

## **Kyogle Council**

**Confirmed Minutes of the Ordinary Meeting held in the Council Chambers, Stratheden Street, Kyogle, on Monday 28 March 2011.**

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### **PRESENT**

Cr. E. Bennett, (Mayor in the Chair), Cr. R. Brown, Cr. J. Wilson, 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**

1. An apology in writing was received from Councillor John O'Reilly for this March Ordinary meeting of Council.

### **280311/ 1      RESOLVED**

Moved Councillor Robert Leadbeatter, seconded Councillor Ross Brown.

1. Councillor John O'Reilly's request for leave of absence for the March Ordinary Meeting was accepted and granted.

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - John O'Reilly

2. An apology in writing was also received from Councillor Robert Leadbeatter seeking leave of absence from the April Ordinary Meeting of Council.

**280311/ 2      RESOLVED**

Councillor Ross Brown, seconded Councillor Lindsay Passfield.

2. Councillor Robert Leadbeatter's request for leave of absence for the April Ordinary Meeting was accepted and granted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

**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**

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

- Item 14B.1 Development Applications Received, Determined and Outstanding for the period 1 February - 28 February 2011 - 2009/18  
Reason for Declaration – adjoining land owner

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

- Item 14B.1 Development Applications Received, Determined and Outstanding for the period 1 February - 28 February 2011 - 2007/188  
Reason for Declaration - previous preparation of SOE affects prior to being employed by Kyogle Council.

Personal Assistant to the General Manager & Corporate Services declared an interest in the following item/s:

- Item 14B.1 Development Applications Received, Determined and Outstanding for the period 1 February - 28 February 2011 - 2011/59  
Reason for Declaration – relative of property owner.

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

- Item 14B.1 Development Applications Received, Determined and Outstanding for the period 1 February - 28 February 2011 - 2011/07
- Item 14B.2 Development Application 2011/7 - Subdivision  
Reason for Declaration - property owner

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

- Item 14B.1 Development Applications Received, Determined and Outstanding for the period 1 February - 28 February 2011 - 2011/07
- Item 14B.2 Development Application 2011/7 - Subdivision

Reason for Declaration - sister involved in preparation of Development application.

## **ITEM 5 QUESTION TIME**

Mr Phil Gome from Cedar Point addressed Council:

- Does Kyogle Council have a public policy for extractive industries?

The Director of Planning & Environmental Services advised each Development application is determined upon merit for example a smaller scale extractive industry would result in a lesser number of conditions imposed than would a regionally significant extractive industry.

- I refer you to the North Coast Extractive Industries Committee document. Has Kyogle Shire Council accepted the recommendations of that Committee?

The General Manager advised the question would be taken on notice.

- Why does Kyogle Council not have a LEP?

The Director of Planning & Environmental Services advised Council does have a draft LEP which has been forwarded to the Department of Planning for its approval to place on public exhibition. It is not likely Council will receive approval for the LEP until late 2011.

- If the answer is yes to Question 2 then, how can the recommendations of the North Coast Extractive Industries Committee be accepted when key recommendations involve both REP's and LEP's?

The Director of Planning & Environmental Services advised that the Kyogle Interim Development Order is the planning document under which all development applications are assessed.

Ms Kylie Thomas addressed Council:

- Congratulated Council on taking the initiative to prepare a draft policy on "Recreational dirt bike riding in the Kyogle Local government area" and enquired when the documentation would be on public exhibition?

The General Manager advised it would be advertised in the Northern Star should Council determine that the amendments were supported. The documentation would be on public exhibition for a period of 28 days.

- What happened to holding a Stakeholder's Committee Meeting following on from the meeting held in October 2010? Are residents going to be involved? Are there going to be meetings held to formally discuss issues?

The General Manager advised that the report before Council is recommended for adoption for public exhibition. This will provide the opportunity for interested parties to

comment. Council will consider whether any other meetings are warranted during the display period.

The matter of regulating the use of dirt bikes on Crown Land is being addressed separately by the relevant authorities.

Mr Steve Facer addressed Council:

- Given that Council recently called for submissions regarding motorcycle use on private property at Grady's Creek, has Council had time to make a decision?

The Director of Planning & Environmental Services advised six (6) submissions were received opposing the matter. The report in today's business paper would apply to all land owners of the local government area.

Mr Tom Fitzgerald representative of the Kyogle Gallery/Museum Steering Committee addressed Council:

- The Consultant Reports which were required, have they been finalised?

The Director of Planning & Environmental Services advised all reports have been finalised and received and Council is aiming to have the Development consent draft conditions reported to the April Ordinary Meeting, provided the assessment authority is able to meet the agenda timeframe.

- Regional Development Meeting held Friday and enquired what discussions were held for the Kyogle Musuem/Art Gallery Project?

The General Manager advised if projects submitted, are consistent with the Regional Plan then they will be forwarded on to the determining body for consideration.

- What is the closing time for applications?

The General Manager advised that applications close on 13 May, 2011.

- Will the General Manager work with the Art Gallery/Museum gallery in providing a submission?

The General Manager advised that a checklist was provided at the Friday meeting and this will be discussed at a meeting to be held on 29 March.

Mrs Anne Reardon addressed Council:

- The logo competition winner have they been paid? Is Council going to advise the public who that person is?

The General Manager advised Council has contacted and organised payment to the winner and Council would seek approval to publicise this person as the winner.

## **ITEM 6 PUBLIC ACCESS**

- Mr Steve Facer (representing 5 landholders in the Grady's Creek area) addressed Council in relation to Item 14B.4 Recreational Dirt Bike Riding in Kyogle Local Government Area. Further advised that following many years of frustration with a neighbouring property carrying out dirt bike activities (up to 13 riders at any one time) he thanked Council for providing a draft document to assist the residents of Kyogle local government area and bike riders to have guidelines in which to follow. Asked that Council consider the report before them with a view to the Draft Policy becoming Council policy.

## **ITEM 7 MATTERS DETERMINED WITHOUT FURTHER DEBATE**

### **7.1 MATTERS DETERMINED WITHOUT DEBATE**

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There were no items identified.

## **ITEM 8 CONFIRMATION OF MINUTES**

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

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#### **280311/ 3 RESOLVED**

Councillor Robert Dwyer, seconded Councillor Ross Brown.

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

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

## 8.2 CONFIRMATION OF EXTRAORDINARY MEETING

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### 280311/ 4 RESOLVED

Councillor Robert Dwyer, seconded Councillor Robert Leadbeatter.

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

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

### 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

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A motion was moved by Councillor Janet Wilson, seconded Councillor Lynette Zito.

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.

The motion was put to the vote and was LOST.

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

A motion was moved by Councillor Ross Brown

That Council make a minor amendment to the Payment of Expenses and Provision of Facilities for Councillors Policy - Part 3 - Provision of Equipment and Facilities for Councillors by replacing

- Laptop computer and printer including access to email and the internet.

with -

- Electronic mobile device(s) and printer including access to email and the internet

The motion was seconded by Councillor Lynette Zito

The motion was put to the vote and was CARRIED.

### **280311/ 5      RESOLVED**

Councillor Ross Brown, seconded Councillor Lynette Zito.

That Council make a minor amendment to the Payment of Expenses and Provision of Facilities for Councillors Policy - Part 3 - Provision of Equipment and Facilities for Councillors by replacing

- Laptop computer and printer including access to email and the internet.

with -

- Electronic mobile device(s) and printer including access to email and the internet

**CARRIED**

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

AGAINST VOTE - Robert Leadbeatter

ABSENT. DID NOT VOTE - John O'Reilly

### **ITEM 11      QUESTIONS WITH NOTICE FROM COUNCILLORS**

Nil.

### **ITEM 12      DELEGATES REPORTS**

Nil.

**ITEM 13            INFORMATION PAPERS**

**13.1 FINANCIAL REPORTS - FEBRUARY 2011**

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**280311/ 6            RESOLVED**

Councillor Ross Brown, seconded Councillor Lynette Zito.

That the information contained in the Monthly Finance Report – February 2011 was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

**13.2 PLANT BUDGET REPORT - FEBRUARY 2011**

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**280311/ 7            RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Ross Brown.

That the Plant Budget Report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

**13.3 QUARRIES REPORT**

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**280311/ 8            RESOLVED**

Councillor Ross Brown, seconded Councillor Robert Dwyer.

That the Quarries report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly



### **13.4 WORKS PROGRAM REPORT**

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**280311/ 9      RESOLVED**

Councillor Ross Brown, seconded Councillor Robert Dwyer.

That the works program report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

### **13.5 OUTSTANDING COUNCIL RESOLUTIONS**

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**280311/ 10      RESOLVED**

Councillor Lindsay Passfield, seconded Councillor Lynette Zito.

That the Outstanding Council Resolutions report was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

### **13.6 MINUTES OF GOVERNANCE COMMITTEE MEETING 14 MARCH 2011**

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**280311/ 11      RESOLVED**

Councillor Lynette Zito, seconded Councillor Janet Wilson.

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

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

**ITEM 14            GENERAL MANAGER 'S REPORT**

**ITEM 14A          TECHNICAL SERVICES REPORT**

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

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**280311/ 12        RESOLVED**

Councillor Robert Dwyer, seconded Councillor Lindsay Passfield.

1. That the minutes of the Waste & Water Committee meeting held March 14, 2011 were 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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - John O'Reilly

**14A.2              CONSTRUCTION OF TERRACE CREEK BRIDGE**

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**280311/ 13        RESOLVED**

Councillor Ross Brown, seconded Councillor Lindsay Passfield.

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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE - John O'Reilly

## **14A.3 REGIONAL TOWNS WATER QUALITY AND SECURITY REVIEW**

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### **280311/ 14 RESOLVED**

Councillor Robert Dwyer, seconded Councillor Lynette Zito.

1. That the Regional Towns Water Quality and Security Review report was received and noted.
2. That NOROC be advised that Council's position in regard to the Infrastructure Australia report is that it supports the 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 .

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

### **ITEM 14B PLANNING SERVICES REPORT**

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

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### **280311/ 15 RESOLVED**

Councillor Ross Brown, seconded Councillor Robert Leadbeatter.

1. That, with the exception of the following items in which Councillor Ross Brown, the General Manager, Director of Planning & Environmental Services, Director of Corporate & Community Services and the Personal Assistant to the General Manager and Corporate Services have declared an interest,
    - Cr Ross Brown 14B.1 Development Applications Received, Determined and Outstanding DA 2009/18
    - General Manager 14B.1 Development Applications Received, Determined and Outstanding DA 2011/07
    - Director of Planning & Environmental Services 14B.1 Development Applications Received, Determined and Outstanding DA 2007/188
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- Director of Corporate & Community Services 14B.1 Development Applications Received, Determined and Outstanding DA 2011/07
- Personal Assistant to the General Manager & Corporate Services 14B.1 Development Applications Received, Determined and Outstanding DA 2011/59

The information contained in the report Development Applications Received, Determined and Outstanding for the period 1 February 2011 to 31 February 2011 was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
 ABSENT. DID NOT VOTE - John O'Reilly

Having declared an interest in Item 14B.1 Councillor Ross Brown, General Manager, Director of Planning & Environmental Services, Director of Corporate & Community Services and the Personal Assistant to the General Manager & Corporate Services left the meeting at 4.46 p.m.

**280311/ 16      RESOLVED**

Councillor Robert Leadbeatter, seconded Councillor Lynette Zito.

2. That the information contained in the report Development Applications 1 February 2011 to 28 February 2011 only in relation to Development applications 07/188, 09/18, 11/07 & 11/59 in which Councillor Ross Brown, the General Manager, the Director of Planning & Environmental Services, the Director of Corporate & Community Services and the Personal Assistant to the General Manager & Corporate Services have declared an interest was received and noted.

**CARRIED**

FOR VOTE - Unanimous vote  
 ABSENT. DID NOT VOTE - John O'Reilly, Ross Brown

Councillor Ross Brown, Director of Planning & Environmental Services and the Personal Assistant to the General Manager & Corporate Services returned to the meeting at 4.47 p.m.

The General Manager and Director of Corporate & Community Services having declared an interest in Item 14B.2 - Development Application 20011-7 Subdivision, remained outside of the meeting.

## 14B.2 DEVELOPMENT APPLICATION 2011-7 - SUBDIVISION

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Having declared an interest in item 14B.2 the Director of Corporate Services and the General Manager remained outside of the meeting for this item.

### 280311/ 17 RESOLVED

Councillor Ross Brown, seconded Councillor Lindsay Passfield.

That Council issue Development Consent Notice 2011/0007 for the 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, 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:

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 Councils 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; i.e. 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.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

Councillor Lindsay Passfield and Councillor Ross Brown called for a Division.

<b>For</b>	<b>Against</b>
Cr Lindsay Passfield	
Cr Ross Brown	
Cr Robert Dwyer	
Cr Robert Leadbeatter	
Cr Ernie Bennett	
Cr Lynette Zito	
Cr Tom Cooper	
Cr Janet Wilson	

The General Manager and the Director of Corporate & Community Services returned to the meeting at 4.53 p.m.

### **14B.3            DA 2011-46 - SUBDIVISION 97 OXBOW ROAD, CAWONGLA**

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#### **280311/ 18        RESOLVED**

Councillor Ross Brown, seconded Councillor Robert Leadbeatter.

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

The existing road fronting the development (Oxbow Road) is to be upgraded for the full frontage of the subject land to meet the requirements of a Rural Residential Road (Sealed) in accordance with the Northern Rivers Local Government Development and Design and Construction Manuals. I.e. 6 metre seal with 1 metre shoulders.

The proposed new roads and intersections are to be designed and constructed to meet the requirements of the Northern Rivers Local Government Development and Design and Construction Manuals.

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.

### **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.

**CARRIED**

FOR VOTE - Unanimous vote  
 ABSENT. DID NOT VOTE - John O'Reilly

Councillor Lindsay Passfield and Councillor Ross Brown called for a Division.

For	Against
Cr Lindsay Passfield	
Cr Ross Brown	
Cr Robert Dwyer	
Cr Robert Leadbeatter	
Cr Ernie Bennett	
Cr Lynette Zito	
Cr Tom Cooper	
Cr Janet Wilson	

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

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A motion was moved by Councillor Robert Dwyer, seconded Councillor Tom Cooper.

1. That the report Recreation Dirt Bike Riding in the Kyogle Local Government Area was 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.

An amendment was moved by Councillor Lynette Zito

1. That the report Recreation Dirt Bike Riding in the Kyogle Local Government Area was 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 refers the Draft Amended Development Control Plans to the Planning & Environment Committee.

The amendment was seconded by Councillor Lindsay Passfield

The amendment was put the vote and became the motion.

The motion was put to the vote and was CARRIED.

#### **280311/ 19 RESOLVED**

Councillor Lynette Zito, seconded Councillor Lindsay Passfield.

1. That the report Recreation Dirt Bike Riding in the Kyogle Local Government Area was 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 refers the Draft Amended Development Control Plans to the Planning & Environment Committee.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly



Councillor Lindsay Passfield and Councillor Ross Brown called for a Division.

<b>For</b>	<b>Against</b>
Cr Lindsay Passfield	
Cr Ross Brown	
Cr Robert Dwyer	
Cr Robert Leadbeatter	
Cr Ernie Bennett	
Cr Lynette Zito	
Cr Tom Cooper	
Cr Janet Wilson	

**ITEM 14C ENVIRONMENT SERVICES REPORT**

Nil.

**ITEM 14D CORPORATE SERVICES REPORT**

**14D.1 ECONOMIC DEVELOPMENT POLICY**

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**280311/ 20 RESOLVED**

Councillor Lynette Zito, seconded Councillor Robert Dwyer.

That the Economic Development Policy as amended, was adopted.

**CARRIED**

FOR VOTE - Unanimous vote  
ABSENT. DID NOT VOTE - John O'Reilly

**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.

**MEETING CLOSURE**

There being no further business the Mayor declared the meeting closed at 5.37 p.m.

Signature of Chairperson.....

