



# **MINUTES**

**Ordinary Council Meeting**

**14 November 2022**

**MINUTES OF KYOGLE COUNCIL  
ORDINARY COUNCIL MEETING  
HELD AT THE KYOGLE COUNCIL CHAMBERS, STRATHEDEN STREET, KYOGLE  
ON MONDAY, 14 NOVEMBER 2022 AT 2PM**

**PRESENT:** Cr Kylie Thomas (Mayor), Cr Tom Cooper (Deputy Mayor), Cr John Burley, Cr Janet Wilson, Cr Maggie May, Cr Hayden Doolan (attended the meeting via video conferencing), Cr James Murray.

**IN ATTENDANCE:** General Manager, Director Assets and Infrastructure Services, Director Planning and Community Development, Executive Manager Corporate Services, Executive Assistant to the General Manager.

## **1 OPEN MEETING**

The Mayor declared the meeting open at 2.02pm and advised those present that the meeting was being webcast. All speakers were advised to refrain from making any defamatory statements or comments. The Mayor advised the meeting that Council accepts no responsibility for any damages that may result from defamatory statements made at the meeting. All liability rests with the individuals making the comments.

## **2 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS**

Cr Danielle Mulholland and Cr Rob Cullen submitted apologies for the meeting and each sought a leave of absence.

### **2.1 LEAVE OF ABSENCE**

#### **RESOLVED CO/1122/1**

Moved by Cr Maggie May, seconded by Cr James Murray

That Council accept the apologies from Cr Danielle Mulholland and Cr Rob Cullen and grant them a leave of absence for this meeting.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

## **3 OPENING PRAYER**

The Mayor read the opening prayer.

## **4 ACKNOWLEDGEMENT OF COUNTRY**

The Mayor acknowledged that the meeting was being held on the traditional lands of the Bundjalung people and acknowledged Elders past, present and emerging.

## **5 DECLARATION OF INTERESTS**

Cr Kylie Thomas declared an interest in the following item:

- Item 13.2 Extension of Development Contributions and Charges Discounting Policy
- Item 15.3 Request for Charges to be Waived

Reason for declarations: Past association and interests.

Cr James Murray declared an interest in the following item:

- Item 13.3: Private Native Forestry in Kyogle Local Government Area.

Reason for declaration: Involved in the logging/timber industry.

## **6 PUBLIC FORUM**

Council received two requests for Public Forum in relation to Item 13.3 Private Native Forestry in the Kyogle Local Government Area.

The requests were received from Melissa Hallett, of Lillian Rock, and Tori Bail, as Chair of the Kyogle Environment Group. Both requested to speak against Item 13.3 Private Native Forestry in Kyogle Local Government Area.

Both requests were approved and both spoke against Council moving to amend the Kyogle Local Environmental Plan 2012 to make Private Native Forestry permitted without Council consent in zone RU1 – Primary Production.

## **7 CONFIRMATION OF MINUTES**

### **7.1 COUNCIL REPORT - 10 OCTOBER 2022**

#### **RESOLVED CO/1122/2**

Moved by Cr John Burley, seconded by Cr Tom Cooper

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

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

## **8 MAYORAL MINUTE**

### **8.1 MAYORAL MINUTE - DECLARATION OF STATEWIDE ROAD EMERGENCY**

#### **RESOLVED CO/1122/3**

Moved by Cr Kylie Thomas, seconded by Cr Maggie May

That Kyogle Council joins with Local Government NSW and Country Mayors Association of NSW in declaring a State-wide Road Emergency.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

Nil

## 9 NOTICES OF MOTION

Nil

## 10 QUESTIONS WITH NOTICE FROM COUNCILLORS

### 10.1 QUESTIONS WITH NOTICE CR DANIELLE MULHOLLAND: CLARENCE WAY UPGRADE FUNDING

#### RESOLVED CO/1122/4

Moved by Cr Maggie May, seconded by Cr Tom Cooper

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

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

## 11 REPORTS FROM DELEGATES

### 11.1 DELEGATE'S REPORT: CR MAGGIE MAY - CLIMATE CHANGE WORKING GROUP

#### RESOLVED CO/1122/5

Moved by Cr Maggie May, seconded by Cr Janet Wilson

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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

**12 INFORMATION REPORTS**

**12.1 MONTHLY FINANCE REPORT - OCTOBER 2022**

**RESOLVED CO/1122/6**

Moved by Cr Maggie May, seconded by Cr Tom Cooper

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

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

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

**RESOLVED CO/1122/7**

Moved by Cr John Burley, seconded by Cr Janet Wilson

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

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

**13 STAFF REPORTS****13.1 SEPTEMBER 2022 QUARTERLY BUDGET REVIEW****RESOLVED CO/1122/8**

Moved by Cr Janet Wilson, seconded by Cr James Murray

That Council:

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

<b>STATEMENT OF SIGNIFICANT VARIANCES</b>		
<b>SEPTEMBER QUARTER BUDGET REVIEW</b>		
<b>DETAILS</b>	<b>QUARTERLY ADJUSTMENT</b>	
	<b>INCOME</b>	<b>EXPENSES</b>
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>	4,633,217	4,535,270
	<b>Net Adjustment</b>	<b>97,947</b>

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

Having previously declared an interest in Item 13.2, Cr Kylie Thomas left the meeting at 2.41pm and Deputy Mayor Cr Tom Cooper assumed the Chair.

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

#### RESOLVED CO/1122/9

Moved by Cr Maggie May, seconded by Cr Janet Wilson

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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen, Danielle Mulholland and Kylie Thomas.

Cr Maggie May called for division Under Section 735A of the Local Government Act 1993.

FOR	AGAINST
Cr Maggie May	
Cr Janet Wilson	
Cr John Burley	
Cr Hayden Doolan	
Cr Tom Cooper	
Cr James Murray	

ABSENT. DID NOT VOTE – Crs Rob Cullen, Danielle Mulholland and Kylie Thomas.

Cr Kylie Thomas returned to the meeting at 2.47pm and resumed her role as Chair of the meeting.

Having previously declared an interest in Item 13.3, Cr James Murray left the meeting at 2.47pm

### 13.3 PRIVATE NATIVE FORESTRY IN THE KYOGLE LOCAL GOVERNMENT AREA

#### MOTION

Moved by Cr Maggie May, seconded by Cr John Burley

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.

#### AMENDMENT

Moved by Cr Maggie May

That Council:

1. Receives and notes the report, *Private Native Forestry in the Kyogle Local Government Area*;
2. 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.

The amendment lapsed for want of a seconder.

#### RESOLVED CO/1122/10

Moved by Cr Maggie May, seconded by Cr John Burley

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;
4. Writes to the State Member for Lismore Janelle Saffin seeking her support in advocating for the State Government to properly fund the Environment Protection Agency and Local Lands Service to carry out compliance and enforcement of legislation and Codes of Practice in



regards to Private Native Forestry.

**CARRIED**

FOR VOTE - Crs Kylie Thomas, Tom Cooper, John Burley, Janet Wilson and Hayden Doolan

AGAINST VOTE - Cr Maggie May

ABSENT DID NOT VOTE - Cr James Murray, Cr Mulholland and Cr Cullen

Cr Maggie May called for division Under Section 735A of the Local Government Act 1993.

FOR	AGAINST
	Cr Maggie May
Cr Janet Wilson	
Cr John Burley	
Cr Hayden Doolan	
Cr Tom Cooper	
Cr Kylie Thomas	

ABSENT. DID NOT VOTE – Crs Rob Cullen, Danielle Mulholland and James Murray.

Cr James Murray returned to the meeting at 3.28pm.

#### **13.4 2021-2022 ANNUAL REPORT**

##### **RESOLVED CO/1122/11**

Moved by Cr Janet Wilson, seconded by Cr John Burley

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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

#### **14 URGENT BUSINESS WITHOUT NOTICE**

Nil

**15 CONFIDENTIAL BUSINESS PAPER****RESOLVED CO/1122/12**

Moved by Cr Janet Wilson, seconded by Cr John Burley

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.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

*NB: Prior to voting on the motion to move into confidential, the Mayor asked the gallery if anyone wanted to make representations as to why the meeting should not be closed to the public. No representations were made.*

The Mayor asked the media and the gallery to leave the chambers and Council moved into Confidential at 3.31pm.

Open Council resumed at 4.35pm.

The Mayor read the following resolutions of the Confidential Meeting to the open Council meeting.

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

Moved by Cr Maggie May, seconded by Cr John Burley

That Council:

1. Receives and notes the report, *Clarence Way Woodenbong to Urbenville Legal Matter Update* and the verbal presentation from Council's legal representatives;
2. Proceeds with the remediation works on the Clarence Way between Urbenville and Woodenbong at the earliest opportunity.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

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

Moved by Cr Janet Wilson, seconded by Cr James Murray

That Council:

1. Receives and notes the report *Contractor Appointment of Geneva Bridge Restoration Works*;
2. Accepts the price of \$1,509,520 (ex GST) for remediation works from PAN Civil under tender exemption Section 55 (3)(k) of the *Local Government Act 1993* and not to call tenders for the works because of extenuating circumstances in accordance with Section 55 (3)(i) of the *Local Government Act 1993*.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Rob Cullen and Danielle Mulholland.

**Item 15.3 Request for Charges to be Waived**

There was no resolution to report.

**16 CLOSE OF MEETING**

The Meeting closed at 4.37pm.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 12 December 2022.

.....  
**CHAIRPERSON**