



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

**Date:** Monday, 14 November 2022  
**Time:** 2pm  
**Location:** Kyogle Council Chambers, Stratheden Street, Kyogle

# **AGENDA**

## **Ordinary Council Meeting**

**14 November 2022**

**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 14 November 2022, at 2pm.

#### 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.

#### ETHICAL OBLIGATIONS

As per 3.23 of the Code of Meeting Practice, Councillors are reminded that on election to Council they took an Oath/Affirmation of Office in which they pledged to undertake the duties of the office of councillor in the best interests of the people of the Kyogle Local Government Area and the Kyogle Council and that they would faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

#### BUSINESS

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|---------|--|
| Item 1  | Open Meeting   |
| Item 2  | Apologies and applications for a leave of absence by councillors |
| Item 3  | Opening Prayer   |
| Item 4  | Acknowledgement of Country                                       |
| Item 5  | Declaration of Interests   |
| Item 6  | Public Forum   |
| Item 7  | Confirmation of Minutes  |
| Item 8  | Mayoral Minute(s)  |
| Item 9  | Notices of Motion  |
| Item 10 | Questions with Notice from Councillors                           |
| Item 11 | Reports from Delegates   |
| Item 12 | Information Reports  |
| Item 13 | Staff Reports  |
| Item 14 | Urgent Business Without Notice                                   |
| Item 15 | Confidential Business Paper                                      |
| Item 16 | Close of Meeting   |

GRAHAM KENNETT  
GENERAL MANAGER

## OPENING STATEMENT

All Kyogle Council meetings are webcast - the meetings are recorded and the recording is later uploaded to Council's website. All speakers at the meeting are advised to refrain from making any defamatory statements/comments. Council accepts no liability for any damage that may result from defamatory comments made by speaking at the meeting. All liability rests with the individual making the comments.

## COUNCIL PRAYER

We seek guidance as we come together to make decisions in the best interest of our communities which support the development of a peaceful and just environment to encourage our people to thrive and live purposeful lives to reflect a modern, inclusive and diverse community.

Adopted by Council on 14 December, 2020.  
Resolution CO/1220/3

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.

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

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

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DISCLAIMER

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

GRAHAM KENNETT  
GENERAL MANAGER

**Public Forum (Council Policy)**

The council may hold a public forum as part of the ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting.

To speak at a public forum, a person must first make an application to the council in writing. Applications to speak at public forum must be received two hours before the meeting, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item. Applications can be left with Customer Service staff at Council's Administration Centre, sent to PO Box 11, Kyogle, NSW, 2474, or emailed to [council@kyogle.nsw.gov.au](mailto:council@kyogle.nsw.gov.au).

A person may apply to speak on no more than two items of business on the agenda of the council meeting.

Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.

The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.

No more than two speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.

Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than two working days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.

The general manager or their delegate is to determine the order of speakers at the public forum.

Each speaker will be allowed five minutes to address the council. This time is to be strictly enforced by the chairperson. A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Answers by the speaker, to each question are to be limited to two minutes.

Speakers are under no obligation to answer questions put to them by councillors and cannot ask questions of the council, councillors or council staff.

Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.



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- 1 OPEN MEETING**
- 2 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS**
- 3 OPENING PRAYER**
- 4 ACKNOWLEDGEMENT OF COUNTRY**
- 5 DECLARATION OF INTERESTS**
- 6 PUBLIC FORUM**

**7 CONFIRMATION OF MINUTES****7.1 COUNCIL REPORT - 10 OCTOBER 2022**

**Author:** Executive Assistant

**Authoriser:** General Manager

**Attachments:** 1. Minutes 10 October 2022 (under separate cover) [!\[\]\(a870788d6ed9b8fd294b7654a8c8526b\_img.jpg\)](#) 

**RECOMMENDATION**

That Council confirms the minutes of the Council meeting of 10 October 2022.

**PURPOSE / SUMMARY**

This report presents the minutes of the 10 October 2022 Ordinary Meeting to Council for confirmation.

**8 MAYORAL MINUTE**

Nil

**9 NOTICES OF MOTION**

Nil

**10 QUESTIONS WITH NOTICE FROM COUNCILLORS****10.1 QUESTIONS WITH NOTICE CR DANIELLE MULHOLLAND: CLARENCE WAY UPGRADE FUNDING**

**Author:** General Manager

**Authoriser:** General Manager

**Attachments:** Nil

The following questions on notice were received from Councillor Danielle Mulholland in relation to the upgrade of the Clarence Way under the Remote Roads Upgrade Pilot Program.

**Questions**

1. Has any response been received regarding the \$16 million funding agreement, committed out of an existing program and announced by Member for Page Kevin Hogan in April this year?
2. Does the current government intend to honour the commitment, given that the Clarence Way has been identified as a project that was allocated the funds on a needs basis, rather than pork barrelling?
3. If so, when will Council receive the agreement? Have any timeframes been given?
4. When will the current situation regarding the Urbenville to Woodenbong section of the Clarence Way be resolved and when will works begin?
5. What applications have been submitted regarding the Bonalbo to the Bruxner section of the Clarence Way? What timeframes are expected around any announcements?

**Response**

Council was notified back in April 2022 that it had been successful in qualifying for Australian Government Funding under the Remote Roads Upgrade Program for the Clarence Way proposal to the value of \$16 million. When Council had still not received a formal funding agreement by October 2022, the resolution of Council was passed at the 10 October Ordinary Meeting;

*That Council write to the Minister for Infrastructure, Transport, Regional Development and Local Government Catherine King asking for the Regional Road Upgrade Pilot Program funding agreement for Clarence Way between Urbenville and Bonalbo to be issued urgently.*

Correspondence was sent from the Mayor to the Minister on October 18, 2022. No response has been received to date from the Minister's Office. The Federal Budget was subsequently passed and it was noted to include the original \$150 million allocated for the Remote Roads Upgrade Pilot Program.

Council also wrote to the Department of Infrastructure requesting confirmation that this means the previously successful projects are now able to progress to the formal letter of offer and funding agreements, as previously advised in April 2022. The communications also sought timeframes on the process. No response has been received to date from the Department.

Council was been successful in obtaining \$5 million in funding between the NSW and Commonwealth Governments for the upgrade to the section of the Clarence Way between Woodenbong and Urbenville. Unfortunately, despite all the hard work and best efforts of the Council staff and contractors involved in the project, the gravel pavement material supplied did not meet the required specifications, and this has led to premature failures throughout the works. Council is seeking appropriate compensation for the cost of repairing the road throughout these

affected segments from the supplier of the quarry products, and it is expected that works to repair this section of the Clarence Way will be starting in late November 2022.

Council submitted funding applications under the NSW Government Fixing Country Roads Program for the remainder of the Clarence Way between Bonalbo and the Bruxner Highway back in July 2021. Council was advised in June 2022 that there was not to be any projects announced for that round of the Fixing Country Roads Program, as the TfNSW staff had been too busy dealing with the floods across NSW to assess the applications that were submitted. Applications were opened again for the program in September 2022 closing October 12, 2022. Council has again submitted these same applications;

- Bruxner to Bonalbo FCR00035 – Total \$14,263,756 - Council \$1 million, applying for **\$13,263,756**
- Bruxner to Urbenville FCR00070 – Total \$38,251,406 - Council \$1 million, Federal Govt \$16 million, applying for **\$21,251,406**

There was a new program announced in October which is called the Regional Roads and Transport Recovery Package, and is funded jointly by the NSW and Commonwealth Governments. This program allows for assets damaged in the recent floods to be “built back better”, and is the first of its kind to be rolled out. Council will be submitting applications for the Clarence Way as follows;

1. Clarence Way between Bonalbo and Bruxner - \$10 million (maximum grant amount)
2. Clarence Way improve flood immunity at Tunglebung and Culmaran Creeks - \$6 million

Announcements about NSW State Government programs are expected before the caretaker period begins in the lead up to next year’s election. It is expected that Council will know the outcomes of these applications by February 2023.

#### **RECOMMENDATION**

That Council receives and notes the response to the questions regarding the Clarence Way upgrade raised by Councillor Mulholland.

**11 REPORTS FROM DELEGATES****11.1 DELEGATE'S REPORT: CR MAGGIE MAY - CLIMATE CHANGE WORKING GROUP****Author:** Councillor**Authoriser:** General Manager

**Attachments:**

1. Minutes Climate Change Working Group 22 September 2022 (under separate cover) 
2. Climate Change Working Group Action Plan [↓](#) 
3. Microgrid Feasibility Study Update and Quote Summary [↓](#) 

**SUMMARY / PURPOSE**

This report provides for the information of Council the minutes of the 22 September 2022 meeting of the Climate Change Working Group (CCWG) and an update on the issues the CCWG has been working on.

**RECOMMENDATION**

That Council:

1. Receives and notes the report, *Delegates Report: Cr Maggie May – Climate Change Working Group*;
2. Consider moving to alternative solutions for hot water supply at its facilities such as heat pumps and renewable energy rather than gas;
3. Start transitioning small plant and equipment from petrol/diesel power to battery as they require replacement and the technology improves.
4. Approve a preliminary market review and needs assessment for a microgrid for the Kyogle Local Government Area (LGA) as outlined in the 100% renewables proposal with funding of \$12,000 sourced through the Community Asset Business and Management/Marketing Plans component of the Local Government Recovery Grants Program of Works.

**REPORT**

The CCWG has been working on several issues and has reviewed many relevant reports over the last few months. Some relevant highlights are included in this report.

The Agricultural Focus Group continues to work with Council staff on finding ways to support the agricultural sector in the LGA to reduce emissions and sequester carbon in the soil. The next CCWG meeting will explore this further with possible partnerships with Local Land Services and other stakeholders.

Lighting and solar audit program for business – five local businesses took up this opportunity and the audits are currently underway.

A review of Northern Rivers Joint Organisation's renewable energy blueprint for the Northern Rivers 2022 was undertaken, please see the report for full review. Key point for Council is to start to consider what the energy mix will look like post 2030 and formulate plans to ensure that Kyogle LGA identifies opportunities in that transition for our community. Regions in the west of the Northern Rivers, including Kyogle LGA are considered good sites for large scale solar. It is expected that rooftop solar will be a significant source of energy in the future (up to 50% of energy requirements) so microgrids and battery storage are very relevant for sharing power efficiently between buildings.

AEMO has a goal of having the electricity grid capable of on 100% instantaneous renewable power by 2025, which seems ambitious but demonstrates the pace at which the energy sector is changing.

### **Review of DPIE's renewable energy blueprint for Local Government 2019**

This document really highlighted that Kyogle Council is well on the way to implementing many of the recommendations in this report. A case study on transitioning hot water to renewable energy was interesting and worth considering for Kyogle in places such as the swimming pools and caravan parks facilities.

Community education programs should be an ongoing focus for councils to assist their communities to transition to lower emissions energy use and lifestyles. Kyogle Council is already doing a lot of community education via social media and the newsletter as well as partnering with other organisations to deliver community education on relevant issues such as waste.

CCWG supports an existing proposal for the community newsletter to be provided as a monthly digital version by email for those who are not on social media. An opt in email newsletter can also provide links to further information online.

The CCWG has developed a resource page with links to reports and relevant information that is now on the Council website for community members to provide information and resources.

### **Microgrid Feasibility Study**

Council staff have followed this up from the motion of Council to get some costings for a Microgrid and submitted the proposal to the CCWG for consideration. The working group recommends that Council fund the preliminary market review and needs assessment for Kyogle Council. The proposal will also consider the integration of large battery storage, noting the new Federal Government's commitment to provide batteries for community power which is a further opportunity that Kyogle could pursue once more information is available. The cost of this preliminary study is \$13,200 (including GST).

### **Other matters**

Transitioning Council small plant and equipment such as mowers, brushcutters and tools to battery power as they require replacement and the technology improves is necessary to meet our commitment to reach zero emissions by 2050.

EV charging stations for vehicles, grant applications were still pending at the time of the meeting in September, this is an ongoing agenda item.

## KYOGLE COUNCIL - CLIMATE CHANGE WORKING GROUP - ACTION PLAN

MEETING DATE	ACTION	RESPONSIBLE PERSON	STATUS/ PROGRESS
22 Feb 2021	4.2 Further actions: (1) Working Group to develop a project proposal – to either employ a Project Coordinator (who would conduct/organise energy reviews and raise awareness) or funding solely to conduct energy efficiency or sustainability reviews/audits for homes and businesses in Kyogle LGA. (Meeting 26 Sept 2022 Item 5: CCWG will promote any programs for household lighting/solar/energy efficiency audits to the community).	Working Group / Judy Faulks (Business Audits)	Business Lighting / Solar Audits – completed by TGGG. Will be considered again in 2023.
26 Apr 2021	4.1 Matt Sorenson to investigate the use of biochar in Canada for use in bitumen and cement (to help prevent cracking) and report back.	Matt Sorenson	Investigation complete – at research stage
13 Sept 2021  Motion to Council updated 30 May 2022	5.1 <b>Final motion put to Council in June 2022 (Delegate's Report):</b> That Council: 1. Seek proposals for a report on current and projected climate change impacts relevant to the Kyogle LGA from a qualified body using the most up to date data and IPCC modelling. 2. Seek proposals for the development of a climate change adaptation risk assessment and action plan to strengthen community resilience to the projected impacts of climate change.	Working Group Chair  Council	Delegate's Report to June 2022 Council. Council currently liaising with Sustainable Councils. Update to be provided for November meeting.
22 Nov 2021	5.1 Quantify greenhouse gas (methane) emissions from the organics/FOGO component going into landfill (currently 49% of residual waste) to assist with devising methane reduction strategies and actions.	Council	In progress (NEW & EPA assistance sought)
22 Nov 2021	6.1 CCWG members absent from the meeting to nominate their preferred focus areas.	Working Group	Completed
30 May 2022	4.1.4.1 Seek advice from Planning on whether it is feasible/possible to amend the planning scheme to disallow gas connections for <u>all</u> new houses OR new houses in/adjacent to urban areas where they have grid connected power available.	Judy Faulks	Advice provided (July 2022 meeting). Advocacy role.
30 May 2022	5.1.1 Fleet vehicles, heavy plant and equipment recommendation to Council: Council commit to replacing fleet vehicles, heavy plant and equipment with alternative renewable fuel, hybrid and EV as they become available. Need to look at feasible targets for each class of vehicle and plant.	Working Group Chair	Chair to complete a delegate's report for Council meeting
30 May 2022	5.1.2 Small plant and equipment recommendation to Council: to replace at end of life small plant and equipment with a suitable battery powered version / rechargeable option.	Working Group Chair	Chair to complete a delegate's report for Council meeting
30 May 2022	5.1.3 Microgrid proposal for consideration by Council: for a feasibility study/pilot project for a microgrid within the Kyogle LGA. [Motion carried at June 2022 Council meeting: Investigate the cost of a feasibility study for a microgrid in the Kyogle LGA.]	Working Group  Council	Motion carried at June 2022 Council meeting. Proposal provided at Sept 2022 meeting.
26 Sept 2022	7.1 CCWG to recommend to Council that they consider funding the preliminary market review and needs assessment for a microgrid within the LGA as outlined by 100% Renewables in their proposal.	Working Group Chair	Chair to complete a delegate's report for Council meeting.

Last updated: 31 October 2022



MEETING DATE	ACTION	RESPONSIBLE PERSON	STATUS/ PROGRESS
30 May 2022	5.1.4 Soil sequestration and methane reduction project proposal for consideration by Council: to support an information and education project to assist local beef and dairy farmers reduce their greenhouse gas emissions (project to be developed by CCWG Agricultural focus group).	Working Group (Agricultural focus group)	Discussed July 2022 meeting. Combined with Action 5.2.1.
30 May 2022	5.2.1 A summary of the collaborative project with Richmond Valley Council – “Agricultural Resilience Project in Kyogle LGA” – where funding is currently being sought to implement the project to be provided to Working Group.	Scott Antcliff	Discussed July 2022 meeting. Combined with Action 5.1.4.
30 May 2022	7.1 Items to be forwarded to Robyn Lucienne for inclusion in the Climate Change Resource Guide which can then be linked to from Council’s webpage and stored in Google Drive.	Working Group	Guide finalised. Qrtly updates. Standing agenda item.
25 July 2022	6.1 An update on Council renewable source energy profile to be provided to community via Community Newsletter and social media.	Matt Sorenson	Completed. Sept 2022 Community Newsletter article.
25 July 2022	9.1 Recommendation to be put to Council to develop a Kyogle local government Climate Change Action Plan using the Local Government Climate Emergency Toolkit as a blueprint.	Working Group Chair	Chair to complete a delegate’s report for Council meeting.
26 Sept 2022	9.1 Draft Kyogle Council Climate Change Action Plan to be circulated to Working Group to review, provide input into and comment on. Document to be used as a background document for the final Plan.	Working Group	In progress
25 July 2022	11.1.1 Review the renewable energy blueprint documents, summarise what is relevant for Council and report back to CCWG in September.	Energy Focus Group	Review provided - Sept 2022 meeting
26 Sept 2022	6.1 Maggie May to provide a summary of her review of the renewable energy blueprint documents to Council, highlighting particular items for Council’s consideration.	Working Group Chair	Chair to complete a delegate’s report for Council meeting
25 July 2022	12.1 Agriculture focus group to work with Scott Antcliff to produce suitable templates that refine and align the Agriculture projects in order to target future grants.	Agriculture Focus Group/Scott Antcliff	In progress
26 Sept 2022	4.1 Agriculture focus group to explore partnerships and produce a targeted document for Council’s further consideration on a possible project aimed at reducing greenhouse gas emissions in the cattle industry, specifically designed for the Kyogle region.	Agriculture Focus Group	In progress
26 Sept 2022	4.2 Agriculture staff member from LLS be invited to the November meeting to do a presentation on what they are doing within the agriculture/cattle industry specifically relating to greenhouse gas reduction (including soil carbon sequestration and reducing methane emissions).	Judy Faulks	Presentation planned for Nov 2022 meeting

Last updated: 31 October 2022

**ITEM 7 - COST OF A FEASIBILITY STUDY FOR A MICROGRID IN THE KYOGLE LOCAL GOVERNMENT AREA****Background**

The CCWG proposal for consideration by Council (in June 2022) was carried as a motion: To investigate the cost of a feasibility study for a microgrid within the Kyogle local government area (LGA).

100% Renewables was approached to ascertain whether they could provide Council with a costing for undertaking a feasibility study for a microgrid within the Kyogle LGA. Such a study would investigate the current regulatory and viability barriers and identify potential funding sources.

**Summary**

These microgrid feasibility studies can cost between \$300k to over \$4million, just for the study. However, there is funding available. Due to the cost, 100% Renewables have been asked to provide a quotation on undertaking a preliminary market review and needs assessment (e.g. what these schemes involve and what previous work has been done) to help inform a decision on what approach Council may wish to take. 100% Renewables have indicated that a preliminary market review and needs assessment would cost \$13,200 incl gst (refer to quotation summary below which outlines the steps that would be taken).

**Background information and quotation provided by 100% Renewables**

Regional Clean Energy Fund projects that received a total of \$15.4 million (7 in total) are shown below. Of these Enova won't now proceed I assume, and the Byron project has moved west where there was less local opposition to the project. I believe the Haystacks project has achieved financial support and community buy in and is likely going ahead.

Recipient	Project Title	Primary technology and capability	Location (closest town)
Byron Bay Solar Farm Holdings	Byron Bay Solar Farm + Battery Storage Facility	5 MW Solar PV, 5 MW / 10MWh battery	Ewingsdale
Energise Gloucester	Gloucester Community Solar Farm	0.5 MW Solar PV	Gloucester
Community Energy for Goulburn	Goulburn Community Dispatchable Solar Farm	1.2 MW Solar PV, 0.4 MW / 0.8MWh battery	Goulburn
Grong Grong Solar 1 Pty Ltd	Haystacks Solar Garden	1 MW Solar PV	Grong Grong
Manilla Community Renewable Energy	Manilla Community Solar	4.5MW Solar PV, 4.5 MW / 4.5MWh battery, 2 MW /17MWh hydrogen energy storage	Manilla
ITP-NHT DevCo	Orange Community Renewable Energy Park	5 MW Solar PV, Up to 5 MW / 5 MWh battery	Orange
Enova Community Energy Ltd	The Beehive Project - Shared Community Battery Scheme	1 MW / 2MWh battery	Kurri Kurri

ARENA is funding microgrid feasibility through its Regional Australia Microgrid Pilots Program (<https://arena.gov.au/funding/regional-australia-microgrid-pilots-ramp/>). The \$20 million for funded studies and grant support from FY2023 may still be going ahead and we could confirm that as part of an initial assessment of the microgrid landscape.

An ARENA-funded microgrid feasibility program (<https://www.energy.gov.au/government-priorities/energy-programs/regional-and-remote-communities-reliability-fund>) has funded a number of studies that are ongoing. Grant recipients round 1 and 2 – around \$45 million, with range \$300k to \$4 million

- <https://business.gov.au/grants-and-programs/regional-and-remote-communities-reliability-fund-microgrids/grant-recipients-2019-20>

- <https://business.gov.au/grants-and-programs/regional-and-remote-communities-reliability-fund-microgrids/grant-recipients-2020-21>

Among these projects, particularly ARENA-funded ones, there are likely to be a few that would be most applicable to Kyogle. As part of a preliminary look at the market, regional needs, feasibility assessment partners and the like we would engage with these to get more detail about their scope, community stakeholder engagement model, technology solutions proposed, regulatory aspects, engagement with network operators, etc. My initial thoughts are that Indigo Power, ITP Corp (Cobargo), Yackandandah, and a project being funded under the RAMP funding program in the Bega region of NSW would be candidates but that can be decided later.

We would also engage with NSW Gov and ARENA to get a clear idea of possible funding to develop a fuller feasibility for a preferred model or models for Kyogle. An output would be in the form of a presentation to your Climate Change Working Group that summarises the current projects, shares insights and details of selected projects, and highlights funding pathways.

We could not propose developing a brief that you could use to get proposals to develop a funded study as that would likely fall out of next steps. Our role if a fuller feasibility were to go ahead could be a coordinating one as you suggested on behalf of Kyogle Council rather than a lead proponent for a feasibility study.

I've attached a quotation that would cover this initial market, project and funding scan and presentation to the Climate Change Working Group for your consideration. I will be on leave until 26 September and will touch base with you then after you have had a chance to look at some of the current projects, discuss with the Working Group and determine if this is the right first step for you.

Kind regards,  
Patrick



**Patrick Denvir** | Co-CEO

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#### **Summary of draft quotation received**

Cost: \$12,000 ex gst, \$13,200 incl gst

Description:

Microgrid solutions for Kyogle LGA – preliminary market review and needs assessment.

Step 1: Review microgrid projects currently funded through ARENA and NSW Gov (RCEF).

Step 2: Discuss Kyogle LGA needs, potential opportunities / models for microgrids, and ID 2-3 projects that align with Kyogle's needs.

Step 3: Engage with 2-3 projects to discuss key elements of their studies, such as technology solutions, community engagement, network and regulatory aspects, challenges being faced and how these are being overcome, feasibility funding and approach, governance particularly with local councils and community groups, progress to date and anticipated timeline to completion, pathway to implementation, etc.

Step 4: Identify potential funding sources for the development of a feasibility study.

Step 5: Presentation summarising the analysis, present to Climate Change Working Group and Kyogle Council with recommended next steps.

#### **For further discussion**

CCWG to consider the matter and the information provided, and to decide on whether to recommend to Council that they consider funding this body of work. If so, a recommendation to go to Council from CCWG for a formal decision.

## 12 INFORMATION REPORTS

### 12.1 MONTHLY FINANCE REPORT - OCTOBER 2022

**Author:** Manager Financial Services

**Authoriser:** General Manager

**Attachments:** 1. Monthly Finance Report - October 2022  

#### SUMMARY / PURPOSE

This report presents financial reports to Council for information.

#### RECOMMENDATION

That Council receives and notes the information contained in the report, *Monthly Finance Report – October 2022*.

#### BACKGROUND INFORMATION

##### Legislative Requirements

Clause 212 of the Local Government Act (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.

## **Kyogle Council**



### **Financial Reports**

**31 October 2022**

**Rates Statement**

**Rates/Charges – Write Off's**

**Statement of Bank Balances**

**Summary of Investments**

**Councillor Travel**

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

## KYOGLÉ COUNCIL RATES STATEMENT AS AT 31 OCTOBER 2022

	ARREARS 1-Jul-2022	NET CHARGES 2022-2023	PAYMENTS	OUTSTANDING BALANCE 31/10/2022	ARREARS 31/10/2022	% TOTAL COLLECTED incl. ARREARS	% ARREARS COLLECTED 2022-2022
RATES, SERVICES AND INTEREST	585,446.44	11,166,816.68	4,885,491.82	6,866,771.30	416,406.62	41.57%	28.87%

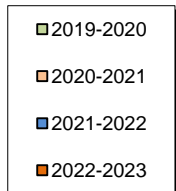
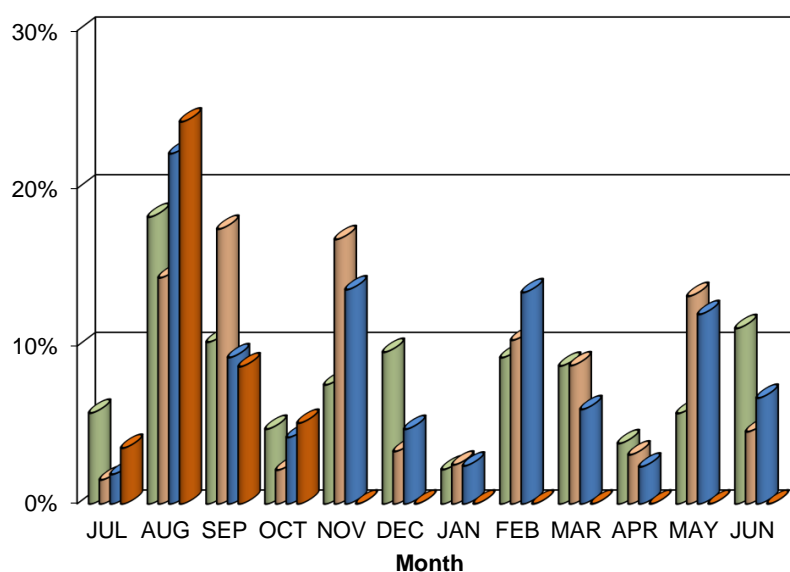
PRESENTED TO COUNCIL NOVEMBER 2022

**Note:**

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

### Rate Collections Analysis

% Collected Each Month



## Write offs under delegated authority - Rates and Charges 2022-2023

July	August	September	October	November	December	January	February	March	April	May	June	Total Write Offs
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

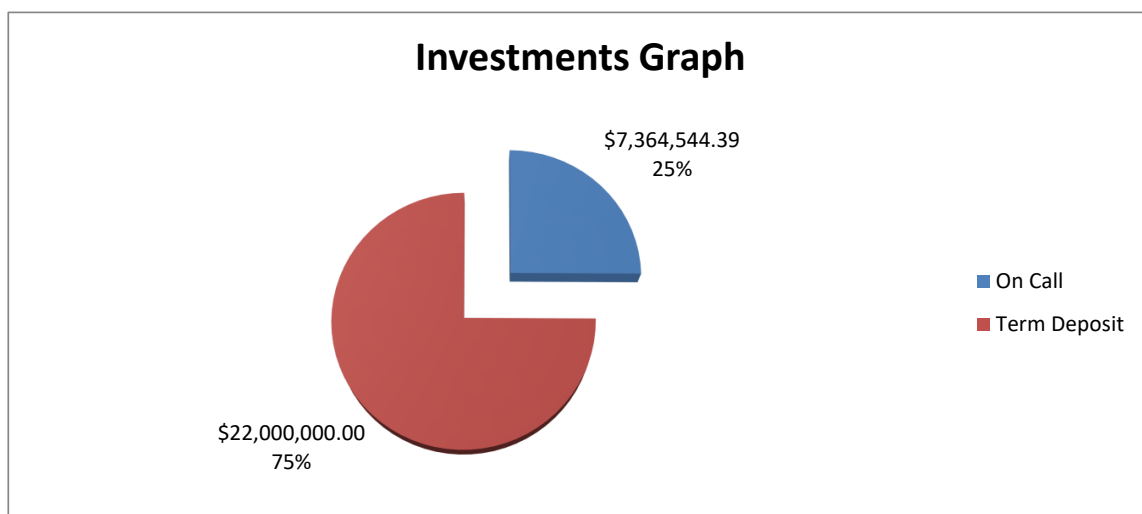
<p style="text-align: center;"><b><u>Kyogle Council</u></b></p> <p style="text-align: center;"><b>STATEMENT OF FUND BALANCES as at</b></p> <p style="text-align: center;"><b>31-Oct-22</b></p>	
Fund	Closing Balance
<b>General Fund</b>	
Unrestricted	10,163,982.31
Internally Restricted	4,172,177.00
State Highways	398,015.91
Quarries	1,107,070.58
Plant	3,946,160.99
Externally Restricted	6,988,168.71
<b>Total General Fund</b>	<b>26,775,575.50</b>
<b>Restricted</b>	
Water Supplies	581,940.30
Sewerage Systems	1,653,646.61
Domestic Waste	318,960.93
Trust Fund	34,421.05
<b>Total Restricted</b>	<b>2,588,968.89</b>
<b>Total Consolidated Funds at Bank</b>	<b>29,364,544.39</b>

KYOGLÉ COUNCIL FINANCIAL ANALYSIS REPORT AS AT 31/10/2022								
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		7,364,544.39	25.08%
<b>Total Cash at Call</b>							<b>7,364,544.39</b>	<b>25.08%</b>
CBA	Cash Deposit	18-Aug-22	03-Nov-22	Fixed	Maturity	2.61%	4,000,000.00	13.62%
Suncorp	Term Deposit	17-Aug-22	17-Nov-22	Fixed	Maturity	2.80%	1,000,000.00	3.41%
NAB	Term Deposit	01-Sep-22	24-Nov-22	Fixed	Maturity	2.95%	2,000,000.00	6.81%
Suncorp	Term Deposit	31-Aug-22	01-Dec-22	Fixed	Maturity	2.96%	2,000,000.00	6.81%
NAB	Term Deposit	08-Sep-22	08-Dec-22	Fixed	Maturity	3.15%	4,000,000.00	13.62%
CBA	Cash Deposit	23-Sep-22	15-Dec-22	Fixed	Maturity	2.39%	1,000,000.00	3.41%
NAB	Term Deposit	04-Oct-22	12-Jan-23	Fixed	Maturity	3.70%	1,000,000.00	3.41%
Suncorp	Term Deposit	29-Sep-22	19-Jan-23	Fixed	Maturity	3.65%	4,000,000.00	13.62%
CBA	Cash Deposit	06-Oct-22	25-Jan-23	Fixed	Maturity	3.49%	2,000,000.00	6.81%
NAB	Term Deposit	20-Oct-22	02-Feb-23	Fixed	Maturity	3.60%	1,000,000.00	3.41%
<b>Total Cash at Call</b>							<b>22,000,000.00</b>	<b>74.92%</b>
<b>Total Investment Portfolio</b>							<b>\$29,364,544.39</b>	

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

Glenn Rose

Responsible Accounting Officer





## COUNCILLORS TRAVEL EXPENSES

### Oct-22

Councillor Name	Kilometres Claimed		Current Rate per Kilometre	Amount Reimbursed	
	Oct-22	YTD		Oct-22	YTD
K. Thomas	0	1,458	\$0.80	\$0.00	\$1,166.40
H. Doolan	0	0	\$0.80	\$0.00	\$0.00
J. Wilson	0	0	\$0.80	\$0.00	\$0.00
J. Burley	0	466	\$0.78	\$0.00	\$363.48
D. Mulholland	632	632	\$0.91	\$575.12	\$575.12
M. May	0	0	\$0.80	\$0.00	\$0.00
T. Cooper	1,558	1,558	\$0.91	\$1,417.78	\$1,417.78
R. Cullen	0	0	\$0.80	\$0.00	\$0.00
J. Murray	0	0	\$0.80	\$0.00	\$0.00
<b>Total</b>	<b>2,190</b>	<b>4,114</b>		<b>\$1,992.90</b>	<b>\$3,522.78</b>




### **Notes**

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

**12.2 WORKS PROGRAM PROGRESS REPORT - OCTOBER 2022**

**Author:** Manager Financial Services

**Authoriser:** General Manager

**Attachments:** 1. Works Program Progress Report October 2022 (under separate cover)   
2. Bridge Program Status Report - October 2022  

**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.

**RECOMMENDATION**

That Council receives and notes the information contained in the report, *Works Program Progress Report – October 2022*.

**BACKGROUND INFORMATION**

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

**REPORT**

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

**1. Capital Works Report**

This section of the report 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 report 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 report shows the status of the Ordered Works under the Roads and Maritime Road Maintenance Council Contract (RMS RMCC) which is included in the State Highway's 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 report 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 budget review process.



## KYOGLE COUNCIL BRIDGE PROGRAM MONTHLY STATUS REPORT 2022/2023

**REPORTING MONTH:** October 2022

**REPORT DATE:** 3/11/2022

### PROGRESS SNAPSHOT

**TOTAL NUMBER OF TIMBER BRIDGES REPLACED = 44 of 93 (47.3%)**

**FCB DEED PERIOD ELAPSED – 72 of 149 weeks (48.3%) Revised Deed Period**

### 1 PURPOSE

The purpose of this report is to provide additional commentary on the progress of the Kyogle Council Bridge Replacement Program. For information on the status of each bridge refer to the Monthly Works Program Progress Report.

### 2 MONTHLY HIGHLIGHTS

Three bridges were opened to traffic in October. Council is approaching the halfway mark of the program with another 3 bridges to be completed to reach the milestone. Council is aiming to have 49 structures completed by the end of 2022.

Highlights for October 2022 include:

- Three FCB Bridges Completed (Capeen Creek Mill, Green Pigeon Mill, Tunglebung Creek Secombes)
- Cedar Point Bridge was officially opened
- Contractor engaged to manufacture precast concrete decks for 9 bridges.
- Consultant engaged to complete the design for the remaining 8 bridges – including Collins Valley Road bridge on Lynchs Creek.

### 3 RISKS TO DELIVERY PROGRAM

- Above average rainfall forecast for the Spring and Summer months. This is highly likely to impact productivity.
- Rising costs of materials is impacting Council and suppliers.

### 4 PAGE BRIDGE REPLACEMENT PACKAGE

There are 8 bridges in the Page Bridge Replacement Package. Seven (7) of the eight have been completed. Updates on the remaining bridge is below:

BRIDGE ID	BRIDGE NAME	COMMENTS	EXPECTED COMPLETION
68/8166	Horseshoe Creek Bridge	Girder manufacture has been delayed due to wet weather – the precast yard is not covered. This has pushed the works to early 2023 start.	March 2023

## Bridge Program Monthly Status Report – October 2022

**5 FIXING COUNTRY BRIDGES (FCB)****5.1 GROUP 1 – KYOGLE COUNCIL MANAGED PROJECTS****5.1.1 SINGLE SPAN BRIDGES**

There are 70 bridges in the Group 1 FCB program. Twenty-nine (29) of 70 have been replaced and opened to traffic.

The below table summarises bridges in the Construction stage:

BRIDGE ID	BRIDGE NAME	COMMENTS	EXPECTED COMPLETION
138/558	Duck Creek Curtis Dip Bridge	Bridge open to traffic – clean up and rehabilitation works remaining on site.	Early November 2022
29/100	Capeen Creek Mill Bridge	Works completed in late October – Bridge open to traffic.	-
58/9432	Green Pigeon Mill Bridge	Works completed in late October – Bridge open to traffic.	-
131/6378	Tunglebung Crk Secombes Bridge	Works completed in late October – Bridge open to traffic.	-
46-5526	Pines Rd Bridge	Abutment works in progress – delivery of precast planks programmed for mid-November.	Late November 2022
73-17595	Ironpot Creek Bridge	Abutment works in progress – delivery of precast planks programmed for mid-November.	Late November 2022
29-4250	Capeen Creek No. 1 Bridge	Site preparation and side track works have commenced. Piling contractor programmed for mid-November.	Late January 2023
131-3736	Tunglebung Creek Armstrong Bridge	Piling works complete – site preparation works in progress.	Mid December 2022

The next bridges planned for construction are:

- 27-23468 Collins Crk Olesens Bridge
- 29-4448 Capeen Creek No. 2 Bridge
- 131-1738 Tunglebung Creek Trynney No.1
- 269-157 Levers Road

**5.1.2 BRIDGE TO PIPES**

Seven (7) of the 8 FCB bridge to pipe projects have been completed. The Station Road (256-9294) bridge to pipe replacement is programmed for early 2023 – all precast materials are on Station Road.

**5.2 GROUP 2 – BRIDGES**

There are 6 bridges in Group 2. Ozwide Bridge Rail and Civil are working on design development for these bridges. The contractor is yet to advise start dates for these structures.

Council is still in consultation with Gudgin Gudaba and Everick Heritage in relation to the Cultural Heritage item at Tims Lane.

Betterment funding grant applications for alignment changes at Lamonds No. 1 Bridge and Grieve Crossing on Gradys Creek Road close in early December. Council is in the process of compiling grant applications.

**6 OTHER BRIDGE REPLACEMENTS**

A consultant has been engaged to perform Geotechnical Investigations for flood damaged structures on Risk Road – Risk Station Bridge and Sugar Glider Road. Site works are programmed for early 2023.

**13 STAFF REPORTS****13.1 SEPTEMBER 2022 QUARTERLY BUDGET REVIEW****Author:** Manager Financial Services**Authoriser:** General Manager**Attachments:** 1. September Budget Review (under separate cover) **SUMMARY / PURPOSE**

This report arises out of the statutory requirement to conduct a review of the budget following the close of each quarter.

**RECOMMENDATION**

That Council:

1. Receives and notes the September 2022 Quarterly Budget Review Statement;
2. Approves the variation of estimates contained in the table below:

**STATEMENT OF SIGNIFICANT VARIANCES  
SEPTEMBER QUARTER BUDGET REVIEW**

DETAILS	QUARTERLY ADJUSTMENT	
	INCOME	EXPENSES
Finance - Revenue Sharing Grant	320,259	
Town Planning - Grants	80,000	
Town Planning - Other Expenses		80,000
Environmental Health - Grants	204,930	
Environmental Health - Flying Fox Habitat Restoration		204,930
Other Waste Management - Waste Charges	(65,564)	
Other Waste Management - Grants	251,662	
Other Waste Management - Collection Costs		186,098
Strategic, Community & Cultural - Community Events Grant	301,708	
Strategic, Community & Cultural - Community Events Project		301,708
Rural Roads - Operating Grants	49,111	
Rural Roads - Capital Grants	(363,588)	
Rural Roads - Capital Expenditure		(363,588)
Bridges - Capital Grants	3,482,073	
Bridges - Capital Expenditure		3,712,073
Emergency Services - RFS Contribution		(19,756)
Parks & Gardens - Capital Expenditure		25,592
Community Buildings - Capital Expenditure		(83,552)
Engineering Administration - Grants	108,110	
Engineering Administration - Aerial Imagery Project		108,110

State Highways - Income	6,516	
State Highways - Operating Costs		5,978
Quarries - Income	258,000	
Quarries - Operating Costs		347,677
Plant Operations - Purchases		30,000
<b>Totals</b>	<b>4,633,217</b>	<b>4,535,270</b>
	<b>Net Adjustment</b>	<b>97,947</b>

## BACKGROUND INFORMATION

### Legislative Requirements

Clause 203 of the Local Government (General) Regulation 2005 requires that:

- (1) Not later than two months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.
- (2) A budget review statement must include or be accompanied by:
  - (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and
  - (b) if that position is unsatisfactory, recommendations for remedial action.
- (3) A budget review statement must also include any information required by the Code to be included in such a statement.

Section 407 of the Local Government Act 1993 which previously required the General Manager to report to Council on the extent which performance targets set by the Management Plan have been achieved during that quarter has been repealed.

## REPORT

A quarterly budget review should act as a barometer of council's financial health during the year. It needs to adequately disclose council's overall financial position, provide sufficient information to enable informed decision making while ensuring transparency in decision making. It is also a means by which councillors can ensure that council remains on track to meet its objectives, targets and outcomes as set out in its management plan/operational plan.

The Division has developed a set of minimum requirements and sample templates to assist councils in meeting their obligations as set out in legislation. The templates will facilitate progress reporting against the original and revised annual budgets at the end of a quarter.

The budget review documentation provided to Council consists of the Quarterly Budget Review Statement (QBRs) as prescribed by the Office of Local Government and a Statement by the responsible accounting officer on council's financial position at the end of the year based on the information in the QBRs which includes;

- Budget Review Income and Expenses Statement
- Budget Review Capital Budget
- Budget Review Cash and Investments position

- Budget Review Key Performance Indicators

A summary of bank account balances is also attached to the Budget review report.

Conclusion:

The revised financial position of Council is considered to be satisfactory.

**13.2 EXTENSION OF DEVELOPMENT CONTRIBUTIONS AND CHARGES DISCOUNT POLICY**

**Author:** Executive Assistant

**Authoriser:** General Manager

**Attachments:** 1. Development Contributions and Charges Discount Policy  

**SUMMARY / PURPOSE**

This report provides the context and rationale for extending the lifespan of the current Development Contributions and Charges Discounting Policy (the Discounting Policy). The extension in time is required to provide policy certainty to developers and to allow Council to complete key strategic actions from its adopted Local Strategic Planning Statement (LSPS) prior to the subsequent preparation of new development contributions plans.

**RECOMMENDATION**

That Council:

1. Receives and notes the report, *Extension of Development Contributions and Charges Discounting Policy*;
2. Prepares an amended Development Contributions and Charges Discounting Policy that extends the current lifespan from August 2023 to August 2025 with the option to extend;
3. Places the amended Developer Contributions and Charges Discounting Policy on public exhibition and, at the conclusion of public exhibition, be provided with a report on submissions received.

**BACKGROUND INFORMATION**

The Discounting Policy commenced on 13 March 2018. The commencement of the Discounting Policy has stimulated a range of development that may not otherwise have progressed, including residential unit developments. At its meeting of June 2021, Council resolved to extend the lifespan of the policy until August 2023.

On 1 March 2018, an amended *Environmental Planning and Assessment Act 1979* commenced. The amended Act included a requirement for every NSW Council to produce a Local Strategic Planning Statement (LSPS) for its LGA. Council has now adopted its LSPS, which includes a priority to “*Review development contributions plans to achieve a balance between promoting growth and investment and providing for future infrastructure needs*” (Priority B4.3). This is noted as a ‘medium term’ priority – and Council will need to undertake additional, related priority actions (including the production of a Housing Needs Assessment and a review of the availability and take up of employment land) to inform the development of a new contributions plan.

**PREVIOUS COUNCIL CONSIDERATION**

Council, at its 11 December 2017 Ordinary Meeting, resolved to prepare a draft Section 94 development contributions (now Section 7.11 in revised *Environmental Planning and Assessment Act 1979*) and Section 64 development servicing charges (water, sewer and stormwater) discounting policy and to carry out public exhibition of the draft policy.

Following preparation of the draft policy and its public exhibition Council resolved at its 12 March 2018 Ordinary meeting to adopt the Policy. Subsequently, Council resolved to extend the policy (and also to include subdivision as a category of development where contributions would be waived) at its meeting of 11 June 2019. Council further resolved to extend the policy at its meeting of 15 June 2021.



**REPORT**

During 2020/2021, the Kyogle LGA property market has experienced a surge in demand – with the attendant impact that it is more realistic to expect increased development activity in coming years. Notwithstanding the changing nature of the local property market, development yields are still lower than in other areas of the Northern Rivers. Accordingly, it is considered appropriate to continue Council's Discounting Policy to encourage development that would not otherwise take place and to build confidence generally in the development/construction sector.

A key reason for extending the lifespan of the Discounting Policy is that, as the August 2023 deadline approaches, it is increasingly difficult for a developer to obtain development consent and then commence and complete construction of the development within this period (as required by the Policy). The proposed extension (until August 2025) is intended to increase the window of opportunity for developers to utilise the Policy, and to assist in the ongoing growth and development of the Kyogle LGA.

The extension will also allow Council to complete key LSPS priorities that will identify priorities for land development and associated infrastructure requirements, something that will inform the review and drafting of new developer contributions plans where required. Accordingly, the proposed extension to the current policy is recommended for review by August 2025 – this period being considered appropriate for the completion of key LSPS priorities and to give developers the ability to implement approved development proposals under the current policy.

**BUDGET AND FINANCIAL IMPLICATIONS**

When the extension to the Policy was considered in 2019, and in relation to the application of the Policy to subdivision, it was noted that the Long Term Financial Plan assumed an income from developer contributions over the subsequent three years (i.e. until 2022) totalling \$69,000. When the original discounting policy was approved by Council, the LTFP was adjusted to remove any income stream up to the 2021/2022 financial year. Should the extension be approved, this reduced income assumption would need to be extended for a further year.

A reduction in income of this amount would not compromise Council's ability to fund essential upgrades and works (in line with the intent of its Development Contribution Plans) without any impact on the wider Council budget, and without the need to raise any additional funds from other sources. This would likely have an impact on the minimum bank balances in future years and allowances may need to be made for this during budget review processes.

Retaining a development contribution for heavy haulage development will allow Council to continue to fund works that are necessary to mitigate the impacts of heavy haulage on public roads.



# Development Contributions and Charges Discounting Policy

## Document Control

For controlled copies of this Document the copy number is shown below and initialled in RED by the issuing officer. Uncontrolled copies are not numbered.

Controlled Copy No:	Issued by:	Date:

June 15, 2021	Development Contributions and Charges Discounting Policy	Page 1 of 4 Pages
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## 1 AIM AND PURPOSE

The Aim of the Development Contributions and Charges Discounting Policy (the Policy) is to encourage the carrying out of development over the life of the Policy through the waiver of development contributions and servicing charges.

The Purpose of this Policy is to outline Council's intention to facilitate the waiver of development contributions levied under Section 7.11 (formerly s94) of the *Environmental Planning and Assessment Act 1979* and water, sewer and stormwater charges levied under Section 64 of the *Local Government Act 1993* that apply to certain types of development over the period of the Policy, subject to those developments meeting the requirements of the Policy.

## 2 VALIDITY, COMMENCEMENT AND LIFESPAN

This policy derives its validity from Council resolution CO/0621/1. The Policy commenced on June 15, 2021 and expires on 13 August 2023.

## 3 ELIGIBLE DEVELOPMENT

This Policy applies to all development (that is subject to conditions requiring payment of development contributions and/or development servicing charges) for which a valid consent exists that is completed during the life of this Policy, excluding the following development type:

- Development for which a Section 7.11 (formerly s94) contribution is applied for heavy haulage.

Criteria for development to be considered completed is provided in Section 4 Part A.

This Policy is not intended to apply to development that has been completed or carried out prior to the Policy coming into effect and therefore, does not apply to:

- a) Development that has been completed and/or has been in use prior to this Policy coming into effect on August 12, 2019.
- b) Development for which an interim or final occupation certificate has been issued.
- c) Development for which a subdivision certificate has been issued.
- d) Development for which applicable development contributions or servicing charges have been paid, in part or in whole.

June 15, 2021

Development Contributions and  
Charges Discounting Policy

Page 2 of 4 Pages

#### 4 POLICY STATEMENT

##### PART A Development for which consent was granted prior to this Policy

1. A person who is entitled to act on a development consent may apply to modify a condition or conditions of that consent under s4.55 (formerly s96) of the *Environmental Planning and Assessment Act 1979* so that payment of s7.11 (formerly s94) development contributions and/or Section 64 charges is not required.
2. During the life of this Policy, Council will approve applications received as described in (1) such that the relevant conditions will be modified to state that the development will not be liable for payment of s7.11 (formerly s94) contributions and s64 charges where that development is completed during the life of this Policy. Where development is not completed within the life of the Policy the development will be liable for contributions and charges and the modified conditions of consent will also reflect this.
3. Development will be considered to be completed when it meets the following criteria:
  - Construction of buildings - application for a final occupation certificate is received by the Principal Certifying Authority and all relevant matters and conditions of consent to allow the issue of a final occupation certificate are satisfied.
  - Change of use of building - application for a final occupation certificate is received by the Principal Certifying Authority and all relevant matters and conditions of consent to allow the issue of a final occupation certificate are satisfied.
  - Subdivision - application for a subdivision certificate is received by Council and all relevant matters and conditions of consent to allow the certificate to be issued are satisfied.
  - Establishment of new use of land or premises - all relevant matters and conditions of consent to allow establishment of new use are satisfied.
4. Staff authority to determine applications under Section 4.55 and in accordance with this Policy will be as per the delegations established by Council.

##### PART B Development for which consent is granted during the life of this Policy

1. In determining applications seeking consent for development to which this Policy applies, Council will apply conditions requiring payment of development contributions under s. 7.11 of the *Environmental Planning and Assessment Act 1979* in accordance with any applicable s94 Development Contributions Plans, where that development is not completed within the life of this Policy.

June 15, 2021	Development Contributions and Charges Discounting Policy	Page 3 of 4 Pages
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2. In determining applications seeking consent for development to which this Policy applies, Council will apply conditions requiring payment of development servicing charges under s.64 of the *Local Government Act 1993* in accordance with any applicable s64 Development Servicing Plan, where that development is not completed within the life of this Policy.
3. Development will be considered to be completed when it meets the criteria outlined in PART A.

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June 15, 2021	Development Contributions and Charges Discounting Policy	Page 4 of 4 Pages
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**13.3 PRIVATE NATIVE FORESTRY IN THE KYOGLE LOCAL GOVERNMENT AREA**

**Author:** Manager Development & Regulatory Services

**Authoriser:** General Manager

**Attachments:** Nil

**SUMMARY / PURPOSE**

Currently, to conduct Private Native Forestry in the Kyogle Local Government Area (LGA), land owners are required to obtain dual consent from Local Land Services and Kyogle Council. This represents a duplication of regulatory processes resulting in unnecessary regulatory burden for Council and land owners. The purpose of this report is to seek Council approval to prepare a Planning Proposal under the *Environmental Planning and Assessment Act 1979* to remove dual consent for Private Native Forestry in the Kyogle LGA.

**RECOMMENDATION**

That Council:

1. Receives and notes the report, *Private Native Forestry in the Kyogle Local Government Area*;
2. Approves the preparation of a Planning Proposal to amend the Kyogle Local Environmental Plan 2012 to make Private Native Forestry permitted without consent in zone RU1 – Primary Production;
3. Commits to progressing a study of the biodiversity and heritage value of land within the Kyogle LGA, consistent with the objectives of the *Kyogle Community Strategic Plan 2022 – 2032* and *Kyogle Council Local Strategic Planning Statement 2020*, with a view to introducing conservation zones into the *Kyogle Local Environmental Plan 2012* to protect land with high environmental or heritage value in future.

**BACKGROUND INFORMATION**

On the North Coast of New South Wales (NSW) there is 2.8 million hectares of native forests in private ownership. Kyogle Council has the third highest amount of private native forest on the North Coast of NSW with approximately 160,000 hectares.

Land owners are able to harvest timber from native forests on private land, in certain circumstances. This activity is called 'Private Native Forestry' (PNF). Firstly, in order to conduct PNF, the forest on the subject land cannot contain an area of State environmental significance or heritage value. This includes old growth forest, rainforest, wetlands, threatened ecological communities, areas of declared outstanding biodiversity value, areas containing Aboriginal objects or places, and areas contained identified heritage items.

Secondly, in order to conduct PNF, the land owner must have a Private Native Forestry Plan (PNF Plan) approved by Local Land Services under the *Local Land Services Act 2013*. The land owner must also obtain development consent from their local council under the *Environmental Planning Act 1979* where consent is required under a local planning instrument.

According to the Department of Primary Industries, in 2018, approved PNF plans covered more than 350,000 hectares of private native forests and more than 2,600 properties. In total, 275,000m<sup>3</sup> of hardwood logs were estimated to be harvested from these forests each year, generating an estimated \$175 million in regional economic turnover and direct employment of 654 people.

As of 2022, Council records indicate that there are 146 current approved PNF plans in the Kyogle local government area covering 382 parcels of land. Local Land Services advises that over half of

all forest under freehold title is subject to an approved PNF. A further 84 PNF plans covering 279 parcels of land have historically been approved, however, it is likely these approvals have expired.

## REPORT

### The issue

In July 2022, a report from concerned members of the community about PNF being conducted near the Border Ranges National Park, and involvement in a subsequent EPA-led compliance investigation, prompted Council officers to review governance processes surrounding PNF in the Kyogle LGA. Key findings of the review were:

1. Local Land Services (LLS) is the responsible authority for approving PNF plans. A PNF Plan is an approval to undertake PNF for a period of up to 15 years. The PNF Plan contains:
  - a) a satellite image or aerial photograph of a property that identifies where forestry can be conducted and the areas that must be protected such as rainforest, old-growth forest, threatened species habitat and drainage features
  - b) an agreement that outlines the land owner's rights and responsibilities under the relevant Private Native Forestry Code of Practice. In the Kyogle LGA, PNF must comply with the *Private Native Forestry Code of Practice for Northern NSW*.
2. In determining whether to approve a PNF Plan for a subject property, LLS only considers matters **on** the subject property such as the presence of protected environmental or heritage areas and infrastructure required on-site to conduct forestry operations (e.g. internal roads, erosion and sediment control, snig tracks etc).

The assessment does not have regard to existing strategies or policies relevant to the subject land or the cumulative impact of PNF across a landscape. The assessment process also does not have regard to Council and community interests including impacts on infrastructure (roads, bridges and haulage routes), local amenity, water quality and areas of local environment or heritage significance. Councils are not consulted during the assessment process and only receive notification from LLS when a PNF Plan has been approved.
3. The Environmental Protection Agency (EPA) is the responsible authority for compliance and enforcement of PNF. Where a land owner, or forestry operations contractor, is suspected of carrying out PNF in a manner contrary to the approved PNF Plan (including the applicable PNF Code of Practice), the EPA investigates the report and enforces compliance actions if necessary. Council has no involvement in compliance or enforcement processes.
4. Under the *Kyogle Local Environmental Plan 2012* (Kyogle LEP), development consent is required to be obtained from Council prior to conducting PNF on land zoned RU1 – Primary Production. The Kyogle LEP took effect on 13 February 2013.

Prior to this date, forestry was permitted without consent in non-urban zones and under the *Native Vegetation Act 2003*, existing approved PNF plans were not subject to changes in a local planning instrument. However, the provisions exempting forestry from changes to planning instruments was not transferred to subsequent governing legislation when the *Native Vegetation Act* was repealed.

Of the 146 currently approved PNF plans, 133 commenced after 13 February 2013. This means development consent is required from Council prior to PNF being conducted under these plans. Council records indicate that not a single development application has been submitted to Council seeking consent for PNF. Accordingly, any PNF conducted under these plans is unlawful under the *Environmental Planning and Assessment Act*. Substantial penalties apply to development undertaken without the consent of the relevant authority when consent is required to be obtained.

The above key findings have left Council with two key issues which need to be resolved:

1. What role should Council play in approving PNF in the Kyogle LGA (if any) in future?
2. What compliance action should Council take in response to existing unlawful PNF?

Proposed way forward

#### Issue 1: Approval of PNF in the Kyogle LGA

Council officers have discussed the above issue with the Department of Planning and Environment (DPE) with a view to finding a solution which ensures that duplication in regulatory processes is removed while ensuring that state and local government interests are protected.

DPE and Council officers agree that the best way forward is to amend the Kyogle LEP to make PNF permitted without consent on land zoned RU1 – Primary Production. This would enable any land owner who obtains an approved PNF Plan from LLS after the proposed amendment to the LEP takes effect, to proceed with PNF without obtaining development consent from Council. Amending the Kyogle LEP in this way would bring Kyogle Council's planning framework for PNF into line with the following Far North Coast and Mid North Coast councils: Lismore City, Richmond Valley, Clarence Valley, Bellingen, Nambucca and Kempsey.

However, in order for an amendment to the Kyogle LEP to be approved by state agencies, Kyogle Council would need to commit to progressing a study of the biodiversity and heritage value of land within the Kyogle LGA with a view to introducing conservation zones to protect land with high environmental or heritage value in future. This work is required to ensure that the environmental protections provided by the current planning framework are not diminished. It is noted that all of the councils where PNF is permitted without council consent have conservation zones included in their LEPs. It is also noted that Councillors have already identified completion of biodiversity mapping and preparation of a Biodiversity Strategy as key actions which need to be undertaken to achieve the objectives of the Community Strategic Plan and Local Strategic Planning Statement. However, conversion of this mapping to conservation zones will be a new action.

If Council does not support the above approach, the current dual consent framework would need to be maintained. This means that all land owners seeking to undertake PNF in the Kyogle LGA would need to submit a development application to Council for approval. As all private native forests in the Kyogle LGA are mapped under the Kyogle LEP on the Terrestrial Biodiversity Map, any development application would need to demonstrate compliance with clause 6.7 of the Kyogle LEP which requires development to avoid, minimise and mitigate environmental impacts. As PNF characteristically involves significant impacts to the environment, it would be very difficult for an applicant to demonstrate compliance with this clause unless the application was supported by a biodiversity assessment proving the forest had low environmental value, or that the impacts would be offset by, for example, rehabilitating, regenerating or establishing new native forests.

Given the above, it is strongly recommended that Council endorse the preparation of a Planning Proposal to amend the LEP to permit PNF without consent and commit to progressing a biodiversity and heritage study of the Kyogle LGA, in order to support the PNF industry.

#### Issue 2: Compliance for unlawful PNF

The above proposed amendment to the Kyogle LEP will not address the issue of the 133 existing PNF plans which require council consent under the current planning framework.

The Environmental Planning and Assessment Act provides for land uses to be deemed an existing use if the use of the land was for a lawful purpose immediately before an environmental planning instrument came into force that had the effect of prohibiting that use. The problem with these provisions is that the Kyogle LEP never had the effect of prohibiting PNF (it is permitted with consent), therefore it may be argued that existing use can't be applied in this situation.

Despite the above, Council considers that it would be prudent for Council to operationally apply an adapted concept of existing use to PNF when considering whether or not to proceed with compliance action under the Environmental Planning and Assessment Act. Namely, PNF could be deemed by Council to be an existing use on land zoned RU1 – Primary Production if a current approved PNF Plan is in place immediately before the Kyogle LEP is amended to make PNF permitted without consent. While this will not make the use of land for PNF legal under NSW



planning legislation, it will provide current landowners with assurance that Council will not take compliance action in response to any PNF conducted on land zoned RU1 – Primary Production under an approved PNF Plan in future.

If Council does not endorse the proposed amendment to the Kyogle LEP, then Council will write to all landowners with an existing approved PNF Plan advising them of the need to obtain development consent from Council prior to undertaking PNF on their land going forward. As noted above, this will place both land owners and Council in a difficult position given that under the current Kyogle LEP Council cannot approve proposals that will have an adverse impact on the environment.

### **BUDGET AND FINANCIAL IMPLICATIONS**

If Council chooses to endorse the proposal to amend the Kyogle LEP to make PNF permitted without consent on land zoned RU1 – Primary Production in the Kyogle LGA, Council will need to prepare a Planning Proposal as required under the Environmental Planning and Assessment Act. A Planning Proposal can be developed using current Council resources or Council may employ an external consultant to prepare the Planning Proposal. It is estimated that the cost to prepare a Planning Proposal would be \$25,000.

In order for the LEP amendment to be approved Council would need to commission a study of the biodiversity and heritage values of land within the Kyogle LGA. It is estimated that these studies may cost up to \$200,000 depending on the scope and rigor of the methodology adopted.

If Council chooses to retain the status quo with regards to the dual consent, then it needs to consider the resources required for the assessment and approvals processes and ongoing regulatory enforcement, and the duplication that would result due to the LLS and EPA also having those same roles and regulatory responsibilities. It is estimated that this would require additional environmental and planning staffing resources and would cost in the order of \$150,000 to \$200,000 per year in addition to the current operational budget.

**13.4 2021-2022 ANNUAL REPORT**

**Author:** Manager Corporate Services

**Authoriser:** General Manager

**Attachments:** 1. 2021-2022 Annual Report (under separate cover) 

**SUMMARY / PURPOSE**

This report presents the 2021-2022 Annual Report to Council prior to its finalisation and presentation to the public and the Minister for Local Government.

**RECOMMENDATION**

That Council:

1. Receives and notes the report, *2021-2022 Annual Report*;
2. In accordance with s.428 of the Local Government Act, 1993, posts the finalised Annual Report on Council's website and provide a copy to the Minister.

**BACKGROUND INFORMATION****Legislative Requirements**

Section 428 of the Local Government Act, states that "within five months after the end of each year, a council must prepare a report (its annual report) for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed"

The content of the report is prescribed by the Act, with the view of ensuring greater accountability of the Council.

Section 428(5) of the Local Government Act states that "a copy of the council's annual report must be posted on the council's website and provided to the Minister and such other persons and bodies as the regulations may require".

A copy of a council's annual report may be provided to the Minister by notifying the Minister of the appropriate URL link to access the report on the council's website.

**REPORT**

Due the catastrophic floods early this calendar year, Council sought and received an extension of time for the lodgement of the 2021-2022 Financial Statements. The Office of Local Government granted Council an extension of time to 31 December, 2022. However, as the timeframe referred to above for the presentation to Council of the Annual Report is legislated it is unable to be extended.

As such, it should be noted that key financial figures have been inputted into the attached version of the report and should be taken as draft until the financial statements have been approved by the NSW Auditor General's office.

**14 URGENT BUSINESS WITHOUT NOTICE**

**15 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:

**15.1 Clarence Way Woodenbong to Urbenville Legal Matter Update**

This matter is considered to be confidential under Section 10A(2) - g 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 advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**15.2 Contractor Appointment of Geneva Bridge restoration works**

This matter is considered to be confidential under Section 10A(2) - di 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 commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**15.3 Request for Charges to be Waived**

This matter is considered to be confidential under Section 10A(2) - b 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 discussion in relation to the personal hardship of a resident or ratepayer.

**16      CLOSE OF MEETING**