



Planning Proposal

Amendment to Kyogle Local Environmental Plan 2012

Amendment No. 10 – RU1 and RU2 Zoned Land and 'Deferred Matter' Areas

12 May 2017

Introduction

Overview

This Planning Proposal explains the intended effect and justification for the proposed amendment to the *Kyogle Local Environmental Plan 2012* (KLEP) – i.e. referred to as the LEP Amendment. The amendment has been prepared in accordance with section 55 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, 2012* (the Guideline).

The Council at its Ordinary Meeting of 14 March 2016 resolved to prepare an amendment to its KLEP to:

- 1) *Include the 'Deferred Matter' areas as RU1 Zone land in the Zoning Maps; recognise the Deferred Matters areas as part of the KLEP in the Land Application Map; identify relevant minimum lot sizes for the Deferred Matters areas in the Lot Size Maps based on the adjoining minimum lot sizes for any land with a similar intended use*
- 2) *Remove any reference to 'Deferred Matters areas on any maps or document of the KLEP*
- 3) *Rezone existing RU2 Zone land to RU1 Zone as shown in the Zoning Maps of KLEP*
- 4) *Remove the RU2 Zone Land Use Table and any other reference to the RU2 Zone in KLEP*
- 5) *Include 'places of public worship' as a land use that is permissible with development consent within the RU1 Zone*

The recommendations referred to in items 1) and 2) above are consistent with the final recommendations of the *Northern Councils E Zone Review Final Recommendations Report* (the Final Recommendations Report) which was released by the New South Wales Department of Environment and Planning in October 2015. The Deferred Matter Areas reflect the original areas identified by a previous Council as potential E Zone areas. The proposed E Zone areas were not progressed by the then Planning Minister for Kyogle Council, subject to further investigation by the State and the KLEP was gazetted without the inclusion of the E Zones. The affected areas were omitted (or 'deferred') from the KLEP pending the outcome of the further investigations. The relevant local statutory planning instrument controls for the deferred areas have been those under the relevant Interim Development Orders that apply, being:

- *Interim Development Order No. 1 – Shire of Kyogle; and*
- *Interim Development Order No. 1 – Shire of Terania.*

This Planning Proposal for the Deferred Matter Areas in the KLEP is to zone the affected land RU1 Zone consistent with the recommendations of the Final Recommendations Report, with the exception of a small area within the Kyogle town area which is more appropriately zoned for urban related purposes.

Once the Deferred Matter Areas are removed from the KLEP and replaced with the RU1 Zone, the Interim Development Orders currently applying to the affected lands can be repealed as they will have no more direct effect on any land within the Kyogle Local Government Area (i.e. all land will be subject to the local planning instrument provisions of the KLEP).

Land that is presently zoned RU2 Zone is proposed to be included within the RU1 Zone due to the similarity of land uses that is either permitted with or without development consent or that is prohibited within the two zones. The similarity in land uses and levels of permissibility is due to the original 'closeness' of the two zones when the KLEP was originally gazetted and subsequent amendments to the KLEP. This has made the need for two separate zones redundant.

Removal of Deferred Matter Areas – Proposed E Zones

The Final Recommendations Report required that:

"Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012, until such time as investigations are completed to identify appropriate E Zones or additional mapped planning controls."

Technically, the relevant IDOs are not yet 'superseded' as they still apply to the 'deferred matters' lands. The 'rural zones' denoted in the IDOs are identified as "Non-urban" zones, being:

- Non-urban “A”
- Non-urban “B”

The deferred matters lands highlighted in the KLEP are almost exclusively zoned Non-urban “A” under the IODs (i.e. with the exception of some small parcels of land within the Kyogle township. The Non-urban “B” zoned land was exclusively for some rural parcels of land adjacent to main roads. Neither the Non-urban “A” or “B” zones were ever intended to reflect any specific environmental values. The Non-urban “A” zone has previously been the principal 'primary rural production' zone affecting the LGA's rural lands.

Unlike other councils within the region, Kyogle Council used land capability criteria to reflect its proposed E Zones. Effectively these zones reflected poorer agricultural land due to terrain and soil types. The assessments of proposed E Zone lands did not involve any specific biodiversity or vegetation assessments and particularly not in a manner that would be able to be considered consistent with any scientific protocols that would otherwise apply (e.g. the criteria discussed in the Final Recommendations Report).

The Council is proposing to zone the deferred matters lands to a single rural zone that is equivalent to that which would otherwise apply under the IODs – i.e. the Non-urban “A” zone.

Use of Single Rural Zone – RU1 Zone

Section 10 of the Final Recommendations of the Final Recommendations Report, highlights that:

- *“More than one zone can be applied to properties where the characteristics of different areas of the land reflect the different primary uses of the land.*
- *Councils should consider the suitability of alternative zones or including the land on a Vegetation Map when considering more than one zone for a property.*
- *As a general principle, the use of multiple zones on a property should be minimised as far as possible.”*

It is noted that the above considerations focusing on the preferred use of single zones is also consistent with the Department's Practice Notes for the Preparation of LEPs.

The Planning Proposal is to use a single zone (being the RU1 Zone) consistent with the stated considerations of the Final Recommendations Report. This is also consistent with the existing zoning of the affected lands under the current IODs. Use of both RU1 and RU2 Zones would in many instances result in multiple zoning of some of the lands.

Furthermore, the use of multiple zones for deferred matters affected lands would be inconsistent with the intent of the Final Recommendations Report to only use such an approach where the split zoning is intended to reflect a difference in the 'primary uses' of the land. Generally there are no differences in primary uses affecting the lands in question. The primary use over the deferred matters lands is substantially grazing or other rural production activities of differing degrees of intensity.

Council's identification of proposed E Zone lands was not based on any rigorous land use assessments that were able to distinguish different primary uses – e.g. rural production vs biodiversity protection purposes. Instead, the affected lands were identified based on a desktop land capability assessment.

The public exhibition of the Council's draft LEP which contained the proposed E Zones also generated much concern from the community over the multiple zoning of rural land and the effects that this could have on the viability of the affected lands. This applied to both the proposed E Zone lands and the RU1 and RU2 zones. This concern has been reiterated through subsequent community consultation and by the Council leading up to the proposed KLEP amendment that is the subject of this Planning Proposal.

The RU1 Zone is the preferred zone because it is the most 'equivalent' rural zone to that under the IODs. Both the IOD Non-urban “A” zone and the KLEP RU1 Zone are primary production zones. While the RU1 Zone has a substantial predisposition towards rural production, it also has regard for the consideration for “scenic amenity and the character of the rural landscape” as identified in the zone objectives.

Incorporation of RU2 Zone into RU1 Zone

Integration of the two principal rural zones into a single zone (i.e. the RU1 Zone) will help simplify the Council's planning framework and will minimise occurrences of multiple zoning over land that has substantially the same primary use – i.e. rural production.

The KLEP RU1 and RU2 permissible land uses (i.e. with and without development consent) are effectively identical. The only effective difference between the two zones is in relation to the RU2 zone objective which states:

"To encourage development that involves restoration or enhancement of the natural environment where consistent with the production and landscape character of the land.

To enable development that does not adversely impact on the natural environment, including habitat and waterways".

The KLEP RU2 zone was not based on an assessment of natural environment qualities relating to habitat or waterway integrity. Instead, the zone has been identified on the basis of land capability – identifying land that is suitable for rural production but does not necessarily constitute 'prime agricultural land'. Protection of landscape character is an objective that is shared by both RU2 and RU1 zones and in this regard integration of the RU2 Zone with the RU1 Zone will not compromise this objective.

Furthermore, there are also much more significant controls affecting the protection of habitat that already operate on the development of land irrespective of local planning controls under the State's biodiversity and other environmental protection legislation. The effects of the Planning Proposal do not compromise the effectiveness of this legislation.

Further Proposed Investigations

The Final Recommendations Report provides a level of discretion for the Council to decide on any further investigations that may be considered necessary 'to identify appropriate E zones or additional mapped planning controls'. Given the extensive and detailed nature of the scientific protocols and procedures that are required for an E zone investigation, as stated in the Final Recommendations Report, and the lack of any significant development activity resulting in adverse impacts in the local area, the Council has not identified this as a priority action in the foreseeable future.

The NSW Government is also in the process of tightening its biodiversity protection controls and the Council considers it more appropriate to wait until this legislative process is fully in place prior to making any further decisions regarding its local environmental protections requirements. Adequate environmental controls (including for protection of amenity, landscape values and waterway quality) also already exist within the Council's *Kyogle Development Control Plan 2014* for development that requires development consent. Removal of the E Zone is consistent with the requirements of the Final Recommendations Report and will not prejudice the Council deciding on further environmental investigations in the future.

Revised Mapping

The Planning Proposal identifies amendments to the existing maps of the KLEP. The amendments incorporate the deferred matters locations into the adjacent zoning and planning controls (e.g. height control, minimum lot size, etc). Separate maps for the deferred matters locations are not proposed as this would unduly complicate the KLEP's mapping and provide an unnecessary level of distinction. The Council proposes to concurrently public exhibit its existing KLEP maps which show the locations of the deferred matters areas with the draft LEP maps to enable interested persons to more clearly identify where the changes are proposed.

Preparation of Planning Proposal

The subject Planning Proposal has been prepared by the Kyogle Council and is based on the report to Council, prepared by Council officers, at its Ordinary Meeting of 14 March 2016, the Council's deliberation of the report and its unanimous Resolution to proceed with the proposed LEP Amendment (see Attachment A). The proposed LEP Amendment, if it is to proceed, will be the 10th amendment undertaken by Kyogle Council to its KLEP.

The Planning Proposal also relies heavily on the findings and recommendations of the Final Recommendations Report from the NSW Government – a copy of this report is not attached but can be separately obtained from NSW Department of Planning and Environment records. The Planning Proposal, as it relates to the Deferred Matter Areas, is consistent with the Section 117 Direction issued by the NSW Minister for Planning on 25 February 2016.

This Planning Proposal is prepared and submitted in support of a requested Gateway Determination to proceed with the proposed LEP Amendment under Section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Site Identification

The proposed LEP Amendment will apply across the whole local government area within the affected:

- Deferred Matter areas
- Primary Production RU1 Zone
- Rural Landscape RU2 Zone

Presently, the areas identified as Deferred Matter areas are effectively omitted from the controls of the KLEP and are instead affected by the Council's other statutory planning instruments, being:

- a) Interim Development Order No. 1 – Shire of Kyogle; and
- b) Interim Development Order No. 1 – Shire of Terania

Removal of the Deferred Matter Areas from KLEP and replacing them with the RU1 Zone (or urban zonings for a select few locations within the town of Kyogle) will enable the Interim Development Orders to be repealed.

Existing Planning Controls

The KLEP commenced on 11 February 2012 and is in the format of the NSW Standard Instrument for LEPs. The Amendment to KLEP proposes to zone all areas identified as Deferred Matter (i.e. mapped as 'DM' areas) to be identified as RU1 Primary Production Zone land, except for a small number of locations within the Kyogle town area, which are to be zoned in accordance with their immediate affected Public Recreation or R1 general Residential Zone. All other Maps that form a part of the KLEP and which contain areas affected by the DM areas identified in the Land Use Maps are to be mapped in conformity with adjoining affected areas.

The RU2 Zone is to be omitted from the KLEP (LEP document and Land Use Maps) and replaced with the RU1 Zone. Details of the individual proposed changes are provided in Part 2 of this Planning Proposal (see Table 1) and the amended maps included in Attachment B.

Part 1 – Objectives and Intended Outcomes

Objectives

The objectives of the proposed amendment are to:

- 1) Align the Council's KLEP with the Planning Minister's Section 117 Direction affecting the previously intended E Zones and Deferred Matter areas in the LEP
- 2) Remove any uncertainty regarding the future of previously unclear E Zone areas within the Kyogle Local Government Area
- 3) Provide for a single local planning instrument to affect land within the Kyogle Local Government Area
- 4) Rationalise the rural land use zoning affecting the broader rural area across the local government area and reduce any confusion resulting from two similar zones
- 5) Provide for greater rural economic certainty for the local government area through a more streamlined approach to rural land use zoning
- 6) Provide for greater performance based clarity for assessable development with rural zoned land through more effective recognition of development control plan provisions and less emphasis on zone distinction

Intended Outcomes

The intended outcomes of the proposed amendment are:

1. Provide greater clarity and certainty for development within rural land across the Kyogle Local Government Area
2. Give effect to the Planning Minister's Section 117 Direction affecting the Council local government area
3. Provide a more streamlined local land use planning framework to help attract investment to the region

Part 2 – Explanation of Provisions

The proposed amendments to KLEP are summarised in Table 1 below.

Table 1 Summarised Amendments to Kyogle Local Environmental Plan 2012

Section of KLEP	Proposed Amendment
Part 1 Preliminary	
Clause 1.3 (1A) Land to which Plan applies	Removal of Clause 1.3(1A)
Clause 1.7 Maps a) Land Zoning Maps: - Sheet LNZ_001A - Sheet LZN_001B - Sheet LZN_001C - Sheet LZN_002A - Sheet LZN_002B - Sheet LZN_002BA - Sheet LZN_002C - Sheet LZN_002CA - Sheet LZN_003A - Sheet LZN_003B - Sheet LZN_003C - Sheet LZN_003D - Sheet LZN_004A - Sheet LZN_004B - Sheet LZN_004C - Sheet LZN_004CA - Sheet LZN_005 b) Height of Building Map - Sheet HOB_004CA c) Land Application Map - Sheet LAP_001 d) Lot Size Map - Sheet LSZ_001 - Sheet LSZ_002 - Sheet LSZ_002B - Sheet LSZ_002C - Sheet LSZ_003 - Sheet LSZ_003B - Sheet LSZ_003D - Sheet LSZ_004A - Sheet LSZ_004B - Sheet LSZ_004C - Sheet LSZ_005 e) Heritage Map - Sheet HER_002A	a) Land Zoning Maps - Deferred Matter (DM) locations on Sheet LNZ_004CA to be mapped as "Public Recreation", "RU1 Primary Production" or "R1 General Residential" according to the zoning of the immediately adjacent land - All other indicated Land Zoning Map sheets, other than Sheet LNZ_004CA to replace Deferred Matter (DM) location with RU1 Primary Production zoning - Omit all references to 'RU2 Rural Landscape' and replace affected areas with 'RU1 Primary Production' mapping b) Height of Building Map - Deferred Matter areas on Sheet HOB_004CA to be mapped as 'J - 9 metre' height c) Land Application Map - All Deferred Matter areas on Sheet LAP_001 to be omitted d) Lot Size Map - All affected Deferred matter areas to be mapped as having minimum lot size as per adjacent land – i.e. as shown on amended map sheets e) Heritage Map Deferred matter areas located on land that is in Schedule 5 of the KLEP as Items of Local Heritage Significance are to be mapped as Heritage Items.

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Section of KLEP	Proposed Amendment
– Sheet HER_004CA	
Clause 1.8 Repeal of planning instruments applying to land	Removal of Note referring to Interim Development Orders as this will no longer be applicable if Deferred Matter Areas are replaced with RU1 Zone
Part 2 Permitted or prohibited development	
Clause 2.1 Land use zones	Removal of all references to "RU2 Rural Landscape"
Land Use Table	- Removal of all Zone RU2 Rural Landscape zone and all related provisions - Include 'Place of public worship' as a use that is permissible with consent in Zone RU1 Primary Production
Clause 4.1AA Minimum subdivision lot size for community title schemes Clause 4.1AA(2) – application of clause	Removal of reference to "(b) Zone RU2 Rural Landscape"
Clause 4.1A Boundary adjustments of land in certain zones Clause 4.1A(2) – application of clause	Removal of reference to "(b) Zone RU2 Rural Landscape"
Clause 4.1B Minimum subdivision lot sizes for certain split zones Clause 4.1B(2)(b) – application of clause Clause 4.1B (3)(a)(ii) – circumstances where other lots may be created	Removal of reference to "Zone RU2 Rural Landscape" in both clauses
Clause 4.2 Rural subdivision Clause 4.2(2) – application of clause	Removal of reference to "(b) Zone RU2 Rural Landscape"
Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones Clause 4.2A(2) – application of clause	Removal of reference to "(b) Zone RU2 Rural Landscape"
Clause 4.2B Minimum subdivision lot size for strata plan schemes in certain zones Clause 4.2B(2) – application of clause	Removal of reference to "(b) Zone RU2 Rural Landscape"
Clause 4.2C Erection of rural workers' dwellings in Zones RU1 and RU2 Clause 4.2C(2) – application of clause	- Omit "Zones RU1 and RU2" in clause heading and replace with "Zone RU1" - Removal of reference to "(b) Zone RU2 Rural Landscape" in clause 4.2B(2)

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Section of KLEP	Proposed Amendment
Clause 4.6 Exceptions to development standards Clause 4.6(6) – circumstances affecting restriction on granting consent in certain zones	Removal of reference to “Zone RU2 Rural Landscape”
Maps	
All maps	All Maps to be amended as per indicated for clause 1.7 (see above) and as per Attachment B

Part 3 – Justification

Section A – Need for the Planning Proposal

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

The Planning Proposal is a result of NSW State Government initiated investigations into the proposed use of E Zones by Council across the Far North Coast of NSW. The recommendations of the Final Recommendations Report and subsequent Section 117 Direction that Kyogle Council should apply a rural zone, equivalent to the zone in the superseded Interim Development Order, to the land which was proposed to be zoned E2 or E3 and was deferred from the Kyogle LEP 2012. The equivalent zoning is the RU 1 Primary Production Zone. An exception exists for some minor parcels of land located within the Kyogle Township which are to be zoned General Residential or Public Recreation.

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

The Planning Minister's Section 117 Direction mandates an amendment to the Council's KLEP to rectify the situation regarding the Deferred Matter areas. The removal of the RU2 Zone is a further opportunity to give unambiguous effect to the Minister's Direction and to simultaneously simplify the Council local planning provisions while still maintaining appropriate environmental controls.

The Planning Proposal recognises that:

- Some of the Deferred Matter areas are adjacent to land that is both affected by the RU1 and RU2 zones.
- There is little difference between the RU1 and RU2 zones in terms of permissible and prohibited uses.

The above situation presents an opportunity for the Council to remove any ambiguity that may result due to the two zonings and also simplify its planning provisions affecting its larger rural lands at the same time through the incorporation of the RU1 and RU2 zones into a single rural zone.

3. Is there a net community benefit?

The proposed LEP amendment will provide greater certainty for development within the Kyogle local Government Area rural locations through a more robust approach affecting environmentally sensitive areas, in keeping with the intent and findings of the Final Recommendations Report and more streamlined zoning affecting rural land.

The Planning Proposal is consistent with informal, prior consultation the Council undertook with community members on 10 February 2016, attended by over 90 local rural producers and industry representatives, which highlighted a strong desire to remove E zones and split zonings over the deferred areas.

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)?

The Council resolved to prepare the draft LEP amendment at the time when the previous Far North Coast Regional Strategy was still in place. This Strategy has subsequently been superseded by the North Coast Regional Plan which was approved by the Minister for Planning on 26 March 2017. The following addresses the Planning Proposal's consistency with both documents.

Far North Coast Regional Strategy

The *Far North Coast Regional Strategy* (FNCRS) identifies the region as a region of villages. The vision of the Strategy is:

A healthy, prosperous and sustainable future for the diverse communities of the Far North Coast Region.

The Planning Proposal builds on the local area's agricultural production strengths while still maintaining a range of compatible land uses as already provided for the existing KLEP.

The Planning Proposal is consistent with the intent and vision of the FNCRS.

North Coast Regional Plan

The draft North Coast Regional Plan was publicly exhibited between 2 March and 2 June 2016 and approved on 26 March 2017. The Plan recognises the importance of agriculture land and protection of 'Important Farmland'. The Planning Proposal is consistent with the overall intent and specific goals of the Plan. It enables Important Farmland within Kyogle to be used for intended purposes while also providing a level of recognition of rural landscape qualities as a significant contributor to the region's character and amenity.

5. Is the Planning Proposal consistent with the Council's Community Strategic Plan, or other local strategic plan?

Kyogle Community Strategic Plan

The Planning Proposal is consistent with the vision of the *Kyogle Community Strategic Plan 2012-2025* (Kyogle CSP) which is:

Working together to balance Environment, Lifestyle and Opportunity

The CSP has five key themes, including "Agriculture". The CSP recognises the importance of agriculture in contributing to the local area economy, landscape and lifestyle and has a number of actions to review the RU1 and RU2 zonings and remove any unnecessary duplication of approval requirements affecting rural land.

The Planning Proposal is directly consistent with these requirements of the CSP.

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

The relevant State Environmental Planning Policies that affect the planning proposal are summarised in Table 2.

Table 2 Summary of Planning Proposal Consistency with SEPPs

SEPP Title	Planning Proposal Consistency
State Environmental Planning Policy (State and Regional Development) 2011	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	Not applicable to Planning Proposal.
State Environmental Planning Policy (Urban Renewal) 2010	Not applicable to Planning Proposal.
State Environmental Planning Policy (Affordable Rental Housing) 2009	Not applicable to Planning Proposal.
State Environmental Planning Policy (Western Sydney Parklands) 2009	Not applicable to Planning Proposal.
SEPP (Exempt and Complying Development Codes) 2008	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy (Western Sydney Employment Area) 2009	Not applicable to Planning Proposal.
State Environmental Planning Policy (Rural Lands) 2008	The SEPP principles are: a) The promotion and protection of opportunities for current and potential productive and sustainable activities in rural areas. b) Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and

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SEPP Title	Planning Proposal Consistency
	issues in agriculture in the area, region or State. c) Recognition of the significance of rural land uses to the State and rural communities, including social and economic benefits of rural land use and development. d) In planning for rural lands, to balance the social, economic and environmental interests of the community. e) The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land. f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities. g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing. h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any Applicable local strategy endorsed by the Director General. The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable to Planning Proposal.
State Environmental Planning Policy (Infrastructure) 2007	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy (Temporary Structures) 2007	The SEPP provisions applying to temporary structures are not affected by the Planning Proposal.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable to Planning Proposal.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not applicable to Planning Proposal.
State Environmental Planning Policy (Major Development) 2005	Not applicable to Planning Proposal.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 71 - Coastal Protection	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development	Not applicable to Planning Proposal.
State Environmental Planning Policy 70 - Affordable Housing	Not applicable to Planning Proposal.

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SEPP Title	Planning Proposal Consistency
(Revised Schemes)	
State Environmental Planning Policy No. 64 - Advertising and Signage	The SEPP provisions applying to advertising and signage are not affected by the Planning Proposal.
State Environmental Planning Policy No. 62 - Sustainable Aquaculture	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 59 - Central Western Sydney Regional Open Space and Residential	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 55 - Remediation of Land	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 52 - Farm Dams and Other Works in Land and Water Management Plan Areas	The SEPP provisions applying to farm dams and other works in land and water management plan areas are not affected by the Planning Proposal.
State Environmental Planning Policy No. 15 - Rural Land-Sharing Communities	The Planning Proposal will not circumvent or prejudice the establishment of rural land sharing communities.
State Environmental Planning Policy No. 50 - Canal Estate Development	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 47 - Moore Park Showground	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 44 - Koala Habitat Protection	The SEPP provisions applying to koala habitat protection are not affected by the Planning Proposal.
State Environmental Planning Policy No. 39 - Spit Island Bird Habitat	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 36 - Manufactured Home Estates	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 21 - Caravan Parks	The SEPP provisions applying to caravan parks are not affected by the Planning Proposal.
State Environmental Planning Policy No. 33 - Hazardous and Offensive Development	
State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land)	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 30 - Intensive Agriculture	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
State Environmental Planning Policy No. 29 - Western Sydney Recreation Area	Not applicable to Planning Proposal.
State Environmental Planning	Not applicable to Planning Proposal.

SEPP Title	Planning Proposal Consistency
Policy (Kurnell Peninsula) 1989	
State Environmental Planning Policy No. 26 - Littoral Rainforests	Not applicable to Planning Proposal.
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 19 - Bushland in Urban Areas	The SEPP provisions applying to bushland in urban areas are not affected by the Planning Proposal.
State Environmental Planning Policy No. 14 - Coastal Wetlands	Not applicable to Planning Proposal.
State Environmental Planning Policy No. 1 - Development Standards	Not applicable under Clause 1.9 of KLEP.

7. Is the Planning Proposal consistent with the applicable Ministerial Directions (Section 117 directions)?

The Section 117(2) Directions that affect the planning proposal and consistency of the overall proposed amendments are summarised in Table 3.

Table 3 Summary of Planning Proposal Consistency with s117 Directions

Section 117 Direction	Planning Proposal Consistency
1. Employment and Resources	
1.1 Business and Industrial Zones	The Planning proposal does not affect business or industrial zoned land
1.2 Rural Zones	This Direction requires that existing rural zones are not rezoned to a residential, business, industrial, village or tourist zone. The Planning proposal does not propose the zoning of affected land to any zone other than the RU1 Primary Production Zone with the exception of some small parcels of land within the Kyogle town area that have been to date identified as deferred matter areas; the latter zoning is to ensure consistency with the urban/public recreation character of the affected land
1.3 Mining, Petroleum Production and Extractive Industries	The Direction does not apply to the Planning Proposal.
1.4 Oyster Aquaculture	The Direction does not apply to the Planning Proposal.
1.5 Rural Lands	The Direction affects rural zoned land. Any draft LEP must be consistent with the planning principles of the Rural Lands SEPP. The Planning Proposal does not prejudice existing rural development from proceeding and makes no significant change to existing land use zoning provisions affecting development.
2. Environment and Heritage	
2.1 Environment Protection Zones	The Planning proposal does not affect any existing Environmental Protection Zones.
2.2 Coastal Protection	The Direction does not apply to the Planning Proposal.

Section 117 Direction	Planning Proposal Consistency
2.3 Heritage Conservation	The Planning Proposal does not affect State or existing KLEP heritage provisions. Existing provisions will still apply to any site or building that is affected by development that is, in principle, provided for by the Planning Proposal.
2.4 Recreation Vehicle Areas	The Direction does not apply to the Planning Proposal.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	The Planning Proposal, in relation to the zoning of Deferred Matter areas to a rural zone, is a consequence of and is directly consistent with this Direction.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The Planning Proposal does not affect the existing operation of the Direction regarding residential development.
3.2 Caravan Parks and Manufactured Home Estates	The Planning Proposal does not affect the existing operation of the Direction regarding caravan parks and manufactured home estates.
3.3 Home Occupations	The Planning Proposal does not affect the provisions that relate to home occupations.
3.4 Integrating Land Use and Transport	The Planning Proposal does not affect the location of any existing or proposed zones or change existing transport choices.
3.5 Development Near Licensed Aerodromes	The Direction does not apply to the Planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	The Planning Proposal is unlikely to affect any acid sulfate soils. Kyogle is not known for the presence of acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	The Direction does not apply to the Planning proposal.
4.3 Flood Prone Land	Existing flood prone land provisions in KLEP are not affected by the Planning Proposal
4.4 Planning for Bushfire Protection	Existing bushfire protection provisions in KLEP are not affected by the Planning Proposal
5. Regional Planning	
5.1 Implementation of Regional Strategies	The Planning Proposal is consistent with regional strategies that affect rural land and agriculture
5.2 Sydney Drinking Water Catchments	The Direction does not apply to the Planning proposal.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	This Direction relates to State and Regional significant agricultural land and precludes the rezoning of such land or significant non-contiguous farmland for urban or rural residential purposes. The proposed rezoning of land to RU1 does not affect the intent or operation of the Direction; recognition of the Council's rural land substantially for 'primary production' purposes is expected to give greater effect and relevance to the operation of the SEPP in the Council's local government area
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The Direction does not apply to the Planning proposal.

Section 117 Direction	Planning Proposal Consistency
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18/06/10)	The Direction does not apply to the Planning proposal.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	The Direction does not apply to the Planning proposal.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	The Direction does not apply to the Planning proposal.
5.8 Second Sydney Airport: Badgerys Creek	The Direction does not apply to the Planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	The Planning Proposal does not alter any existing concurrence, consultation or referral requirements.
6.2 Reserving Land for Public Purposes	The Planning Proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	The Planning Proposal proposes to use existing standard zoning and general provisions within KLEP. No site specific provisions are proposed by 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. Any proposed assessable development is already subject to environmental assessment provisions under the EP&A Act. This requirement does not change as a result of the proposed LEP amendment. All other state and commonwealth legislative provisions affecting the environmental assessment of development proposals regarding critical habitat, threatened species, populations or ecological communities are not affected by the Planning proposal.

Existing environmental management provisions in KLEP will still apply to any proposed assessable development.

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 no other specific adverse environmental effects that are expected to result from the proposed development.

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

The Planning Proposal is consistent with the Council's Community Strategic Plan and its economic development strategy. Rural activities and agriculture play a significant economic and social role in Kyogle forming the basis of much of its economy and non-urban landscapes. The Planning proposal intends to provide greater land use planning certainty for the Council's rural lands by reducing the number of local planning instruments that apply, reducing the number of rural zones and aligning its approach to the identification of any environmentally sensitive areas with current State Government protocols and procedures.

Section D – State and Commonwealth interests

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

The Planning Proposal does not substantially affect existing land use patterns within the rural areas and is not likely to result in any greater demand for public infrastructure that is not already able to be dealt with as part of the local, state and commonwealth government strategic infrastructure planning practices.

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

Consultation will be undertaken with relevant agencies following the Gateway determination stage of the LEP amendment. The Planning proposal is a direct response to the Planning Minister's Section 117 Direction.

Part 4 – Mapping

The proposed LEP amendment includes a number of Map amendments referred to in Table 1 and shown in Attachment B.

Part 5 – Community Consultation

Public comment will be sought during the public exhibition stage for the LEP amendment.

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	15 December 2016
Government agency consultation	To be as specified in the Gateway determination. The anticipated timeframe is 28 days and is expected to be undertaken concurrently with the public exhibition period.
Commencement and completion for public exhibition period.	Timeframe for public exhibition is 36 days. An additional allowance will be made for the Christmas-New Year Period January 2016 – February 2017
Public hearings	Not applicable
Consideration of submissions	Mid-March 2017 – 30 Mid-April 2017
Further Consideration by Council	May 2017
Date of submission to the Department to finalise	May 2017
Anticipated date the Council makes the LEP, if delegated	To be determined
Anticipated date Council will forward making of the LEP to the Department for notification	To be determined

Attachments

Attachment A – Council Ordinary Meeting Minute – 14 March 2016

ITEM 13B PLANNING SERVICES REPORT

**13B.1 DEVELOPMENT APPLICATIONS DETERMINED AND
OUTSTANDING FOR THE PERIOD 30 JANUARY 2016 TO 29
FEBRUARY 2016**

**REPORT BY PLANNING AND ENVIRONMENT
CONTACT EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
MANFRED BOLDY**

140316/11 RESOLVED

Moved by Councillor Lindsay Passfield, seconded by Councillor Ross Brown.

That Council Receive and note the information contained in the report Development Applications Determined and Outstanding for the 30 January 2016 to 29 February 2016.

CARRIED

**FOR VOTE - Unanimous vote
ABSENT. DID NOT VOTE - Janet Wilson**

**13B.2 PLANNING PROPOSAL TO AMEND THE KYOGLE LOCAL
ENVIRONMENTAL PLAN 2012 RU1 AND RU2 ZONED LAND AND
DEFERRED MATTER AREAS**

**REPORT BY: PLANNING AND ENVIRONMENT
CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
SERVICES, MANFRED BOLDY**

140316/12 RESOLVED

Moved by Councillor Michael Reardon, seconded by Councillor John Burley.

That Council:

1. Receive and note the report on the proposed amendment of the KLEP to:
 - a. Include the 'Deferred Matter' areas as RU1 Zone land in the Zoning Maps; recognise the Deferred Matters areas as part of the KLEP in the Land Application Map; identify relevant minimum lot sizes for the Deferred Matters areas in the Lot Size Maps based on the adjoining minimum lot sizes for any land with a similar intended use
 - b. Remove any reference to 'Deferred Matters areas' on any maps or document of the KLEP
 - c. Rezone existing RU2 Zone land to RU1 Zone as shown in the Zoning Maps of KLEP

- d. Remove the RU2 Zone Land Use Table and any other reference to the RU2 Zone in KLEP
- e. Include 'places of public worship' as a land use that is permissible with development consent within the RU1 Zone Land Use Table
2. Amend the *Kyogle Local Environmental Plan 2012* (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in Item 1 and as discussed in detail in this report
3. Authorise the General Manager to prepare a Planning Proposal consistent with the contents of this report and submit the Planning Proposal to the Department of Planning and Environment (the Department) for review and Gateway Determination.
4. On receipt of a Gateway Determination stating that Council may proceed with the LEP amendment, the General Manager be authorised to make any necessary changes to the Planning Proposal in accordance with the requirements of the Department and undertake the necessary administrative procedures of the LEP amendment process in accordance with the provisions of Part 3 Division 4 of the EP&A Act, including public consultation
5. On conclusion of public consultation, a further report is to be presented to Council outlining the outcomes of consultation, including submissions received.

CARRIED

FOR VOTE - Unanimous vote

ABSENT, DID NOT VOTE - Janet Wilson

Councillors Lindsay Passfield and Ross Brown called for a division under section 375A of the *Local Government Act 1993*.

For	Against
Councillor Danielle Mulholland	
Councillor John Burley	
Councillor Robert Dwyer	
Councillor Maggie Creedy	
Councillor Chris Simpson	
Councillor Ross Brown	
Councillor Lindsay Passfield	
Councillor Michael Reardon	

Attachment B – Draft (Amended) LEP Maps