

Kyogle LEP 2012 - Schedule 1 Amendment - 4-8 Craig Street, Kyogle

Proposal Title : **Kyogle LEP 2012 - Schedule 1 Amendment - 4-8 Craig Street, Kyogle**

Proposal Summary : **The planning proposal seeks to allow with consent concrete works (pre-cast concrete manufacturing facility) at Lot 1 DP379688 4-8 Craig Street, Kyogle as an additional permitted use.**

PP Number : **PP_2017_KYOGL_001_00** Dop File No : **17/03239**

Proposal Details

Date Planning Proposal Received : **17-Feb-2017** LGA covered : **Kyogle**

Region : **Northern** RPA : **Kyogle Council**

State Electorate : **LISMORE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **4-8 Craig Street**

Suburb : **Kyogle** City : **Lismore** Postcode : **2474**

Land Parcel : **Lot 1 DP379688**

DoP Planning Officer Contact Details

Contact Name : **Kate Hanson**

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RPA Contact Details

Contact Name : **Lachlan Black**

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DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**

Contact Number : **0266416610**

Contact Email : **Tamara.Prentice@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Far North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :

Date of Release :

Area of Release (Ha) **0.00**

Type of Release (eg

N/A

:

Residential /

Employment land) :

No. of Lots : **0**

No. of Dwellings **0**

(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of

Conduct has been

complied with :

If No, comment : **The Department's Code of Conduct in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

Have there been **Yes**

meetings or

communications with

registered lobbyists? :

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other agencies and lobbyists concerning the proposal.**

Supporting notes

Internal Supporting

Notes :

External Supporting

Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives describes the intention of the planning proposal. The proposal intends to amend Kyogle LEP 2012 to allow development of concrete works (pre-cast concrete manufacturing facility) at Lot 1 DP379688 4-8 Craig Street, Kyogle as an additional permitted use.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
3.6 Shooting Ranges

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 21—Caravan Parks
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 64—Advertising and Signage
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Temporary Structures and Places of Public Entertainment) 2007

e) List any other matters that need to be considered :

An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.

Have inconsistencies with items a), b) and d) being adequately justified?

If No, explain : **Yes. See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal has included mapping that identifies the subject land. Additional mapping should be included for exhibition purposes that adequately identifies the current zoning of the land and is of a suitable scale to identify surrounding zoning.

Kyogle LEP 2012 does not currently contain an 'Additional Permitted Uses Map' and given this planning proposal would create the first site specific item under Schedule 1, and does not involve a part lot, it is not considered necessary to introduce an APU map at this time.

Community consultation - s55(2)(e)

Has community consultation been proposed?

Comment :

The Planning Proposal indicates that community consultation will be undertaken and nominates a 30 day consultation timeframe. In accordance with "A Guide to Preparing Local Environmental Plans" a 28 day exhibition period is considered appropriate. However there is no impediment to Council conducting a longer community consultation and it is recommended that adjoining landowners and nearby residential landowners are notified in writing prior to the community consultation period.

Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Time Line

The planning proposal includes a project timeline which estimates the proposal being resubmitted to the Department for finalisation in 4 months. This timeframe does not account for legal drafting and notification. To ensure the RPA has adequate time to complete the additional investigation, exhibition, reporting, and legal drafting, it is recommended that a time frame of 6 months is appropriate.

Delegation

The RPA has requested an Authorisation to exercise delegation for this proposal. The proposal is considered to be of local planning significance since it applies to a single parcel of land. It is recommended that an Authorisation for the execution of delegation be issued to the RPA in this instance.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Kyogle LEP 2012 is in force. This planning proposal seeks an amendment to the Kyogle LEP 2012.

Assessment Criteria

Need for planning
proposal :

The planning proposal seeks to identify an Additional Permitted Use for 'Concrete Works (pre-cast concrete manufacturing facility)' under Schedule 1 of the Kyogle LEP 2012 for Lot 1 DP 379688.

The site is located at 4-8 Craig Street and is approximately 0.52ha. The subject site is zoned IN2 Light Industrial and is adjacent to a concrete batching plant. The site is otherwise surrounded by undeveloped / low density residential land, light industrial and agricultural uses.

The subject site is presently developed and utilised for a pre-cast concrete manufacturing facility. Concrete works are considered to fall outside the scope of 'light industry' and defined as 'general industry' which is prohibited in the IN2 zone.

The proposal is intended to facilitate the making of a development application that will seek consent for the continued operation and re-development of the established pre-cast concrete manufacturing facility on the site. Council believe the facility was established without consent sometime in the last 10 years. The land was previously zoned 2(v) Village under the Kyogle IDO 1976. 'Industry' (which included concrete works) were permissible in the zone subject to consent. It is therefore considered likely that the concrete works were established at time when the use could have been considered for consent. Council now wish to undertake the planning proposal to re-establish their former ability to consider and determine the specific merits of the proposal, and whether it is appropriate in the location and should continue. Should Council determine to grant consent, this will ~~allow~~ provide the development with conditions of consent that it will need to comply with to ensure it does not cause any undue or unreasonable impact on the amenity of the area. Council has noted the concrete works have operated for a number of years without complaint or interference to its neighbours.

The proposal to amend the Kyogle LEP 2012 is the best means of achieving the intent of the proposal which is to enable the continued operation and re-development of the established pre-cast concrete manufacturing facility on the site. A development application for a concrete works cannot be determined, unless the use is identified under Schedule 1

Consistency with strategic planning framework :

Additional Permitted Use in the Kyogle LEP 2012. The APU mechanism is deemed an appropriate means of achieving the intended outcome in this case, and is preferable to a spot rezoning to a general industrial zone.

Consistency with Regional Strategies

Far North Coast Regional Strategy (FNCRS)

The proposal is consistent with the actions and outcomes in the Far North Coast Regional Strategy (FNCRS). The FNCRS seeks to encourage growth of non-coastal towns and villages by enabling industry to boost local economies without compromising environmental values or quality of life. It is considered the planning proposal will contribute to a healthy and prosperous community by enabling the use and development of the site for an employment generating use, which to date, has been operating cohesively with the surrounding environment. Further, the Planning Proposal applies to land in an existing urban area that is in close proximity to existing services and facilities.

Draft North Coast Regional Plan

The proposal is considered to be generally consistent with the draft North Coast Regional Plan for the same reasons as discussed above in regard to the Far North Coast Regional Strategy.

Consistency with Council's Local Strategies

Whilst the site is not directly identified for specific consideration in any of Council's strategic documents, the proposal demonstrates consistency with the Kyogle Community Strategic Plan 2012-2025 ('the CSP'). The CSP provides that Council is to review and amend the KLEP 2012 and associated development control and contributions plans to reduce restrictions and provide improved opportunities for economic growth of all local businesses whilst ensuring sustainable environmental outcomes.

S117 Directions

The following Section 117 Directions to be relevant to this proposal:

Direction 1.1 Business and Industrial Zones. This Direction applies as it will affect land within an existing or proposed business or industrial zone. The proposal is considered to be consistent with this direction as it will retain the area and location of an existing industrial zone and retains the total potential floor space area for industrial uses.

Direction 3.6 Shooting Ranges. This Direction is not applicable to the planning proposal as the land is not adjoining or adjacent a shooting range. Whilst it is acknowledged that the land is within 150m of an existing shooting range, it is considered that a concrete plant is not a sensitive receptor.

Direction 6.3 Site Specific Provisions. This Direction is relevant in this case as the proposal will allow a particular development to be carried out, namely general industry in a light industry zone, an otherwise prohibited use. The proposal to identify the use under Schedule 1 of the Kyogle LEP 2012 as an Additional Permitted Use provides flexibility without imposing unnecessarily restrictive planning controls. The proposal is therefore considered to be consistent with this direction.

The proposal is consistent with all other applicable s117 Directions.

Further, the planning proposal considers the relevance and consistency of all SEPPs and does not identify any relevant inconsistencies that need to be addressed.

Environmental social economic impacts :

Environmental

The proposal is not expected to have any adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

Whilst Council has acknowledged that the concrete manufacturing facility has operated on the subject site without any known complaint, this in itself does not ensure that the continued use and re-development of the facility will not interfere with the amenity of the

adjacent R1 General Residential zone, particularly if the undeveloped residential land directly adjoining the site to north is developed in the future.

The proposal is accompanied by a noise impact assessment that examines the noise impacts on existing nearby dwellings. The closest dwelling is located at 232-250 Summerland Way and is approximately 115 metres from the site boundary. A number of other dwellings are also in close proximity and range within 200m to 170m of the subject site. The report found that the noise impacts on these dwellings are within the limits allowed under the NSW Industrial Noise Policy or are able to be adequately mitigated.

While opportunities will be available through the public consultation and Development Application process to consider the potential for land use conflict more fully, it is still considered appropriate that the current proposal be referred to the NSW Environment Protection Authority for comment due to proximity of the site to a residential zone.

Social and Economic

The Planning Proposal will facilitate the re-development of a concrete works already established on site and is not expected to have any direct adverse social or economic impacts.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Subject to referral to the NSW Environment Protection Authority**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal_LEP Amendment No. 12_Craig St Schedule 1 amendment_FINAL FOR GATEWAY (002).pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 3.6 Shooting Ranges

Additional Information : It is recommended that the planning proposal proceed subject to the following:

1. The planning proposal is to be amended, prior to community consultation, to include maps of a suitable scale identifying the lands current zoning and adjacent land use zones.
2. Prior to community consultation Council is to ensure any adjoining landowner and any nearby residential landowners within a 250m radius are notified in writing of the planning proposal and the proposed community consultation arrangements.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2016).
4. Consultation is to be undertaken with the NSW Environment Protection Authority.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.
7. That a written authorisation to exercise plan making delegations be issued to Kyogle Council.

Supporting Reasons : The reasons for the recommendation are as follows:

1. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.
2. The land is relatively unconstrained and is considered generally suitable to permit concrete works in addition to the other permitted industrial-based uses and zone objectives.
3. The separate Development Application process will debate the particular merits of the use and its relationship with surrounding land uses.

Signature:



Printed Name:

Craig Duss

Date:

3/3/17