - b) showing the name of the builder or person responsible for the site and a telephone number at which that person can be contacted outside working hours.
18. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.
19. Should the builder change from the builder nominated on the building application form, Council shall be notified in writing prior to the new builder commencing any works. The written notification shall include written concurrence of the new builder and a photostat copy of his builders licence.

BUILDING WORKS

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

NOTE: All roof capping and flashing to be scribed on a Dwelling.
21. The roofing must have a low reflective finish.
22. All footings shall bear on natural ground having an even, uniform bearing capacity not subject to differential bearing values upon stable, firm and undisturbed foundations, free from roots and fill.
23. The building must be protected against attack by subterranean termites. This can be achieved by:
 - a) Soil treatment in accordance with AS 3660.1 - 2000 of the subsoil area beneath all concrete slabs and including additional treatment of a 300mm wide horizontal barrier around the perimeter, edge protection and treatment of all slab penetrations.
 - b) Maintenance of a 75 mm wide strip around the entire slab to allow visual inspection. The area immediately adjoining the external wall is to be kept clear of landscaping or gardens.
 - c) other chemical or physical measures which meet the objective of protecting primary building elements against subterranean termite attack. If this

option is chosen, full details are required to be submitted for Council's consideration.

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

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

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

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

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

- a) the method of protection; and
 - b) the date of installation of the system; and
 - c) where a chemical barrier is used, its life expectancy as listed on the National Regulation Authority label; and
 - d) the installer's or manufacturer's recommendations for the scope and frequency of future inspections for termite activity.
24. Where termite barriers are installed that rely on periodic visual inspection, a minimum of 400 mm clearance between the lowest floor framing member and the finished ground level must be achieved. On sloping sites the 400 mm clearance may be reduced to 150 mm within a distance of 2.0 metres of external walls.
25. The wet areas are to be treated and impervious to moisture at all floor wall junctions with an approved material in accordance with the Building Code of Australia, and Australian Standard 3740. The shower area is to be provided with a completely impervious tray using either a preformed tray of approved material or an in-situ treatment complying with AS 3740. Floor surfaces shall be impervious and graded to a floor waste.
26. Where the height of the structure above finished ground level is greater than 1.0 metre, a continuous balustrade a minimum of:
- a) 1.0 metre high above the finished floor level of decks, landings, balconies and the like, and
 - b) 865 mm high above the nosings of the stair treads or floor of ramp,
- must be provided. The maximum permissible opening in the balustrade is 125 mm.
27. Emergency lighting and exit signs shall be installed in accordance with the building code of Australia Volume 1 sec E and AS 2293.1

28. Fire Hose reels shall be installed the building in accordance with Building Code of Australia and AS 1221.
29. Portable fire extinguishers' shall be installed the building in accordance with the Building Code of Australia and AS 2444.
30. Emergency exit plans shall be displayed in the building show means of egress in the event of and emergency.
31. Sanitary Facilities must be provided in accordance with section F of the Building Code of Australia.
32. Access and egress shall be provided to the building in accordance the Building Code of Australia section D.
33. The location of any fixed plant servicing the proposed development must not result in the emission of offensive noise.

Offensive noise means:

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

CARPARKING

34. Provision shall be made for seven (7) carparking spaces with a bitumen sealed/paved or equivalent surface constructed and landscaped. Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.
35. A sign shall be erected to the satisfaction of Council to clearly indicate off-street parking is available.
36. One (1) car space shall be set aside, constructed and signposted for disabled carparking in accordance with the provisions of the Building Code of Australia and the requirements of AS2890.1 - 1993 "Off-street Car Parking" Cl 2.4.5(b) and the Proposed Sketch Plan.

WATER/ SEWER

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

ROADS AND DRAINAGE

45. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.
46. The proponents shall construct a new 1.2m wide reinforced concrete footpath for the full frontage of Etrick Street and Wyangarie Street and provide connectivity to the existing footpath network and the proposed development. All design and construction is to be in accordance with the Northern Rivers Local Government Development and Design and Construction Manuals.
47. A maintenance period shall apply to all construction carried out on development where the ownership of the asset is to pass to Council. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent approval by Council.

Construction (contract) price Bond

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

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

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

53. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.
54. Full design plans of the proposed engineering works shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.
55. The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.

56. Prior to carrying out any works within a public road reserve, the proponent shall complete an application under Council's Road Reserve Management Plan and receive written approval from Council. Satisfactory arrangements for restoration with Council's Technical Services Department shall also be required, with all works constructed according to Council's Development, Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.
57. A certified "Works as Executed" plan from a qualified Engineer or Registered Surveyor is to be submitted before the final inspection certifying that the works have been constructed in accordance with the drawings and to the levels specified.

DEVELOPER CONTRIBUTIONS

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

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

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

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

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59. Payment of contributions levied under Section 94 of the *Environmental Planning and Assessment Act 1979* and the *Kyogle Section 94 Contributions Plan – Urban and Rural Roads 2002* (as amended) are required. Kyogle Council levies these contributions for the provision of public amenities and/or public services in such a manner as will meet the increased demand for those amenities and/or services arising from this development as identified in the attached schedule. The

contributions shall be calculated in accordance with the Kyogle Council Section 94 Contributions Plan – Urban and Rural Roads Section 94 Contributions Plan. The rates and amounts applying at the date of this notice, totalling \$9,572.48, are set out in the schedule for your information.

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

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

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

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

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

Advisory Note

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

3. The development must comply with the requirements of the Work Cover Authority of NSW.
4. That a condition of the DA be that the developer incorporate that section of the "Kyogle Leveretts Cordials former" which has the identifying graphic into the new structure and/or that the developer include a plaque to record the role the "Kyogle Leveretts Cordials former" played in Kyogle's history.

CARRIED

FOR VOTE - Unanimous vote
 ABSENT. DID NOT VOTE - Janet Wilson

Councillor Lindsay Passfield and Councillor Lynette Zito called for a division

For	Against
Cr Lindsay Passfield	
Cr Robert Dwyer	
Cr Robert Leadbeatter	
Cr Ernie Bennett	
Cr John O'Reilly	
Cr Lynette Zito	
Cr Ross Brown	
Cr Tom Cooper	

CARRIED

FOR VOTE - Unanimous vote
 ABSENT. DID NOT VOTE - Janet Wilson

15B.3 PLANNING AND ENVIRONMENT COMMITTEE

150210/ 17 RESOLVED

Councillor Robert Leadbeatter, seconded Councillor Ernie Bennett.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

15B.4 HERITAGE REVIEW AND LOCAL ENVIRONMENTAL PLAN 18

Having declared an interest in the Item 15B.4 Councillor Robert Leadbeatter, Councillor Tom Cooper and Councillor Ernie Bennett left the meeting at 4.38 p.m.

A motion was moved by Councillor Lynette Zito, seconded Councillor Lindsay Passfield.

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

An amendment was moved Councillor Lindsay Passfield, seconded Councillor Ross Brown

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

The amendment was put to the vote and was carried.

The amendment then became the motion.

150210/ 18 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Ross Brown.

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

CARRIED

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - Janet Wilson, Tom Cooper, Robert Leadbeatter and Ernie Bennett

Councillor Lynette Zito and Councillor Lindsay Passfield called for a division

For	Against
Cr Lindsay Passfield	
Cr Robert Dwyer	
Cr John O'Reilly	
Cr Lynette Zito	
Cr Ross Brown	

Councillor Robert Leadbeatter, Councillor Tom Cooper and Councillor Ernie Bennett returned to the meeting at 4.50 p.m.

ITEM 15C ENVIRONMENT SERVICES REPORT

Nil.

ITEM 15D CORPORATE SERVICES REPORT

15D.1 DECEMBER QUARTER BUDGET/MANAGEMENT PLAN REVIEW

A motion was moved by Councillor Ross Brown, seconded Councillor John O'Reilly.

1. That Council defers the consideration of plant purchases until 2010/11 budget.

The motion was put to the vote and was CARRIED.

150210/ 19 RESOLVED

Councillor Ross Brown, seconded Councillor John O'Reilly.

1. That Council defers the consideration of plant purchases until 2010/11 budget.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

A motion was moved by Councillor Lindsay Passfield, seconded Councillor John O'Reilly

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

150210/ 20 RESOLVED

Councillor Lindsay Passfield, seconded Councillor John O'Reilly.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

15D.2 2010/2011 MANAGEMENT PLAN TIMETABLE & PUBLIC FORUMS

150210/ 21 RESOLVED

Councillor Lynette Zito, seconded Councillor Tom Cooper.

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

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 15E COMMUNITY SERVICES REPORT

15E.1 FEASIBILITY PLAN - KYOGLE GALLERY AND MUSEUM

A motion was moved by Councillor Robert Dwyer, seconded Councillor Lynette Zito.

1. That Council endorses in principle the concept of a combined gallery and museum co-located with the library.
2. That Council contributes \$5,000 towards an architectural concept design for the combined gallery and museum adjacent to the library to create a cultural precinct. The design, with indicative costs will be used to support funding applications to the Commonwealth and other grant bodies.

An amendment was moved by Councillor Ross Brown, seconded Councillor Lindsay Passfield.

1. That Council supports in principle the concept of a combined Gallery and museum co-located with the library, subject to
 - a) Council staff providing a report which details the costs and opportunities for establishing alternative facilities for the existing building from the block of land.
 - b) Council place on public display the feasibility study for a period of 21 days calling for public comment.
2. That Council contributes \$5,000 towards an architectural concept design for the combined gallery and museum adjacent to the library to create a cultural precinct. The design, with indicative costs will be used to support funding applications to the Commonwealth and other grant bodies subject to satisfactory resolution of the issues above.

The Mayor adjourned the meeting at 5.15 p.m. to allow Mr Tom Fitzgerald to address Council on the matter.

The meeting resumed at 5.18 p.m.

The amendment was put to the vote and was CARRIED.

The amendment then became the motion.

The motion was put to the vote and was CARRIED.

150210/ 22 RESOLVED

Councillor Ross Brown, seconded Councillor Lindsay Passfield.

1. That Council supports in principle the concept of a combined Gallery and museum co-located with the library, subject to
-

- a) Council staff providing a report which details the costs and opportunities for establishing alternative facilities for the existing building from the block of land.
 - b) Council place on public display the feasibility study for a period of 21 days calling for public comment.
2. That Council contributes \$5,000 towards an architectural concept design for the combined gallery and museum adjacent to the library to create a cultural precinct. The design, with indicative costs will be used to support funding applications to the Commonwealth and other grant bodies subject to satisfactory resolution of the issues above.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

15E.2 LEASE FOR ROXY GALLERY

150210/ 23 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Robert Leadbeatter.

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

CARRIED

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

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

150210/ 24 RESOLVED

Councillor Robert Dwyer, seconded Councillor Lynette Zito.

1. That the minutes of the Community Cultural & Economic Committee Meeting held 1 February 2010 were received and noted.
2. That the objectives for Futures Funding be amended to include the new community plans as outlined the report.
3. That the eligibility criteria for Futures Funding be amended to facilitate allocation of funds to community groups to undertake projects that are viable and reflect identified community needs as outlined in the report.
4. That the Gallery provide Council with a report in conjunction with the Tourism Officer, on how the Gallery contributes to the creative industry across the local government area.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson

ITEM 15F GENERAL MANAGER'S REPORT

15F.1 CODE OF CONDUCT MATTER

The Chair ruled this matter to be removed from the business paper.

ITEM 16 URGENT BUSINESS WITHOUT NOTICE

16.1 URGENT BUSINESS WITHOUT NOTICE

Having declared an interest in Item 16.1 Councillor Tom Cooper left the meeting at 5.25 p.m.

150210/ 25 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Robert Dwyer.

That the following report/item be considered and determined by Council at this Ordinary Meeting;

- Draft Plantations and Reafforestation Bill

The Mayor then ruled the matter of great urgency.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson, Tom Cooper

16.2 DRAFT PLANTATIONS AND REAFFORESTATION BILL

150210/ 26 RESOLVED

Moved by Councillor Lynette Zito, seconded by Councillor Robert Dwyer.

1. That Council express its dissatisfaction with the timeframe available within which to prepare and lodge a submission on the Draft Plantations and Reafforestation Amendment Bill 2009 and at not being consulted during the drafting of the legislation despite having previously advised the Department of Primary Industries of the extent and impact of the plantation forestry in our Local Government Area.
2. That Council forward a submission on the Draft Plantations and Reafforestation Amendment Bill 2009 to the State Government outlining the issues as stated in this report.

CARRIED

FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson, Tom Cooper

Councillor Tom Cooper returned to the meeting at 5.35 p.m.

ITEM 17 CONFIDENTIAL BUSINESS PAPER

17.01 MOVE INTO CLOSED COUNCIL

On closing the meeting to the public.

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

The matters and information are the following;

- (d) commercial information of a confidential nature that would if disclosed:

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

Item 17.1 - Internal Audit Services

This item is classified CONFIDENTIAL under section 10A(2) (i) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following;

- (d) commercial information of a confidential nature that would if disclosed:

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

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

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

150210/ 27 RESOLVED

Councillor Ernie Bennett, seconded Councillor Lynette Zito.

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

CARRIED

FOR VOTE - Unanimous vote

Council closed its meeting at 5.35 p.m. The public and media left the Chamber.

17.02 MOVE OUT OF CLOSED COUNCIL

150210/ 28 RESOLVED

Councillor Lindsay Passfield, seconded Councillor Ernie Bennett.

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

Open Council resumed at 5.44 p.m.

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

17.1 INTERNAL AUDIT SERVICES

1. That the report on Internal Audit Services was received and noted.
2. That expressions of interest be invited from local providers for the provision of internal audit services.

MEETING CLOSURE

There being no further business the Mayor declared the meeting closed at 5.45 p.m.

Signature of Chairperson.....

