



## PLANNING PROPOSAL

Proposed amendment to the Kyogle Local Environmental Plan

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Amendment No. 14 – Amendment to support activation of the Kyogle central business district

16 September 2020

# Introduction

## Overview

This Planning Proposal explains the intended effect and justification for the proposed amendment to the *Kyogle Local Environmental Plan 2012* (KLEP), herein referred to as the LEP Amendment. The amendment has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the relevant Department of Planning and Environment guidelines including *A guide to preparing planning proposals, 2018* (the Guideline).

This Planning Proposal applies to the central business district (CBD) of Kyogle, an area which is currently in Zones B2 Local Centre and B4 Mixed Use. The Planning Proposal is intended to introduce a number of permissible uses within each Zone, and to introduce local provisions to control development in the Zones. The principal proposed changes are:

1. Amend the Land Use Table to include *Artisan food and drink industry, Attached dwellings, Multi dwelling housing, Residential flat buildings* as development that is permitted with consent in Zone B2.
2. Amend the Land Use Table to include *Attached dwellings and Multi dwelling housing* as development that is permitted with consent in Zone B4.
3. Amend Part 6 to include a definition of an *Artisan workshop* and make this permissible with consent in Zones B2 and B4.
4. Amend Part 6 to require retention of the existing quantity of commercial floor area where redevelopment occurs in Zone B2, and to require that new residential development does not adversely affect existing commercial uses.
5. Amend Part 6 to require active frontages to be provided where sites are developed or redeveloped in Zone B2. This will be accompanied by a new map.
6. Amend Schedule 2 to allow certain short term, temporary uses to occur without development consent.

The proposed LEP Amendment is intended to strengthen and diversify the local economic base of Kyogle through facilitating the redevelopment of unsuitable or disused commercial premises where the local market will not support reuse within existing use classes. The amendment will stimulate the development of undeveloped land and facilitate the establishment of new businesses that will contribute to the sustainable reactivation of the Kyogle CBD.

The proposed LEP amendment has been the subject of a report to Council's Ordinary Meeting of 9 June 2020 which addressed the circumstances and benefits of the proposed amendment. Council resolved to prepare a Planning Proposal and forward it to the Department of Planning for Gateway Determination. A copy of the Council resolution is included at Attachment A. There are no other supplementary reports that have been prepared to support this Planning Proposal.

This Planning Proposal is submitted along with a request for a Gateway Determination to proceed with the proposed LEP Amendment under Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## Background

### *Description of subject land*

The proposed LEP Amendment applies to land located in the centre of Kyogle township and currently within Land Use Zones B2 Local Centre and B4 Mixed Use; this area is shown in Figure 1 below.





compromising the vitality and viability of the Kyogle CBD, the fabric of these vacant/underused sites and buildings is decaying to an extent that the costs associated with bringing these assets back into use is becoming prohibitively expensive for prospective developers and investors. The nature and viability of town centre retailing – particularly in marginal regional centres – is changing to reflect the increasing availability of, and consumer preference for, online retailing. It is also prudent and timely to reflect on the impacts of the ongoing COVID-19 pandemic, which is fundamentally changing the ways in which people interact with activity centres.

The CBD is displaying evidence of stagnation and a lack of investment in existing businesses and commercial premises as seen in multiple vacant premises, under-utilised land as well as old buildings that are not fit for purpose and do not meet the present needs of business. Flexibility and pragmatism is required in the local planning framework to encourage investment in the Kyogle CBD, and support the business start-ups and diversification that will create a vibrant and sustainable regional service centre.

Whilst there are many reasons for vacant premises and sites, the current LEP provisions are considered to be unnecessarily restrictive and limit the potential development, leasing or re-development of existing premises and sites for what is considered appropriate or complementary uses. Two key issues which are proposed to be addressed are:

- **Limitations on establishment of small-scale artisans and crafts-persons businesses.** These businesses are classified as a type of industry. Zone B2 presently prohibits 'industries', which restricts the establishment of small-scale makers and crafts persons businesses in the CBD as they fall within the definition of an 'industry' in the LEP.
- **Limited opportunities for establishment of smaller dwellings in close proximity to services and facilities within the CBD.** A report commissioned by Kyogle Council in 2015 (the Cartwright Report; included at Attachment B) found that Kyogle has a shortage of smaller dwellings suitable for older persons, persons with a disability and smaller households – significant cohorts within the local demographic profile. The present Land Use Table limits residential development in Zones B2 and B4 particularly in Zone B2 where shop top housing is the only form of residential accommodation currently permitted – however, such development/conversions are not occurring due to market failure and the high cost of purposing upper floors for residential use. Seniors housing and residential flat buildings are permitted with consent in Zone B4 however, Zone B4 covers a substantially smaller area than Zone B2 and has a limited number of sites potentially suitable for development or re-development. The present Land Use Table therefore strictly limits the CBD as an area that can contribute to the supply of smaller dwellings, despite its excellent location, and removes a key opportunity for development of vacant sites, or vacant parts of sites.

Whilst there are a number of issues currently, there are also a number of opportunities:

- a. Although vacant premises are an issue, they also offer space for establishment of new businesses or for testing or trialling of new or fledgling business ideas.
- b. Opportunity exists to allow a greater mix of uses without compromising the B2 Zone as the preferred location for retail, office and commercial services.
- c. There are opportunities for development of additional residential accommodation to take advantage of the proximity of the CBD to services and facilities and its walkable and PWD accessible streets. This will serve to improve dwelling choice and increase activation of the CBD.
- d. There are a number of existing sites with significant areas of undeveloped land or that are underutilised or that accommodate buildings that are suitable for re-development. By making some minor amendments to LEP provisions relating to Zones B2 and B4, Council can provide opportunities for development and activity that would not otherwise be possible. These additional opportunities will provide a mechanism to address underutilised sites and premises, to increase activity in the CBD as well as add to the supply and diversity of dwellings.

### ***Rationale for proposed amendment***

Through this proposed amendment to the Kyogle LEP Council is seeking to facilitate the establishment of new businesses in the CBD as well as to allow a greater mix of uses. It is considered that facilitating additional investment in the CBD will increase the social and economic activity within the CBD in the following ways:

- New businesses will increase demand for commercial floor space.
- Providing for the temporary establishment of retail outlets will provide opportunity for the utilisation of presently vacant premises.
- Expanding the permissible residential accommodation will provide incentive for the delivery of smaller dwellings in close proximity to services and facilities, thereby improving choice in the local housing market and meeting the needs of particular cohorts (including seniors and people living with disabilities). It will also provide an opportunity for the development of land that is presently under-utilised and is not suitable for commercial development e.g. rear of sites.
- Introducing requirements for delivery of active frontages will ensure retention of commercial floor space as well as activation of street frontages.
- Introducing provisions to require retention or delivery of commercial floorspace as part of any residential development will retain commercial floor space.
- Additional businesses will bring more shoppers and visitors to the CBD. Additional dwellings will bring more residents into the CBD which will add to activation.

The Kyogle CBD presently displays characteristics of under-utilisation and under-investment. The land use planning amendments proposed in this planning proposal are intended to address these issues and increase the social and economic sustainability and vitality of the highest order urban centre in the local government area.

# Part 1 – Objectives and Intended Outcomes

## Objectives

The objectives of the proposed amendment are:

- A. To provide statutory planning mechanisms that can respond to or facilitate adaptive re-use or re-development of vacant or underutilised premises or sites.
- B. To increase social and economic activity in the CBD by encouraging more pedestrians, diners, social interaction, cultural attractions and events, commerce and retail activity and tourists and visitors.
- C. To achieve more residential development in the CBD that is suitable to accommodate older persons, persons with a disability and smaller households.
- D. To ensure the B2 Zone retains a sufficient quantum of commercial floor space to meet future demand.
- E. To ensure that new development contributes to activity along its street frontage, where the site is fronting Summerland Way, Stratheden Street and Geneva Street.

## Intended Outcomes

The intended outcomes of the proposed amendment are:

- 1. The provision of additional opportunities for growth of existing and new businesses.
- 2. Enhanced economic and social activity in the Kyogle CBD, contributing to its vibrancy, vitality and resilience.
- 3. Increased supply of smaller dwellings in close proximity to services and facilities.
- 4. The preservation of 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.
- 5. The creation of a differentiated 'offer' between Kyogle and other regional service centres, driving increased visitation and investment.

## Part 2 – Explanation of Provisions

It is proposed to alter a number of KLEP provisions that apply to the subject land as identified in Table 1 below.

**Table 1 Description of proposed amendment to the Kyogle Local Environmental Plan 2012**

Section of KLEP	Proposed Amendment
<b>Land Use Table</b>	<p><u>Zone B2 Local Centre</u></p> <ul style="list-style-type: none"> <li>• Include the following uses as permitted with consent: <i>Artisan food and drink industry, Attached dwellings, Multi dwelling housing, Residential flat buildings</i></li> <li>• Include the following additional Zone objectives: <ul style="list-style-type: none"> <li>▪ <i>To encourage a mix of residential, public and commercial uses to enhance the vitality of the centre and encourage efficient use of land, buildings and infrastructure.</i></li> <li>▪ <i>To ensure that any residential development does not compromise the development or operation of commercial uses, and that the local centre retains sufficient area of commercial floor space to meet demand.</i></li> </ul> </li> </ul> <p><u>Zone B4 Mixed Use</u></p> <p>Include the following uses as permitted with consent: <i>Attached dwellings, Multi dwelling housing</i></p>
<b>Part 6 Additional local provisions</b>	<p>Introduce the following new provisions:</p> <ul style="list-style-type: none"> <li>• A section defining an 'Artisan workshop' and making this permissible with consent in Zones B2 and B4. Artisan workshop is to be defined as 'a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft products only which does not impact adversely on the amenity of its surroundings. It must also include a retail area for the sale of products, including products manufactured on the premises.' An Artisan workshop would apply to crafts persons and artists workshops or studios.</li> <li>• A provision that requires establishment of active street frontages at ground level along Summerland Way and Geneva and Stratheden Streets where development consent is granted for erection of a building on this land. The provision will also require the retention of active frontages where consent is granted for a change of use of the ground floor level of a building on this land. This provision would be accompanied by a new map (Active Frontages Map) showing the locations of the required active street frontages. The provision may be worded in the following way: <p>6.xx Active frontages</p> <p>(1) <i>The objective of this Clause is to promote pedestrian traffic along certain street frontages in Zone B2 Local Centre.</i></p> <p>(2) <i>This Clause applies to land shown on the Active Frontages Map.</i></p> <p>(3) <i>Development consent must not be granted to the erection of a building on land to which this clause applies unless the consent authority is satisfied that all premises on the ground floor of the building facing the street are to be used for the purposes of centre-based child care facilities, commercial premises, community facilities, educational establishments, entertainment facilities, function centres, hotel or motel accommodation, information and education facilities, medical centres, passenger transport facilities, public administration buildings, recreation facilities (indoor), registered clubs or respite day care centres after the erection of the building.</i></p> </li> </ul>

	<p><i>(4) Development consent must also not be granted to a change of use of premises on the ground floor of a building on land to which this clause applies unless the new use is one of the uses identified in subclause (3).</i></p> <ul style="list-style-type: none"> <li>• A provision that will apply to residential development in Zone B2 that will require the retention of the existing quantum of commercial floor space on the site. This may be in the following format: <i>6.xx Retention of commercial floor space in Zone B2</i> <i>Development consent must not be granted for the erection of a building for residential accommodation (excluding shop top housing), or the change of use of a building for the purposes of residential accommodation (excluding shop top housing), where the development will result in a reduction of the quantity of commercial floor space which lawfully existed on the site at the time of lodgement of the application.</i></li> <li>• A provision that will apply to residential development in Zone B2 that will require that new residential development does not compromise or undermine the viability of existing commercial uses and activities on the development site or surrounding land, by way of restricting servicing, access or parking or through the creation of reverse amenity impacts (ie new residential uses being negatively impacted by existing commercial activities). This may be in the following format: <i>6.xx Protection of non-residential uses in Zone B2 from effects of residential development</i> <i>Development consent must not be granted for the erection of a building for residential accommodation, or the change of use of a building to residential accommodation, unless the consent authority is satisfied that the residential use will not adversely impact on the operation of existing commercial uses on the site and its surroundings through impacts such as restricting servicing, deliveries or parking or increased sensitivity to noise or other emissions associated with non-residential uses.</i></li> </ul>
<b>Schedule 2 Exempt development</b>	<p>Introduce the following development:</p> <ul style="list-style-type: none"> <li>• A provision to allow the 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. The following criteria would be required to be complied with; <ul style="list-style-type: none"> <li>▪ the use must occur within a lawfully established premises,</li> <li>▪ the use must be for no more than a 12 month period,</li> <li>▪ the use may only occur between the hours of 8am and 6pm Monday to Friday, 8am and 4pm Saturday and 9am and 1pm Sunday, and</li> <li>▪ the use must not involve building work.</li> </ul> </li> </ul>
<b>Maps</b>	<p>Insert a new map that identifies the locations of required active frontages, as indicated in the figure below:</p>



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## Part 3 – Justification

### Section A – Need for the Planning Proposal

#### 1. Is the Planning Proposal a result of any strategic study or report?

No. The planning proposal is a result of Council's awareness of current issues in the Kyogle CBD and a review of current LEP provisions. Although the proposal is not the direct result of a strategic study, it will support the delivery of outcomes that meet the objectives of key adopted strategies – including the Kyogle Community Strategic Plan and the Regional Economic Development Strategy for the Northern Rivers.

The proposal has been informed by Council's experience of working with landowners, agents, developers and investors in considering the reuse of many CBD buildings and sites. It is apparent that the current provisions of the LEP (as they relate to the town centre) do not provide sufficient flexibility to support development proposals that can bring dormant and vacant sites back into use to the benefit of the wider CBD and community.

#### 2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, a planning proposal is the best means to achieve the objectives because there are presently statutory land use planning provisions that prohibit the carrying out of development that would achieve the Objectives. An amendment to the LEP provisions is necessary.

In conjunction with the proposed LEP amendment, Council is undertaking other projects that are intended to boost investment in the CBD and increase its social and economic vitality, including:

- a. Preparation of a public realm masterplan for the CBD.
- b. Development of a cultural hub within the CBD centred on the existing library, art gallery, memorial hall, museum, Council building and existing public square.
- c. Investigation of options for a heavy vehicle bypass of the CBD in partnership with Transport for NSW.

#### 3. Is there a net community benefit?

The Planning Proposal is expected to result in the following community benefits:

- A more efficient use of land and infrastructure.
- More interesting and vibrant main street which will further encourage investment and tourism.
- More opportunities for establishment of new businesses with benefits for economic growth and job creation.
- Development of additional smaller dwellings in close proximity to services and facilities of which there is a current shortage.

Consequently, it is considered that this Planning Proposal will have a net community benefit.

### Section B – Relationship to the strategic planning framework

#### 4. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

##### **North Coast Regional Plan**

This Planning Proposal is consistent with the following Directions and Actions of the NCRP:

Direction 6, 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.'*

Direction 23, Action 23.1- *'Encourage housing diversity by delivering 40% 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, 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'*.

## 5. Is the Planning Proposal consistent with a Community Strategic Plan or Local Strategic Planning Statement?

### **Kyogle Council Local Strategic Planning Statement 2020**

Yes. The Planning Proposal is consistent with, and a direct result of, Action C1.1 which is to *'Amend the LEP to allow artisans and crafts persons enterprises and appropriate residential development in the Kyogle CBD (Zones B2 and B4)'*.

### **Kyogle Community Strategic Plan 2016- 2026**

Yes. The Planning Proposal is consistent with the following Strategies in the CSP:

- Strategy C within the Ageing in Place, Disability Services and Respite Care theme, which is to *'Facilitate development of additional housing for older people and people with disability needs.'*
- Strategy C within the Village Life theme, which is to *'Identify and create opportunities for economic development.'*

## 6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

An assessment of the consistency of the Planning Proposal with relevant State Environmental Planning Policies is summarised below in Table 2.

**Table 2 Summary of Planning Proposal Consistency with SEPPs**

SEPP Title	Planning Proposal Consistency
<i>State Environmental Planning Policy No. 19 - Bushland in Urban Areas</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 21 - Caravan Parks</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy No. 36 - Manufactured Home Estates</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy No. 47 - Moore Park Showground</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 50 – Canal Estate Development</i>	The Planning Proposal is not inconsistent with the SEPP.
<i>State Environmental Planning Policy No. 55 - Remediation of Land</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP. Any development applications that are submitted as a result of the proposed LEP Amendment will need to consider the issue of contaminated land as required by the SEPP.

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SEPP Title	Planning Proposal Consistency
<i>State Environmental Planning Policy No. 64 - Advertising and Signage</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy 70 - Affordable Housing (Revised Schemes)</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Aboriginal Land) 2019</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Activation Precincts) 2020</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Coastal Management) 2018</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Concurrences and Consents) 2018</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Gosford City Centre) 2018</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
<i>State Environmental Planning Policy (Koala Habitat Protection) 2019</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Kurnell Peninsula) 1989</i>	Not applicable to Planning Proposal.

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SEPP Title	Planning Proposal Consistency
<i>State Environmental Planning Policy (Major Infrastructure Corridors) 2020</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Penrith Lakes Scheme) 1989</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
<i>State Environmental Planning Policy (State Significant Precincts) 2005</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Three Ports) 2013</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Urban Renewal) 2010</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>	The Planning Proposal does not affect the operation of the SEPP and is not inconsistent with the SEPP.
<i>State Environmental Planning Policy (Western Sydney Employment Area) 2009</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Western Sydney Parklands) 2009</i>	Not applicable to Planning Proposal.

**7. Is the Planning Proposal consistent with the applicable Ministerial Directions (Section 9.1 directions)?**

An assessment of the consistency of the Planning Proposal with applicable Section 9.1(2) Directions is provided in Table 3 below.

**Table 3 Summary of Planning Proposal Consistency with s9.1 Directions**

Section 9.1 Direction	Planning Proposal Consistency
<b>1. Employment and Resources</b>	



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Section 9.1 Direction	Planning Proposal Consistency
1.1 Business and Industrial Zones	<p><b>Consistent.</b></p> <p>This Direction is applicable as the Planning Proposal affects land in a business zone. The Planning Proposal is consistent with parts 4(a), (b) and (c) of the Direction as;</p> <ul style="list-style-type: none"> <li>a) It gives effect to the relevant objectives of the Direction, which are to; encourage employment growth in suitable locations, to protect employment land in business zones, and to support the viability of identified centres.</li> <li>b) It retains the area and the location of the existing business zones.</li> <li>c) It does not reduce the total potential floor area for employment uses or public services.</li> <li>d) Not applicable.</li> <li>e) Not applicable.</li> </ul> <p>Therefore, the Planning Proposal is consistent with Direction 1.1.</p>
1.2 Rural Zones	The Direction is not applicable to the Planning Proposal.
1.3 Mining, Petroleum Production and Extractive Industries	The Direction is not applicable to the Planning Proposal.
1.4 Oyster Aquaculture	The Direction is not applicable to the Planning Proposal.
1.5 Rural Lands	The Direction is not applicable to the Planning Proposal.
<b>2. Environment and Heritage</b>	
2.1 Environment Protection Zones	<p><b>Consistent</b></p> <p>The Planning Proposal is consistent with this Direction as the subject land does not include environmentally sensitive areas or environment protection zones.</p>
2.2 Coastal Protection	The Direction is not applicable to the Planning Proposal.
2.3 Heritage Conservation	<p><b>Consistent.</b></p> <p>Parts of the subject lands are currently within the Kyogle Town Heritage Conservation Area in Schedule 5 of the Kyogle LEP and there are numerous items of local heritage significance within the area. The proposal is likely to assist in the long term safeguarding of heritage assets, as it will encourage investment in the Kyogle CBD and enhance business viability – creating the right conditions for increased investment in the built fabric of the town centre. The subject lands do not contain any Aboriginal areas, places, objects or landscapes. The Planning Proposal does not alter or affect existing State or local heritage provisions.</p>
2.4 Recreation Vehicle Areas	<p><b>Consistent.</b></p> <p>This Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.</p>
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p><b>Consistent</b></p> <p>This Direction is not applicable as the Planning Proposal does not introduce or alter any Environmental Zones or Overlays.</p>
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	The Direction is not applicable as the Planning Proposal does not apply to a residential zone and does not propose significant residential development.

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Section 9.1 Direction	Planning Proposal Consistency
	<p>However, the Planning Proposal is consistent with this Direction, specifically in relation to Parts 4 and 5. as follows:</p> <ul style="list-style-type: none"> <li>a) Broaden the choice of housing types and locations on the market, by creating the opportunity for development of smaller dwellings within the town centre. This is important to address the current shortfall of smaller dwellings, and the forecast increased demand created by the ageing population.</li> <li>b) Make more efficient use of infrastructure and facilities by encouraging the development of land in proximity to services and facilities, and that is already provided with the necessary infrastructure.</li> <li>c) By creating the opportunity for the development of more residential dwellings in the urban area, the Planning Proposal is effectively reducing the demand for land on the urban fringe.</li> <li>d) The Planning Proposal will not decrease the permissible density of residential development.</li> </ul>
3.2 Caravan Parks and Manufactured Home Estates	<p><b>Consistent.</b></p> <p>The Planning Proposal does not identify zones, locations or provisions for the development of caravan parks or manufactured home estates. The Planning Proposal does not alter the zone of any existing caravan parks.</p>
3.3 Home Occupations	<p><b>Consistent.</b></p> <p>The Planning Proposal does not affect the provisions that relate to home occupations.</p>
3.4 Integrating Land Use and Transport	<p><b>Consistent.</b></p> <p>This Direction requires that a Planning Proposal must locate Zones and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> <li>a) <i>Improving Transport Choice- Guidelines for planning and development, and</i></li> <li>b) <i>The Right Place for Business and Services Planning Policy.</i></li> </ul> <p>The Planning Proposal is consistent with the aims and objectives of these publications for the following reasons:</p> <ul style="list-style-type: none"> <li>a. The Planning Proposal promotes the increased use and development of land that is already developed for commercial purposes and is served by infrastructure with adequate capacity to accommodate increased demand.</li> <li>b. The Planning Proposal will encourage walking and cycling as it will facilitate the development of additional residential dwellings in the town centre which is highly accessible.</li> <li>c. The Planning Proposal will facilitate the development of additional dwellings with extremely good access to a broad range of existing services, public facilities and retail and personal service businesses that are available in the Kyogle CBD.</li> </ul>
3.5 Development near Licensed Aerodromes	<p>This Direction is not applicable as the Planning Proposal does not create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p>
3.6 Shooting Ranges	<p>This Direction is not applicable as the subject site is not applicable as the subject land is not adjacent to a shooting range.</p>

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Section 9.1 Direction	Planning Proposal Consistency
3.7 Reduction in non-hosted short term rental accommodation period	The Direction is not applicable to the Planning Proposal.
<b>4. Hazard and Risk</b>	
4.1 Acid Sulfate Soils	This Direction is not applicable as no Acid Sulfate Soil Planning Maps apply to the Kyogle Council local government area.
4.2 Mine Subsidence and Unstable Land	This Direction is not applicable as the Planning Proposal does not permit development on land that is within a mine subsidence district or that has been identified as unstable.
4.3 Flood Prone Land	<p><b>Consistent.</b></p> <p>A small part of the land to which this Planning Proposal applies is identified on the Flood Planning Map in the LEP. The Planning Proposal is consistent with parts 4, 5, 6, 7 and 8 of this Direction as follows:</p> <ul style="list-style-type: none"> <li>• Part 4- The Kyogle LEP already includes Clause 6.2 Flood Planning which is consistent with the NSW Flood Prone Land Policy and Floodplain Development Manual. The Planning Proposal does not alter this Clause.</li> <li>• Part 5- The Planning Proposal does not propose to rezone land.</li> <li>• Part 6- The Planning Proposal does not contain provisions that permit development in floodway areas, that increase the permitted density of development of land in the flood planning area, that permit development that will increase flood impacts on other properties or that are likely to result in the need for government spending on flood mitigation measures, infrastructure or services.</li> <li>• Part 7- The Planning Proposal does not propose flood related development controls above the residential flood planning level.</li> <li>• Part 8- The Planning Proposal does not determine a flood planning level.</li> </ul>
4.4 Planning for Bushfire Protection	The Direction is not applicable as no part of the subject land is mapped as bushfire prone land nor is it in proximity to bushfire prone land.
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	The Direction is not applicable to the Planning Proposal.
5.2 Sydney Drinking Water Catchments	The Direction is not applicable to the Planning Proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The Direction is not applicable as the land that is the subject of this Planning Proposal is within the “urban growth areas” as mapped in the North Coast Regional Plan 2036.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This Direction is not applicable as it does not apply to the Kyogle Council local government area.
5.9 North West Rail Link Corridor Strategy	The Direction does not apply to the Planning Proposal.
5.10 Implementation of Regional Plans	<b>Consistent.</b>

Proposed Amendment to the Kyogle Local Environmental Plan 2012  
Amendment No. 14- Kyogle CBD activation

Section 9.1 Direction	Planning Proposal Consistency
	<p>The Planning Proposal is consistent with this Direction because the Planning Proposal is in accordance with the relevant Directions and Actions of the North Coast Regional Plan as follows:</p> <ul style="list-style-type: none"> <li>• Direction 6, Action 6.3- <i>'Reinforce centres through local growth management strategies and local environmental plans as primary mixed-use locations for commerce, <b>housing</b>, tourism, social activity and regional services.'</i></li> <li>• Direction 23, Action 23.1- <i>'Encourage housing diversity by delivering 40% of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036'.</i></li> <li>• Direction 25, Action 25.1- <i>'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'.</i></li> </ul> <p>The Planning Proposal does not propose development outside of the Urban Growth Boundary and does not propose to rezone land.</p>
5.11 Development of Aboriginal Land Council land	The Direction is not applicable to the Planning Proposal.
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	<p><b>Consistent.</b></p> <p>The Planning Proposal does not alter any existing concurrence, consultation or referral requirements and does not propose designated development.</p>
6.2 Reserving Land for Public Purposes	<p><b>Consistent.</b></p> <p>The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.</p>
6.3 Site Specific Provisions	This Direction is not applicable as the Planning Proposal does not seek to allow a particular development to be carried out.
<b>7. Metropolitan Planning</b>	
7.1 Implementation of A Plan for Growing Sydney	The Direction is not applicable to the Planning Proposal.
7.2 Implementation of Greater Macarthur Land Release Investigation	The Direction is not applicable to the Planning Proposal.
7.3 Parramatta Road Corridor Urban Transformation Strategy	The Direction is not applicable to the Planning Proposal.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	The Direction is not applicable to the Planning Proposal.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	The Direction is not applicable to the Planning Proposal.

Section 9.1 Direction	Planning Proposal Consistency
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Plan	The Direction is not applicable to the Planning Proposal.
7.7 Implementation of Glenfield to Macarthur urban Renewal Corridor	The Direction is not applicable to the Planning Proposal.
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	The Direction is not applicable to the Planning Proposal.
7.9 Implementation of Bayside West Precincts 2036 Plan	The Direction is not applicable to the Planning Proposal.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	The Direction is not applicable to the Planning Proposal.

## Section C – Environmental, social and economic impacts

### 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

It is unlikely that critical habitat or threatened species, populations or ecological communities or their habitats will be affected by the Planning Proposal as the subject lands are already developed for urban purposes. The subject land contains no habitat areas or watercourses.

### 9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are unlikely to be any other environmental effects as a result of the proposal.

### 10. How has the planning proposal adequately addressed any social and economic effects?

One of the specific objectives of the Planning Proposal is to increase social and economic activity in the Kyogle CBD. In this regard it is anticipated there will be positive social effects through:

- Development of additional dwellings in close proximity to services and facilities.
- Development of additional smaller dwellings which will assist to address a shortfall of this type of housing.

It is anticipated the Planning Proposal will have the following positive economic effects:

- Providing for the temporary establishment of retail outlets will provide opportunity for the utilisation of presently vacant premises.
- It will provide additional opportunities for the development of land that is presently under-utilised or that is not suitable for commercial development eg. rear of sites.
- The development of new businesses will bring more shoppers and visitors to the CBD and increase economic activity. Additional dwellings will bring more residents into the CBD which will assist to activate the CBD.
- Increased numbers of businesses and activity will make the CBD more attractive to tourists and visitors.



## **Section D – State and Commonwealth interests**

### **11. Is there adequate public infrastructure for the planning proposal?**

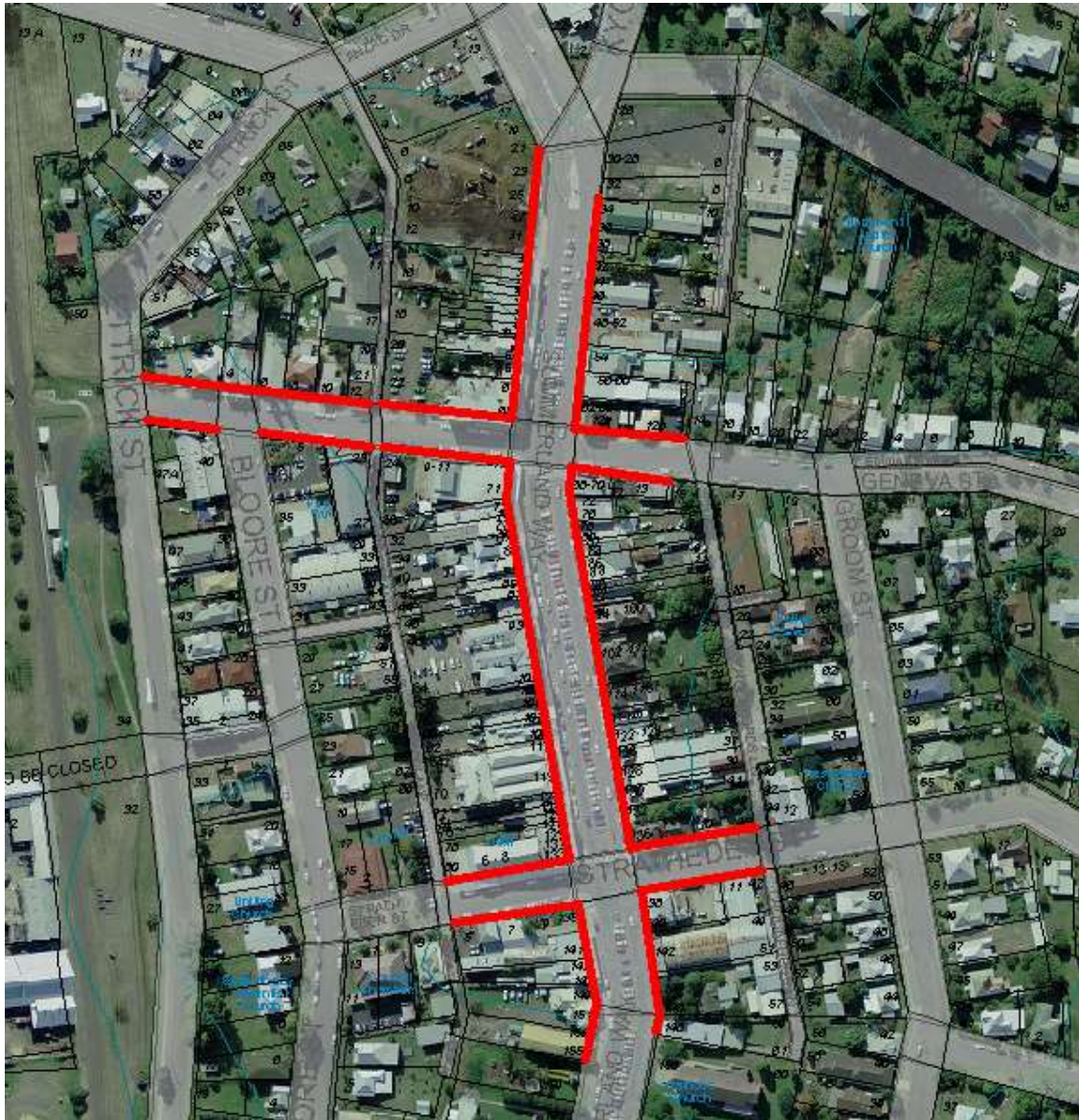
Yes: the land is comprehensively serviced by urban infrastructure including; reticulated water and sewerage, stormwater drainage, footpaths, roads, telecommunications and electricity.

### **12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

Council will seek the views of State agencies as part of the consultation and exhibition of the Planning Proposal as per any conditions of Gateway Determination.

## **Part 4 – Mapping**

The proposed LEP Amendment proposes to introduce a single new map showing required locations of Active Frontages. Active frontages will be required along Summerland Way, Geneva Street and Stratheden Street as indicated in the figure below. A draft map will be prepared following Gateway Determination and prior to exhibition.



**Figure 2** Locations of required active frontages

## Part 5 – Community Consultation

Community consultation on the planning proposal will be undertaken in accordance with Section 5.5.2 of the 'Guide to preparing local environmental plans' and will involve:

1. Placing a notice in the Richmond River Independent which is a newspaper circulated in the local government area.
2. Placing a notice and relevant documents on Council's website.
3. Publishing an article in Council's community newsletter.

The period of notification is expected to run for a period of 23 days.

## Part 6 – Project Timeline

The indicative timeline for the completion of the planning proposal is as shown in Table 4.

**Table 4 Indicative Planning Proposal Timeline**

Plan Making Step	Estimated Completion
Commencement of gateway determination	30 October 2020
Government agency consultation	To be as specified in the Gateway determination. The anticipated timeframe is 21 days and is expected to be undertaken concurrently with the public exhibition period.
Commencement and completion for public exhibition period.	11 November 2020 – 4 December 2020 (23 days)
Public hearings	Not applicable
Consideration of submissions	January 2021
Further Consideration by Council	February 2021
Date of submission to Parliamentary Counsel to finalise	February 2021
Anticipated date the Council makes the LEP	March 2021
Anticipated date Council will forward making of the LEP to the Department for notification	March 2021

# Attachments

**Attachment A – Council Ordinary Meeting Minute 9 June 2020**



**ORDINARY COUNCIL MEETING MINUTES**

**9 JUNE 2020**

**13.3 AMENDMENT TO THE LOCAL ENVIRONMENTAL PLAN TO ASSIST ACTIVATION OF THE KYOGLE CBD**

Having previously declared an interest in Item 13.3, Cr Kylie Thomas and the Director Assets and Infrastructure Services left the meeting at 5.16pm.

**RESOLVED CO/0620/8**

Moved by Cr Danielle Mulholland, seconded by Cr Earle Grundy

That Council:

1. Receives and notes the report *Proposed amendment to the Local Environmental Plan to assist activation of the Kyogle CBD*.
2. Authorises staff to prepare a planning proposal to amend the LEP as described in the report and forward the planning proposal to the Department of Planning, Industry and Environment for Gateway Determination and, subject to receipt of an affirmative Gateway Determination, make any required changes to the planning proposal and carry out public exhibition and agency consultation as per the conditions of the Gateway Determination.
3. Be presented with a further report at the conclusion of public exhibition and agency consultation, outlining the outcomes of exhibition and consultation, including submissions received.

**CARRIED**

FOR VOTE - Unanimous vote

ABSENT. DID NOT VOTE – Crs Janet Wilson, Kylie Thomas

Cr Danielle Mulholland called for a division under section 375A of the Local Government Act 1993.

<b>For</b>	<b>Against</b>
Cr Danielle Mulholland	
Cr John Burley	
Cr Robert Dwyer	
Cr Lindsay Passfield	
Cr Earle Grundy	
Cr Haydon Doolan	
Cr Maggie May	

ABSENT. DID NOT VOTE – Crs Janet Wilson, Kylie Thomas

Cr Kylie Thomas and Director Assets and Infrastructure Services returned to the meeting at 5.24pm

**Attachment B – The Cartwright Report**