



I hereby give notice that an Ordinary Meeting of Council will be held on:

Date: Monday, 11 March 2019
Time: 5pm
Location: Kyogle Council Chambers, Stratheden Street, Kyogle

AGENDA

Ordinary Council Meeting

11 March 2019

**Graham Kennett
General Manager**

Dear Councillor,

In accordance with the provisions of the Local Government (General) Regulation 2005, you are hereby notified of the following Ordinary Council Meeting to be held at the Kyogle Council Chambers, on Monday 11 March 2019, at 5pm.

DECLARATION OF PECUNIARY INTEREST

Councillors and Senior Staff are reminded to consider whether a Pecuniary Interest exists in any matter on the Agenda for this Meeting or raised during the course of the Meeting. The term "Pecuniary Interest" should be extended to include possible "conflicts of interest" and immediately declared prior to discussion of the Agenda item. Where a direct or indirect pecuniary interest exists, the member must refrain from commenting on or voting on the subject matter and must leave the Chamber.

BUSINESS

- | | |
|---------|---|
| Item 1 | Apologies |
| Item 2 | Opening Prayer |
| Item 3 | Traditional Lands Acknowledgement |
| Item 4 | Declaration of Interests |
| Item 5 | Question Time |
| Item 6 | Public Access |
| Item 7 | Confirmation of Minutes |
| Item 8 | Mayoral Minute |
| Item 9 | Notices of Motion |
| Item 10 | Questions with Notice from Councillors |
| Item 11 | Reports from Delegates |
| Item 12 | Information Reports |
| Item 13 | Assets and Infrastructure Services Reports |
| Item 14 | Environmental and Planning Services Reports |
| Item 15 | General Manager's Reports |
| Item 16 | Urgent Business Without Notice |
| Item 17 | Questions for Next Ordinary Meeting |
| Item 18 | Confidential Business Paper |

GRAHAM KENNETT
GENERAL MANAGER

COUNCIL PRAYER

"Almighty God, Ruler of all the Nations, we ask for your blessing upon this Meeting of Council.

Give us your wisdom to work in harmony and direct and prosper all that we do to the advancement of your glory and the true welfare of the People of the Council Area.

AMEN

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

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

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

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

DISCLAIMER

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

GRAHAM KENNETT
GENERAL MANAGER

5.7 Question Time (Council Policy)

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

Each speaker has a maximum allowable time of 5 minutes.

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

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

Speakers are not to debate answers.

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

The maximum duration of this session is 30 minutes.

5.8 Public Access (Council Policy)

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

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

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

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

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

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

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

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

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- 1 APOLOGIES**
- 2 OPENING PRAYER**
- 3 TRADITIONAL LANDS ACKNOWLEDGEMENT**
- 4 DECLARATION OF INTERESTS**
- 5 QUESTION TIME**
- 6 PUBLIC ACCESS**

7 CONFIRMATION OF MINUTES**7.1 COUNCIL REPORT - 11 FEBRUARY 2019**

Author: Executive Assistant

Authoriser: General Manager

Attachments: 1. **Minutes 11 February 2019 Council Meeting (under separate cover)**

**SUMMARY / PURPOSE**

This report presents the minutes of the Ordinary Council meeting held on 11 February 2019 to Council for confirmation.

RECOMMENDATION

That Council confirms the minutes of the Council meeting of the 11 February 2019.

8 MAYORAL MINUTE

Nil

9 NOTICES OF MOTION**9.1 NOTICE OF MOTION - CR LINDSAY PASSFIELD; FUEL LOADS ON CROWN LAND**

Attachments: 1. **Notice of Motion** [↓](#) 

RATIONALE

For millennia the indigenous custodians of Australia used fire extensively as a management tool, accordingly the Australian bush evolved to need cool fires for its health and regeneration. This practice was continued from colonisation up until the late 20th century by State Forests and private landholders. Since then much of the forest estate has been given over to National Parks and fuel levels have accumulated to an alarming level. Coincidentally, regulations have been introduced which inhibit the willingness and ability of adjoining private landholders to conduct fuel reduction burns. These increased risk factors are being exacerbated by extreme weather events resulting from climate change.

The net result is that much of our native forest estate is now at risk of wild fires which decimate fauna and flora, cost millions of dollars in firefighting appliances and manpower, and are often catastrophic for rural and regional communities.

Fire needs heat, fuel and oxygen; of these ingredients fuel is the only one that can be reliably controlled. In extreme conditions no amount of money, equipment or manpower can stop or control a wild fire. Accordingly, urgent action is required to reduce and minimise fuel loads in our native forest to mitigate the risk of wild fires in the future.

I commend this Notice of Motion to Council.

MOTION

I, Councillor Lindsay Passfield, give notice that at the next Ordinary Meeting of Council be held on 11 March 2019, I intend to move the following motion:

That Council submit the following motion for consideration at the 2019 NSW Local Government Conference:

“That LGNSW requests the NSW Government set upper limits on fuel loads in all crown land forests, including State Forests and National Parks, and mandates hazard reduction programs to achieve these targets.”



NOTICE OF MOTION

KYOGLE COUNCIL RECEIVED 4 MAR 2019
Doc. No. 19/3561

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

That Council submit the following motion for consideration at the 2019 NSW Local Government Conference:

"That LGNSW requests the NSW Government set upper limits on fuel loads in all crown land forests, including State Forests and National Parks, and mandates hazard reduction programs to achieve these targets."

Signed:

Lindsay Passfield

Date:

4 Mar 19

Councillor comments:

For millennia the indigenous custodians of Australia used fire extensively as a management tool, accordingly the Australian bush evolved to need cool fires for its health and regeneration. This practice was continued from colonisation up until the late 20th century by State Forests and private landholders. Since then much of the forest estate has been given over to National Parks and fuel levels have accumulated to an alarming level. Coincidentally, regulations have been introduced which inhibit the willingness and ability of adjoining private landholders to conduct fuel reduction burns. These increased risk factors are being exacerbated by extreme weather events resulting from climate change.

The net result is that much of our native forest estate is now at risk of wild fires which decimate fauna and flora, cost millions of dollars in firefighting appliances and manpower, and are often catastrophic for rural and regional communities.

Fire needs heat, fuel and oxygen; of these ingredients fuel is the only one that can be reliably controlled. In extreme conditions no amount of money, equipment or manpower can stop or control a wild fire. Accordingly, urgent action is required to reduce and minimise fuel loads in our native forest to mitigate the risk of wild fires in the future.

10 QUESTIONS WITH NOTICE FROM COUNCILLORS**10.1 QUESTIONS FROM THE LAST COUNCIL MEETING**

Author: General Manager

Authoriser: General Manager

Attachments: Nil

The following question on notice was received from Councillors Earle Grundy, Kylie Thomas, Lindsay Passfield and Robert Dwyer.

Question Earle Grundy

Can Council conduct a Councillor workshop on the future development of the cultural precinct in the area of the Council administration centre, the library, the museum and the Kyogle Memorial Institute?

Response

A workshop session will be scheduled later in 2019 as the consultant engagement around the open spaces planning progresses.

Question Kylie Thomas

Can I have a more detailed update on where Council is with the Tip Shop, what it will look like, and how we will run it etc? I have been contacted by a small committee which is interested.

Response

Works to remedy structural issues at the Tip Shop have now been completed. Council intends to issue an Expression of Interest (EOI) to operate the Tip Shop for consideration by community groups – the timing and content of this EOI is dependent upon the outcome of current negotiations between Council and the network operator of the Container Deposit Scheme, as this may have a bearing on the operation of the Tip Shop. It is anticipated that these negotiations will conclude during March/April 2019 – and the EOI will be issued shortly thereafter.

Question Lindsay Passfield

The signage has been erected in relation to the rebranding of the Local Government Area and that has generated discussion about cost? Can we put something in newsletter with a breakdown on costs for the signage?

Response

The cost breakdown for the entry signage project as at March 5, 2019 with the project partially completed as noted against W823 in the Works Program Progress Report is;

Graphic Design - \$19,405

Labour - \$13,712

Materials \$9,411

Signage supply and manufacture - \$112,347

Project Management Fees (internal charge) - \$1,130

Total Cost to date (including commitments) - \$156,005

Question Robert Dwyer

There is a tree near the corner of Anzac Drive and Marwick Street causing visibility issues for motorists. Can Council look at lopping the limbs? The tree itself is on private property, but the limbs spread out across the footpath.

Response

Council is able to trim branches that cross over the property boundary at the boundary line if they are causing a safety issue and the property owner consents. A Customer Action Request has been created for this issue and the staff will contact the owner before undertaking any works.

RECOMMENDATION

That Council receives and notes the report, *Questions From The Last Council Meeting*.

11 REPORTS FROM DELEGATES

Nil

12 INFORMATION REPORTS

12.1 MONTHLY FINANCE REPORT - FEBRUARY 2019

Author: Manager Financial Services

Authoriser: General Manager

Attachments: 1. Finance Report - February 2019  

SUMMARY / PURPOSE

This report presents financial reports to Council for information.

BACKGROUND INFORMATION

Legislative Requirements

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

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

REPORT

The following information is presented for information only.

(A) Finance Reports

Summary reports outlining Council's financial position. The reports presented include:

- Rates Statement and Graph
- Statement of Bank Balances
- Summary of Investments

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

(B) Councillors Travel Expenses Report

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

RECOMMENDATION

That Council receives and notes the information contained in the Monthly Finance Report - February 2019.

Kyogle Council



Financial Reports

28 February 2019

Rates Statement

Statement of Bank Balances

Summary of Investments

Councillor Travel

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

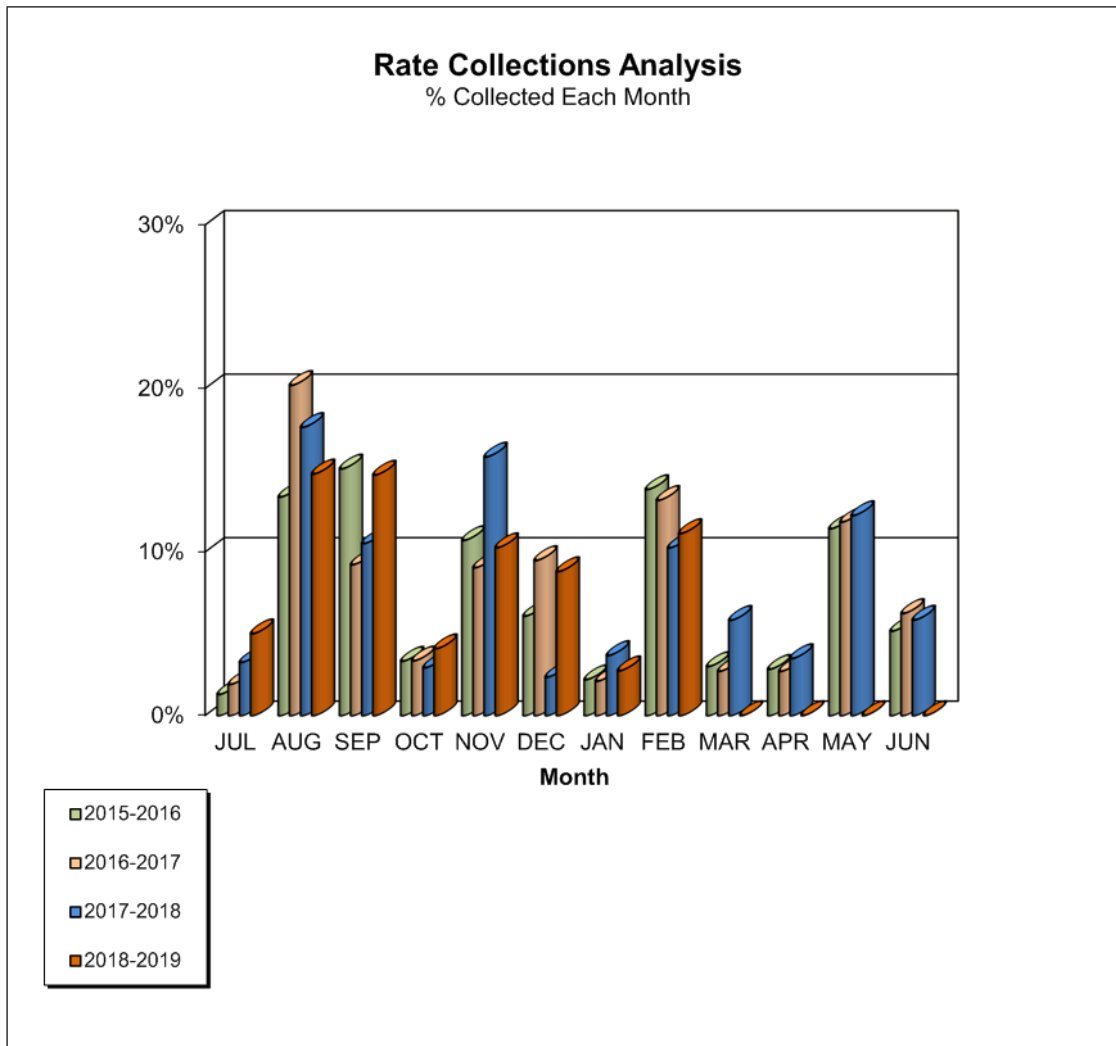
KYOGLE COUNCIL RATES STATEMENT AS AT 28 FEBRUARY 2019

	ARREARS 1-Jul-2018	NET CHARGES 2018/2019	PAYMENTS	OUTSTANDING BALANCE 28/2/2019	ARREARS 28/2/2019	% TOTAL COLLECTED incl. ARREARS	% ARREARS COLLECTED 2018-2019
RATES, SERVICES AND INTEREST	701,938.57	10,251,351.52	7,833,640.33	3,119,649.76	319,607.07	71.52%	54.47%

PRESENTED TO COUNCIL MARCH 2019

Note:

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

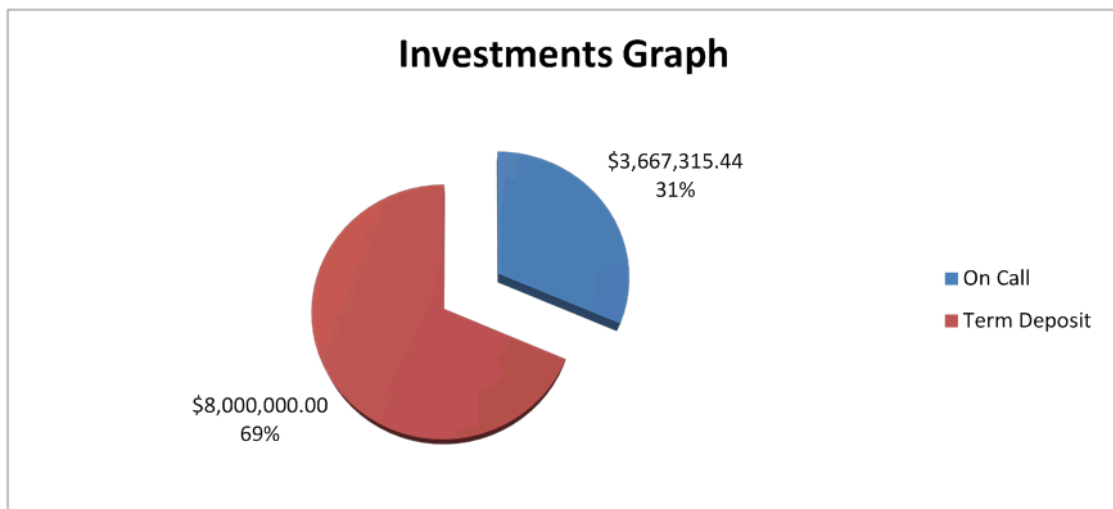


Kyogle Council	
STATEMENT OF FUND BALANCES as at	
28-Feb-19	
Fund	Closing Balance
General Fund	
Unrestricted	3,612,372.50
Internally Restricted	4,125,373.00
State Highways	195,245.35
Quarries	1,268,935.77
Plant	1,644,223.50
Externally Restricted	323,090.17
Total General Fund	11,169,240.29
Restricted	
Water Supplies	508,792.77
Sewerage Systems	40,900.73
Domestic Waste	(92,752.40)
Trust Fund	41,134.05
Total Restricted	498,075.15
Total Consolidated Funds at Bank	11,667,315.44

KYOGLE COUNCIL FINANCIAL ANALYSIS REPORT AS AT 28/02/2019								
Institution	Investment Type	Investment Date	Maturity Date	Interest Type	Interest Frequency	Interest rate	Investment Amount	% of Portfolio
CBA	On Call	At Call	At Call	Variable	Monthly		3,667,315.44	31.43%
							Total Cash at Call	3,667,315.44 31.43%
NAB	Term Deposit	13-Dec-18	28-Feb-19	Fixed	Maturity	2.50%	1,000,000.00	8.57%
Bankwest	Term Deposit	20-Dec-18	07-Mar-19	Fixed	Maturity	2.53%	1,000,000.00	8.57%
Bankwest	Term Deposit	17-Jan-19	14-Mar-19	Fixed	Maturity	2.50%	1,000,000.00	8.57%
Suncorp	Term Deposit	24-Jan-19	21-Mar-19	Fixed	Maturity	2.40%	1,000,000.00	8.57%
Bankwest	Term Deposit	31-Jan-19	28-Mar-19	Fixed	Maturity	2.50%	1,000,000.00	8.57%
CBA	Term Deposit	07-Feb-19	11-Apr-19	Fixed	Maturity	2.00%	1,000,000.00	8.57%
CBA	Term Deposit	14-Feb-19	02-May-19	Fixed	Maturity	1.80%	1,000,000.00	8.57%
NAB	Term Deposit	21-Feb-19	09-May-19	Fixed	Maturity	2.45%	1,000,000.00	8.57%
							Total Cash at Call	8,000,000.00 68.57%
							Total Investment Portfolio	\$11,667,315.44

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

Glenn Rose Responsible Accounting Officer



COUNCILLORS TRAVEL EXPENSES

Feb-19

Councillor Name	Kilometres Claimed		Current Rate per Kilometre	Amount Reimbursed	
	Feb-19	YTD		Feb-19	YTD
K. Thomas	0	0	\$0.78	\$0.00	\$0.00
H. Doolan	0	0	\$0.78	\$0.00	\$0.00
J. Wilson	0	0	\$0.78	\$0.00	\$0.00
J. Burley	0	1,944	\$0.68	\$0.00	\$1,321.92
R. Dwyer	0	0	\$0.78	\$0.00	\$0.00
D. Mulholland	0	7,500	\$0.78	\$0.00	\$5,850.00
L. Passfield	0	3,509	\$0.78/\$0.68	\$0.00	\$1,086.18
M. May	0	0	\$0.78	\$0.00	\$0.00
E. Grundy	0	5,490	\$0.78	\$0.00	\$4,282.20
Total	0	18,443		\$0.00	\$12,540.30

Notes

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

12.2 WORKS PROGRAM PROGRESS REPORT - FEBRUARY 2019

Author: Manager Financial Services

Authoriser: General Manager

Attachments: 1. Works Program Progress Report Feb 2019 (under separate cover)

**SUMMARY / PURPOSE**

This report provides an update on the progress of Council's Capital Works Program, Plant Replacement Program, Quarry Operations, and RMS Ordered Works for the information of Council.

BACKGROUND INFORMATION

This report is intended to present to Council information on progress of the implementation of the annual works programs across all departments of Council, as well as the performance of the quarry and State Highway's operations.

REPORT

The report is provided as a separate attachment covering four main areas;

1. Capital Works Report

This section of the reports shows all capital works projects and provides a brief status report and expenditure year to date for each project, including any external funding which applies.

2. Plant Acquisition and Sales

This section of the reports shows the plant replacement program and the year to date income and expenditure associated with the program.

3. State Highways Ordered Works

This section of the reports shows the status of the Ordered Works under the Roads and Maritime Road Maintenance Council Contract (RMS RMCC) which is included in the State Highways budget area. The report shows each approved Works Order and the approved income and expenditure year to date.

4. Quarries Report

This section of the reports shows the income and expenditure for each of the four operational quarries for the year to date, including stock on hand and a brief description of current activities relating to quarries.

BUDGET AND FINANCIAL IMPLICATIONS

This report is provided for information only and any budgetary issues that may be identified as a result of these reports will be dealt with during the regular quarterly budget review process.

RECOMMENDATION

That Council receives and notes the information contained in the report, *Works Program Progress Report - February 2019*.

13 ASSETS AND INFRASTRUCTURE REPORTS

Nil

14 PLANNING AND ENVIRONMENT REPORTS

14.1 COMMUNITY ASSISTANCE GRANTS

Author: Strategic Initiatives Coordinator

Authoriser: General Manager

Attachments: 1. **Kyogle Fishing Club letter**  
2. **Grevillia Hall Committee letter**  

SUMMARY / PURPOSE

Council assessed and approved the 2018 round of applications under the Community Assistance Grants scheme in November 2018.

Two of the successful grantee groups are now unable to progress their projects and have made a request to redirect the funding that has been approved to be used for another purpose.

PREVIOUS COUNCIL CONSIDERATION

At the 12 November 2018, Council resolved to allocate \$1000 to the Kyogle Fishing Club to purchase fingerlings to put into Toonumbar Dam and \$1000 to the Grevillia Hall Committee to assist with the purchase of solar panels for the hall.

REPORT

The Kyogle Fishing Club has written to Council asking that the funds be redirected into repairs and maintenance at the Bells Bay campground. This is because they are not able to put fingerlings into the dam due to the low water level and a blue green algae outbreak.

The Grevillia Hall Committee has written to Council asking that the funds be redirected into maintenance for the Grevillia Hall – specifically insurance costs.

BUDGET AND FINANCIAL IMPLICATIONS

There is no net impact on the Community Assistance Funding program.

RECOMMENDATION

That Council:

1. Receives and notes the report, *Community Assistance Grants*.
2. Redirects the previously allocated funds as follows;
 - (i) Kyogle Fishing Club allocation of \$1000 from the 2018 Community Assistance Grant be redirected into repairs and maintenance at the Bells Bay campground;
 - (ii) Grevillia Hall Committee allocation of \$1000 from the 2018 Community Assistance Grant be redirected into maintenance for the Grevillia Hall.

Kyogle Fishing Club Incorporated

P O B o x 5 5 3 , K y o g l e N S W 2 4 7 4
admin@kyoglefishingclub.com.au

2/02/2019

Ms Suzie Coulston
Director Planning and Environment
Kyogle Council
Stratheden Street
Kyogle, NSW 2474

Email: council@kyogle.nsw.gov.au

Dear Ms Coulston

APPLICATION FOR COMMUNITY ASSISTANCE GRANT

We thank the Council for approving our application for the Community Assistance Grant on the 20 November 2018.

It is with regret that we may not be able to restock the Toonumbar Dam with fingerlings as planned, due to the significant drop in water level and high probability of blue green algae outbreak.

We would like to request that our grant be redirected to undertake repairs and maintenance at Bells Bay Camp Ground, Toonumbar Dam, which will include:

- Repairing and repainting picnic tables;
- Replace missing and damaged guttering;
- Replace missing and damaged fire pits;
- Install new signage for campers;
- Purchasing cigarette bins to minimise rubbish;

Should you require further information please contact me on admin@kyoglefishingclub.com.au or alternatively 0410 214 516.

Kind Regards



Connie Maher
Secretary
Kyogle Fishing Club Inc

The General Manager
Kyogle Council
PO BOX 11
KYOGLÉ NSW 2474

04/02/2019

TO WHOM IT MAY CONCERN,

RE: Community Assistance Funding Grevillia Hall

The Grevillia Hall Committee was successful in its recent application to council for community assistance funding in the amount of \$1000. Our funding application was sought for assistance with the purchase of solar panels for the hall (see attachment).

On review of our available funds, the hall community unfortunately is not in a position at present to continue with the proposed improvements per our application.

The Grevillia Hall Committee wish to seek permission from council to direct these funds (\$1000) into assistance with maintenance, more particularly Insurance Expenses.

The Grevillia community is very fortunate to have this organisation still available and are grateful for the ongoing support opportunities such as those provided by Kyogle Council's Community Funding Program.

Regards

Robert Gordon
President Grevillia Hall Community
3162 Summerland Way
Grevillia NSW 2474

0266364108







14.2 FINALISATION OF LEP AMENDMENT NO. 10- DEFERRED MATTER AREAS

Author: Senior Town Planner

Authoriser: General Manager

Attachments:

1. Gateway Determination (under separate cover) 
2. State agency comments (under separate cover) 
3. Public submissions (under separate cover) 
4. Final Planning Proposal (under separate cover) 

SUMMARY / PURPOSE

This report presents the results of consultation on a proposal to amend the Kyogle Local Environmental Plan (LEP) 2012 to apply Land Use Zones and other LEP provisions to areas that are currently 'deferred matters' in the LEP. The report outlines comments received from various State Government agencies and provides a summary of submissions received from members of the public and industry groups. The report seeks a resolution to support the proposed LEP amendment and to request the Department of Planning and Environment to finalise and make the plan amendment.

BACKGROUND INFORMATION

At an extraordinary meeting of 30 July, 2012 Council resolved to adopt the Draft Kyogle LEP 2012 which was the first iteration of the Standard Instrument LEP to apply to the Kyogle Council Local Government Area (LGA). The LEP applied a number of Land Use Zones to rural lands including; RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Prior to its gazettal, the State Government advised Council that the LEP would be gazetted without the proposed E Zones and that these matters would be deferred from the LEP and subject to a review. The State Government subsequently engaged consultants to carry out a review of the use and application of these zones in North Coast Councils' LEPs. The consultants produced a report (*Northern Councils E Zone Review- Final Recommendations Report*) and the Department of Planning subsequently issued a direction under s.117(2) of the *Environmental Planning and Assessment Act 1979* which required that Councils comply with the recommendations of the report. The recommendation for Kyogle Council was that Council '*should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E zones or additional mapped planning controls*'. This LEP amendment is proposed in order to comply with the s.117 (now s. 9.1) Ministerial direction and to remove the 'deferred matters' from the LEP.

In accordance with Council's resolution of 14 March 2016, a planning proposal was prepared which proposed to apply Zone RU1 to the deferred matter areas and to remove Zone RU2. The proposed amendment to the LEP also sought to apply minimum lot size, heritage, flood planning and maximum building height provisions to these same areas. The various planning provisions to be applied were consistent with the provisions applying to land surrounding the affected land. The planning proposal also sought to amend the Land Use Table to list 'places of public worship' as a land use that is permitted with consent in Zone RU1 Primary production. The planning proposal was submitted to the NSW Department of Planning and Environment (DP&E) on 15 December 2016.

PREVIOUS COUNCIL CONSIDERATION

At its Ordinary meeting of 14 March, 2016 Council resolved:

140316/12 RESOLVED

That Council:

1. Receive and note the report on the proposed amendment of the KLEP to:

- a. *Include the 'Deferred Matter' areas as RU1 Zone land in the Zoning Maps; recognise the Deferred Matters areas as part of the KLEP in the Land Application Map; identify relevant minimum lot sizes for the Deferred Matters areas in the Lot Size Maps based on the adjoining minimum lot sizes for any land with a similar intended use.*
 - b. *Remove any reference to 'Deferred Matters areas on any maps or document of the KLEP.*
 - c. *Rezone existing RU2 Zone land to RU1 Zone as shown in the Zoning Maps of KLEP.*
 - d. *Remove the RU2 Zone Land Use Table and any other reference to the RU2 Zone in KLEP.*
 - e. *Include 'places of public worship' as a land use that is permissible with development consent within the RU1 Zone Land Use Table.*
2. *Amend the Kyogle Local Environmental Plan 2012 (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in Item 1 and as discussed in detail in this report.*
 3. *Authorise the General Manager to prepare a Planning Proposal consistent with the contents of this report and submit the Planning Proposal to the Department of Planning and Environment (the Department) for review and Gateway Determination.*
 4. *On receipt of a Gateway Determination stating that Council may proceed with the LEP amendment, the General Manager be authorised to make any necessary changes to the Planning Proposal in accordance with the requirements of the Department and undertake the necessary administrative procedures of the LEP amendment process in accordance with the provisions of Part 3 Division 4 of the EP&A Act, including public consultation.*
 5. *On conclusion of public consultation, a further report is to be presented to Council outlining the outcomes of consultation, including submissions received.*

REPORT

Gateway Determination

On 7 June 2017, the Department issued a Gateway Determination stating that the proposed LEP amendment should proceed, subject to the following conditions:

- The existing RU2 Rural Landscape Zone was to be retained, including all lands currently Zoned RU2.
- All deferred lands were to be zoned RU2 unless identified as State or Regionally Significant Farmland.
- A number of other minor amendments were to be made to the planning Proposal.

Given the Gateway Determination required that the Planning Proposal be changed in a way that was not consistent with Council's resolution, Council wrote to the Department on 4 July 2017 seeking clarification on the retention of Zone RU2 and its application to Deferred Matter areas. The Department's response dated 10 October 2017 advised that a single rural zone was not supported, and that RU1 Zone could not be used by itself without other zones or planning controls which reflected the diverse topography and vegetation coverage of rural land in the Kyogle Council LGA. The Department also reiterated the requirement expressed in the Gateway Determination. The Planning Proposal was subsequently amended to reflect this requirement.

The Gateway Determination also required that community consultation was carried out and that Council also consult with a number of State agencies as well as the NSW Aboriginal Land Council and any relevant Native Title claimants and holders.

The Minister did not delegate plan making powers to Council, meaning that Council must request the Department of Planning and Environment to arrange making of the amended plan.

State agency and Aboriginal organisation consultation

The planning proposal was sent with a request for comments to all agencies and organisations listed in the Gateway Determination including relevant local Aboriginal Land Councils and Corporations. Correspondence was received from State agencies and is outlined below. No comments or correspondence were received from any other agencies or groups.

Rural Fire Service (RFS)

RFS provided comments stating that it had no objection to the proposal.

Department of Primary Industries (DPI)

DPI expressed concern at the proposal to include 'places of public worship' as a use that is permissible with consent in Zone RU1 due to potential impacts on farmland and requested further justification for the proposed change.

Office of Environment and Heritage (OEH)

OEH indicated that the planning proposal is consistent with the requirements of the *Final Recommendations Report*. OEH also noted that the report also states that this is a temporary measure until further investigations are carried out to identify appropriate E zones or mapped planning controls and recommended that Council commence these investigations.

Department of Industry

Department of Industry indicated support for the proposal as it will remove current uncertainty from the LEP.

Community consultation

Community consultation was undertaken as specified in 5.5.2 of the 'Guide to preparing local environmental plans' and involved:

- a) Placing a notice in the October 31, 2018 edition of the *Richmond River Express Examiner*.
- b) Placing a notice on Council's website.

The period of exhibition ran from 31 October 2018 to 30 November 2018 being a period of 30 days. The owners of individual properties affected by the proposed amendment were not notified as this would have been impractical given there are over 450 affected parcels.

Thirteen submissions were received of which 12 were addressed to Council whilst one was addressed to the Minister for Planning Mr Anthony Roberts and cc'd to Council. Eleven submissions were from individuals, the remaining two were from groups who represent primary producers being NSW Farmers (Northern Rivers Branch) and the Richmond River Beef Producers Association. All submissions are included at Attachment 2 of this report.

All submitters were opposed to the proposed LEP amendment. There were a number of common grounds for objection and these are listed in the table below along with Council staff's comments:

GROUNDS FOR OBJECTION	COMMENTS
1. Zone RU2 is not supported, all agricultural land should be in Zone RU1.	The Gateway Determination issued by the Department of Planning is clear that Zone RU2 must be applied to deferred matter areas and that Zone RU2 must be retained.

2. Zone RU2 will restrict the agricultural use of the land.	The reason for this assertion is not clear given that land uses and development that are permissible with or without consent are the same for Zone RU1 as RU2. This includes <i>extensive agriculture</i> (grazing) and <i>intensive plant agriculture</i> (horticulture and cropping) which are permitted without consent in both zones. Any State Environmental Planning Policies (SEPPs) which may allow ancillary activities, structures or development for agricultural purposes also apply over both zones.
3. Multiple zones on rural properties will be difficult for property owners to comply with or identify.	Similar to the comments above, there is no difference between permissible uses applying in each zone, nor the application of SEPPs, meaning there is no need for property owners to differentiate between the Zones or determine their accurate location on ground in order to carry out normal agricultural practices.
4. Zone RU2 will devalue rural properties.	There is no evidence to support this assertion. Rural properties in the Kyogle LGA have not devalued since the LEP was gazetted in 2012 even though Zone RU2 was applied to rural land. The value of land is determined principally by the state of the economy, the property market and in the case of productive rural land, conditions in the agricultural industry.
5. The proposed LEP amendment is not consistent with Council's March 2016 resolution and the Department of Planning should not interfere with a Council decision.	The inconsistency is acknowledged however, the planning proposal is consistent with the Gateway Determination which is a State Government directive.
6. Richmond Valley and Tenterfield Shire LEPs feature only Zone RU1- why can this not be the case in Kyogle LGA?	As noted above, the application of both RU1 and RU2 is a requirement of the Department of Planning's Gateway Determination.
7. RU2 Zone will not protect farmland to the same degree that RU1 will.	<p>Protection of good quality agricultural land is a key objective of State Government land use planning rules as well as Council's own land use planning provisions. Provisions which directly seek to protect good quality agricultural land, include:</p> <ul style="list-style-type: none"> • Mapping of all Regionally Significant Farmland on the North Coast was carried out by the State Government in 2005. • Ministerial direction 5.3 states that Council cannot rezone Regionally Significant Farmland for urban or residential purposes. • The development criteria in Council's Development Control Plan that apply to rural land reference the Regionally Significant Farmland mapping and seek to avoid fragmentation of, and impacts on, this land. <p>Existing planning rules protect good quality agricultural land independent of the Land Use Zone that is applied under the LEP. Therefore, Zone RU2 will not provide any lesser protection of farmland than RU1.</p>

8. RU2 Zone may lead to environmental zones being applied to this land in future.	Zone RU2 is a rural zone and provides no basis for application of an environmental zone in future. Any future undertaking by Council to investigate further changes to land use Zones would require a Council resolution.
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Conclusion

The LEP amendment proposes to apply zoning that currently applies to surrounding land, and is similar to the zone that applies currently to the deferred matter areas under the Interim Development Order, and therefore the implications for the practical and permissible uses of the land are not significant. The proposed amendments to the minimum lot size, building height and heritage maps also only seek to apply provisions that exist on surrounding land.

As the grounds for objection raised by submitters are not considered to present any valid planning grounds to change or not proceed with the LEP amendment, and as no State Government agencies raised substantive objections to the proposal, it is recommended that the proposed amendments to the LEP regarding deferred matter areas are finalised.

BUDGET AND FINANCIAL IMPLICATIONS

There are no additional budget implications for the proposed amendment to the LEP. The work is to be wholly undertaken through the use of existing Council staff resources and existing budget allocations.

RECOMMENDATION

That Council:

1. Receives and notes the report on the Finalisation of LEP Amendment No. 10 – Deferred Matters Areas.
2. Supports the planning proposal to amend the Kyogle Local Environmental Plan 2012 to apply Zone RU2 Rural Landscape and other relevant planning provisions to deferred matter areas as per the Final Planning Proposal at Attachment 4 of this report.
3. Pursuant to Section 3.36(1) of the *Environmental Planning and Assessment Act 1979*, requests the Department of Planning and Environment to make arrangements for the drafting and making of the plan.
4. Following gazettal of the plan, gives notice advising commencement in the *Richmond River Express Examiner*.

15 GENERAL MANAGER'S REPORTS**15.1 MODEL CODE OF CONDUCT AND PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT**

Author: Manager Corporate Services

Authoriser: General Manager

Attachments:

1. Model Code of Conduct 2018 (under separate cover) 
2. Procedures for the Administration of the Model Code of Conduct 2018 (under separate cover) 

SUMMARY / PURPOSE

To adopt the new Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct

REPORT

The new 2018 Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct) and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures) have now been prescribed under the Local Government (General) Regulation 2005.

Councils have six months from the date of prescription, (14 December 2018 – 14 June 2019) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

The Model Code of Conduct applies to any conduct by a "council official" that is connected with their role as a council official or the exercise of their functions as a council official.

It is the personal responsibility of all council officials to ensure that their conduct complies with the ethical and behavioural standards prescribed under the Model Code of Conduct. This applies to both the exercise by council officials of their functions as a council official and any conduct (including in a private capacity) that is connected with their role as a council official.

On Monday 25 February 2019 Councillors participated in a briefing session on the new Model Code of Conduct, conducted by local government legal professional Dr Lindsay Taylor. Dr Taylor briefed Councillors on the final version of the code, prescribed under the Local Government (General) Regulation 2005.

The Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct, are attached and presented here for adoption.

BUDGET AND FINANCIAL IMPLICATIONS

Code of Conduct complaints, where appropriate, are managed in house, however, sending a Code of Conduct complaint to one of Council's Code of Conduct Panel members, can cost up to around \$400 per hour.

RECOMMENDATION

That Council:

1. Receives and notes the report Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct
2. Adopts the attached, Model Code of Conduct and Procedures for the Administration of the Model Code of Conduct, as prescribed under the Local Government (General) Regulation 2005.

16 URGENT BUSINESS WITHOUT NOTICE

17 QUESTIONS FOR NEXT ORDINARY MEETING

18 CONFIDENTIAL BUSINESS PAPER**RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:

18.1 General Manager's Performance Review

This matter is considered to be confidential under Section 10A(2) - a of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with personnel matters concerning particular individuals (other than councillors).