

Planning and Assessment

IRF20/4824

Gateway determination report

Kyogle Gateway determination: PP_2020_KYOGL_001_00

Purpose: To recommend the Director, Northern Region, as delegate of the Minister, determine that planning proposal PP_2020_KYOGL_001_00 should proceed.

Analysis: The planning proposal seeks to strengthen and diversify the local economic base of Kyogle through facilitating the redevelopment of commercial premises, permitting certain residential uses in the Kyogle CBD; requiring active street frontages in the B2 zone and to allow certain temporary uses to occur without consent.

The planning proposal is considered to have merit and should proceed subject to conditions.

LGA	Kyogle
PPA	Kyogle Council
NAME	Activation of the Kyogle central business district
NUMBER	PP_2020_KYOGL_001_00
LEP TO BE AMENDED	Kyogle LEP 2012
ADDRESS	Kyogle central business district
DESCRIPTION	Various lots
RECEIVED	17/9/2020 (adequate 30/10/2020)
FILE NO.	EF20/29883
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to strengthen and diversify the local economic base of Kyogle by facilitating the redevelopment of disused commercial premises. It is anticipated the changes to the LEP will stimulate the development of vacant or underutilised land, increase housing choice within Kyogle and facilitate the establishment of new businesses that will contribute to the sustainable reactivation of the CBD.

1.2 Site description

The proposal applies to land located in the centre of Kyogle township and currently zoned B2 Local Centre and B4 Mixed Use (Figure 1 and Figure 2).

1.3 Existing planning controls and surrounding area

The Kyogle CBD is the key commercial centre serving Kyogle and the surrounding rural area and is zoned part B2 Commercial Core and part B4 Mixed Use (Figure 1).

Land fronting Summerland Way, Geneva Street and Stratheden Street, as well as lots with frontage to Bloore Street, contain the majority of commercial premises and higher order businesses and services such as banks, the post office, hotels and the supermarket and is zoned B2 Commercial Core.

Land located along the northern section of the Summerland Way, as well as on land fronting Ettrick Street and land that is part of, and adjoining, the North Coast rail line is zoned B4 Mixed Use and accommodates a range of uses and businesses including panel beaters, retail outlets, medical practitioners, dwelling houses, medium density residential development, service stations and mechanics.

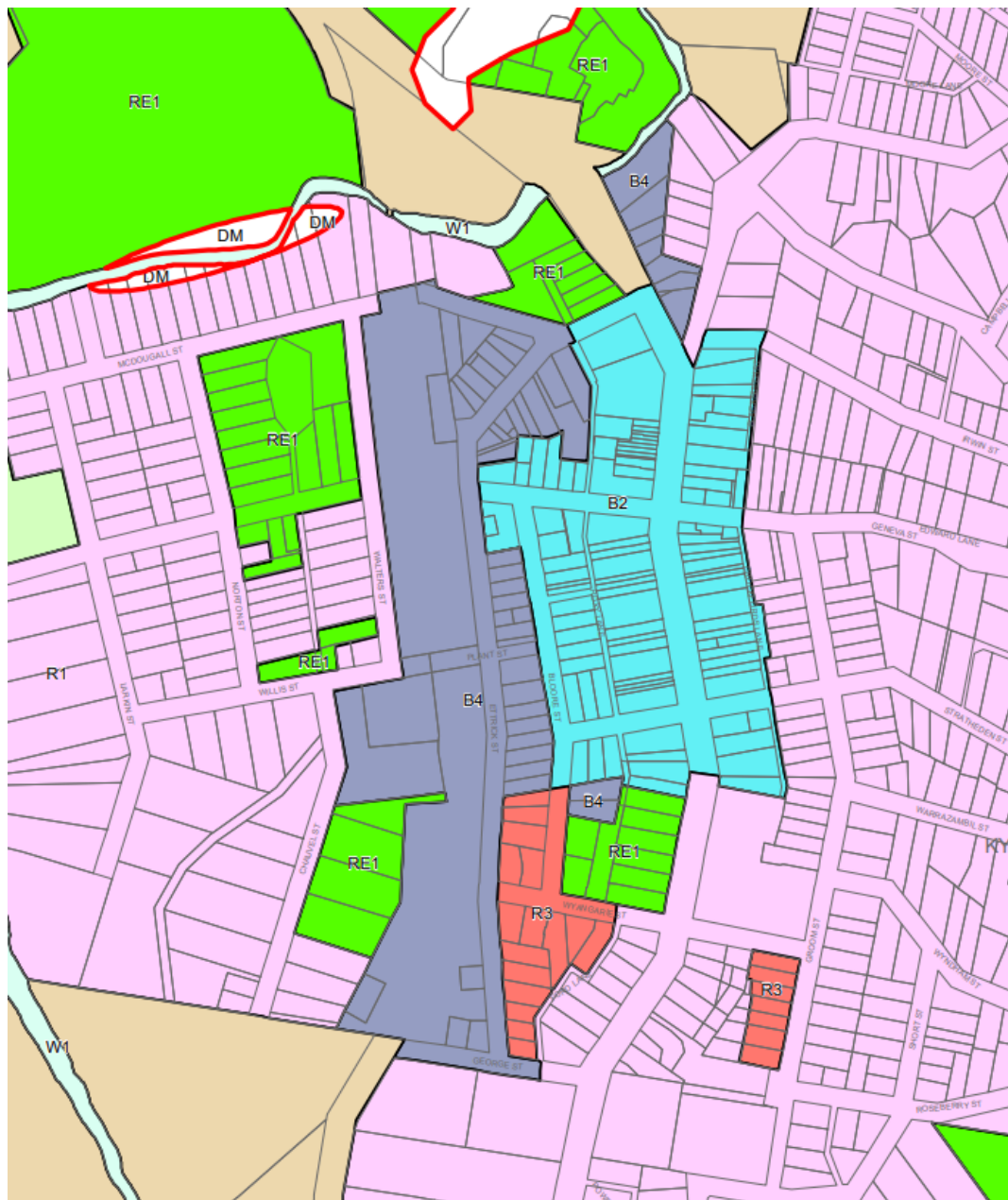


Figure 1 – Kyogle CBD zoning map



Figure 2 – planning proposal area

1.4 Summary of recommendation

It is considered that the proposal has merit and should proceed subject to conditions as it will provide greater employment opportunities, while also encouraging increased residential development and active commercial frontages in Kyogle CBD.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcomes of the planning proposal are to:

- provide additional opportunities for growth of existing and new businesses;
- enhance economic and social activity in the Kyogle CBD, contributing to its vibrancy, vitality and resilience;
- increase supply of smaller dwellings in close proximity to the CBD;
- preserve the Kyogle CBD as the pre-eminent commercial area in the local government area with sufficient area of commercial floor space to meet demand and increased street level activity; and
- create a differentiated 'offer' between Kyogle and other regional service centres driving increased visitation and investment.

The objective and intended outcomes are appropriate for community consultation.

2.2 Explanation of provisions

The planning proposal clearly identifies that it seeks to introduce new permissible uses within the B2 and B4 zones and introduce local provisions to control development within the zones.

The proposed changes include:

- amend the B2 Zone land use table to include Artisan food and drink industry, Attached dwellings, Multi-dwelling housing, Residential flat buildings as development permitted with consent;
- amend the B4 Zone land use table to include Attached dwellings and Multi-dwelling housing as development permitted with consent;
- amend Part 6 of the LEP to include a definition of an 'artisan workshop' and make this permissible with consent in the B2 and B4 Zones;
- amend Part 6 of the LEP to require retention of the existing quantity of commercial floor area where redevelopment occurs in the B2 Zone, and to require that new residential development does not adversely affect existing commercial uses;
- amend Part 6 of the LEP to require active frontages to be provided where sites are developed or redeveloped in B2 zone; and
- amend Schedule 2 of the LEP to allow certain short term, temporary uses to occur as exempt development.

In regard to these changes it is recommended the proposal be amended prior to exhibition as follows:

- the use of a unique 'artisan workshop' definition is not supported as the land use can be adequately accommodated under the 'light industry' definition;
- amending the proposed retention of the existing quantity of commercial floor area local provision to a head of consideration type clause; and

- amending the proposed Schedule 2 changes to clarifying the temporary uses will be exempt development rather than development without consent

These changes have been discussed with Council who have raised no objection.

It is also noted that the explanation of the provisions includes suggested wording of a clause addressing active frontages. The suggested wording achieves the intended outcomes of the proposal, but it is inconsistent with the wording the model clause prepared by the Department. Council staff have confirmed they did consider using the model clause but chose to vary it in accordance with a clause added to the Ballina LEP 2012 in 2019. This is considered satisfactory.

The explanation of the provisions is considered appropriate and do not require amendment prior to community consultation.

2.3 Mapping

The planning proposal seeks to add a new Active Frontages Map showing where the clause will apply.

The proposal includes an indicative map showing these locations that is suitable for exhibition purposes (Figure 3). A map consistent with the technical requirements for LEP maps will need to be prepared prior to the finalisation of the LEP amendment.



Figure 3 - Active Street Frontages Map

3. NEED FOR THE PLANNING PROPOSAL

Kyogle Shire Council have identified the need for greater flexibility within the CBD to support development that can reinvigorate the area and be a benefit to the wider community.

The decline of smaller commercial centres is a widespread issue facing rural and regional NSW. Due to the changing face of the commercial sector, and the surge in online retail presence, many 'bricks and mortar' shops are closing or under greater economic pressure to diversify, remain flexible and relevant to the local community.

The proposal is needed to expand the permissible land uses in the Kyogle CBD to provide and facilitate greater flexibility for underutilised premises and will promote diversity within the local commercial sector.

4. STRATEGIC ASSESSMENT

4.1 State

The proposal is considered to be consistent with the State planning framework.

4.2 Regional

The planning proposal is consistent with the objectives and actions set out in the North Coast Regional Plan.

The plan identifies Kyogle as an important local centre servicing the surrounding area. The planning proposal supports Direction 6 (Develop Successful Centres of Employment) and particularly Action 6.3 "Reinforce centres through local growth management strategies and local environmental plans as primary mixed-use locations for commerce, housing, tourism, social activity and regional services" and Action 6.5 "Promote and enable an appropriate mix of land uses and prevent the encroachment of sensitive uses on employment land through local planning controls."

It also supports Direction 23 (Increase Housing Diversity and Choice) and particularly Action 23.1 "Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036" Direction 25 (Deliver more opportunities for affordable housing) is also applicable and Action 25.1 "Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing" is supported by the proposed changes to the LEP.

4.3 Local

The proposal is consistent with the local strategic planning framework that includes the recently adopted Local Strategic Planning Statement that identifies the need to amend the LEP to allow artisans and crafts persons enterprises and appropriate residential development in the Kyogle CBD.

Council's Community Strategic Plan also identifies the need to facilitate development of additional housing to older people and people with disabilities.

The planning proposal is supported by a report into aged care, disability services and respite care in the Kyogle LGA. Although not a traditional strategic planning document, it does identify that the LGA has almost no appropriate and affordable

housing for older people or those with disabilities and it recommends that additional housing be provided close to town to ensure that older people remain integrated into their community and have appropriate infrastructure to enable easy access and mobility. It is considered that this planning proposal will help to achieve this recommendation.

4.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all section 9.1 Direction except for:

Direction 2.6 Remediation of Contaminated Land

The proposal is potentially inconsistent with this Direction as it will be increasing residential development within the subject areas. Council has not addressed the Direction in its assessment and has confirmed that this is an oversight that will be rectified before public exhibition occurs. Due to the extent of the area affected by this proposal, there is likely to be areas of contaminated land due to the existing or former land uses, for example vehicle repair stations and service stations. Council will need to consider and satisfy itself that the land is suitable in its contaminated state (or will be suitable after remediation) for all the purposes for which land in the zone concerned is permitted to be used. Until Council has completed this assessment, consistency with this Direction remains unresolved.

4.3 Flood Prone Land

The proposal is inconsistent with this Direction as it will increase the development potential of some areas by permitting residential uses onto flood prone land (Figure 4). Until consultation with the Biodiversity and Conservation Division has been completed regarding this issue, it is recommended that the Direction remain unresolved.

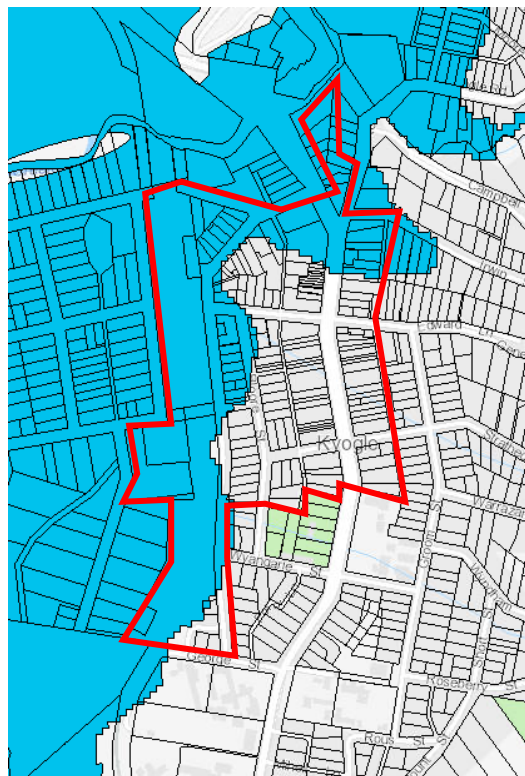


Figure 4 – Flood Planning Map

4.5 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

It is anticipated that the outcomes of the planning proposal will have positive social outcomes for Kyogle and its residents. The potential for additional dwellings and alternate housing types and sizes will provide additional housing choices and opportunities for residents. This is expected to particularly benefit the ageing population of Kyogle and will help enable people to 'age in place' rather than having to leave the community to find appropriate housing to meet their needs.

Activated street frontages will also have a positive social impact by ensuring pedestrian access is a focus of redeveloped sites and improve the amenity of the public domain.

5.2 Environmental

No adverse environmental effects have been identified from the proposal. The proposal applies to existing urban areas where there is unlikely to be any critical habitat or threatened species, populations or ecological communities or their habitats. Some part of the proposed area subject to this planning proposal is flood prone. Council's existing controls around building on flood prone land are considered sufficient to ensure the potential for personal or property damage from flood events can be adequately considered and assessed during the development application stage. It is recommended however that this matter be referred to the Biodiversity and Conservation Division for comment to confirm the suitability of the proposal in regard to this issue.

5.3 Economic

No adverse economic impacts associated with the proposal have been identified. The ability for additional opportunities for underutilised land to be developed for alternate uses, the potential for more people to be living and working in the CBD, and the ability for temporary artisan retail opportunities to establish will increase economic activity in the area. This is reinforced by the requirement that the reuse or redevelopment of existing building retain the current commercial floor space.

6. CONSULTATION

6.1 Community

Council proposes a minimum public notification period of 23 days for the planning proposal. It is considered a 28-day exhibition period is appropriate in this instance.

6.2 Agencies

Council has not identified any particular agencies for specific consultation on the planning proposal. It is recommended that consultation with the Biodiversity and Conservation Division be undertaken.

7. TIME FRAME

Council's proposed timeframe for completing the LEP is approximately six months. This timeframe is considered appropriate to allow sufficient time to complete the LEP.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested an authorisation to exercise delegated functions pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979. As the proposal is consistent with the State and regional planning framework, it is recommended that an authorisation be issued to Council.

9. CONCLUSION

The planning proposal is considered to have merit, is consistent with the State and regional planning framework, and will provide greater employment opportunities, while also encouraging increased residential development and active commercial frontages in Kyogle CBD.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Note that any inconsistency with section 9.1 Direction 2.6 Remediation of contaminated land and Direction 4.3 Flood Prone land remain unresolved.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal be amended prior to consultation to:
 - a. include consideration of Section 9.1 Direction 2.6 Remediation of contaminated land;
 - b. replace references to the proposed definition of 'artisan workshop' with 'light industry' in Part 2 Explanation of provisions;
 - c. alter the section relating to the new clause 6.xx Protection of non-residential uses in Zone B2 from effects of residential development to identify the impact of new residential uses will be assessed through an appropriate head of consideration; and
 - d. identify that the proposed temporary use of buildings for retailing or exhibition of agricultural produce, locally produced (packaged) food and drink products, art, craft products and events, community and tourism services and promotion will be exempt development rather than development without consent.
2. The planning proposal should be made available for community consultation for a minimum of 28 days;
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination; and

4. Given the nature of the planning proposal, Council should be the local plan making authority to make this plan.



9/11/20

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17-11-2020

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