

Kyogle LEP 2012 Amendment No 13 - 6399 Kyogle Road, Kyogle - Industrial land rezoning

Proposal Title : **Kyogle LEP 2012 Amendment No 13 - 6399 Kyogle Road, Kyogle - Industrial land rezoning**

Proposal Summary : **This Planning Proposal seeks to rezone land at 6399 Kyogle Road, Kyogle from part RU1 Primary Production and part RU2 Rural Landscape to IN1 General Industrial to facilitate the development of a truck depot. The minimum lot size provisions are also proposed to be amended to reflect the proposed zoning.**

PP Number : **PP_2017_KYOGL_003_00** Dop File No : **17/04525**

Proposal Details

Date Planning Proposal Received :	29-Mar-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 :	6399 Kyogle Road		
Suburb :	City :	Kyogle	Postcode : 2474
Land Parcel :	Lot 2 DP 1220463 and the adjoining road reserve		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

MDP Number :		Date of Release :	
Area of Release (Ha) :	5.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	3

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **The subject site is approximately 5 hectares in area and has approximately 300 metres of frontage to Kyogle Road. The site was developed some years ago for the purposes of a bulk storage and distribution facility and the infrastructure and buildings remain on the site although have not been used consistently for some time.**

The proposed use of the facility is for a truck depot to support an existing earth moving and heavy haulage business as well as the continued use of the bulk storage and distribution facilities.

Council has advised that the submitted Planning Proposal did not include reference to the proposed change in the minimum lot size or the need to apply the same proposed controls to the adjoining road reserve. This was due to an oversight. Council has sought the Gateway Determination be conditioned to require the Planning Proposal be revised prior to exhibition to include reference to the adjoining road reserve and the change to the minimum lot size provisions for the subject land. Council proposes a 1500m2 minimum lot size which is consistent with the surrounding IN1 General Industrial zoned land.

Adequacy Assessment

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

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

Comment : **The objectives and intended outcomes of the Planning Proposal are not adequately expressed for the proposed amendment to Kyogle LEP 2012. The Planning Proposal does not address a change to the minimum lot size to the site. After discussion with Council staff, it was identified that a change to the minimum lot size was intended but omitted from the Planning Proposal in error. This will require revision of the Planning Proposal, prior to exhibition, to refer to and map the proposed change in minimum lot size.**

It is also noted that the proposed zoning maps in the Planning Proposal show that the adjacent portion of Kyogle Road is also to be rezoned to IN1. This is supported, however

the Planning Proposal should be amended to refer to this in the written component of the document.

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

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

Comment : **The Planning Proposal provides an explanation of the intended provisions to achieve the objectives and intended outcomes. However, this will require revision prior to exhibition to show the proposed change in minimum lot size.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

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

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

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

The North Coast Regional Plan 2036 applies to the Kyogle Local Government Area and was launched on the 22 March 2016, following original submission of this proposal.

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

If No, explain :

The relevant consistency with the applicable Strategies, SEPPs and 117 Direction are addressed later in this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Maps have been provided with the Planning Proposal. However, an improved location map would be beneficial to identify the land during the consultation phase. The included maps show the subject site and the existing and proposed land zoning. Additional maps showing the current and proposed minimum lot sizes will be required to be added prior to exhibition of the Proposal.**

Maps prepared in accordance with the Department's technical mapping standards will also be needed before a Parliamentary Counsel's opinion can be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes a 30 day public exhibition time frame. As the proposal involves land already identified in the urban growth area of the North Coast Regional Plan a 14 day time frame is considered adequate.**

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:

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

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal generally deals with matters that are of local significance it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.

Council has provided a project time line which estimates that the LEP will be ready for notification in June 2017. To ensure an adequate period to complete the proposal, including the recommended changes, a 9 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Kyogle LEP 2012 commenced in February 2013.

Assessment Criteria

Need for planning proposal :

The subject land has previously been used for a variety of uses including the handling, storage and distribution of bulk agricultural products and more recently a truck depot. The truck depot is a prohibited land use on the site due to the current rural zoning.

Council has been approached by the land owner seeking to formalise the use as a truck depot via the rezoning of the land and a development application. The use of the site has evolved over time and will continue to be used for the bulk handling, storage and distribution of agricultural products within the silos on the site.

Despite Council's strategic planning identifying the site as appropriate for further industrial development, the site has previously not been rezoned because of an existing dwelling on the land. The residence has recently been subdivided from the subject site.

The separation of the dwelling from this parcel of land increases the likelihood of land use conflicts due to separated ownership of the residential dwelling and the industrial nature of the existing and proposed land use and its associated noise and traffic impacts. Council has indicated that impacts will be examined in more detail at the development application stage. This is not considered satisfactory and an assessment of the potential land use conflicts should be undertaken before the rezoning of the land to ensure impacts can be mitigated. It is recommended that a Land Use Conflict Risk Assessment be undertaken prior to the exhibition of the Planning Proposal.

Consistency with strategic planning framework :

The Planning Proposal refers to consistency with the Far North Coast Regional Strategy and the Draft North Coast Regional Plan. The North Coast Regional Plan has now been adopted, superseding the Far North Coast Regional Strategy. It is recommended that the Planning Proposal be updated prior to consultation to reflect the new Regional Planning regime.

The Planning Proposal is considered to be consistent with the North Coast Regional Plan 2036 and Council's Local Growth Management Strategy 2008.

The North Coast Regional Plan 2036 identifies the site within the Kyogle Urban Growth Area as an Investigation Area for Employment Land. The proposed rezoning of the land to an industrial land use will realise the strategic intent for the site.

The Kyogle Local Growth Management Strategy 2008 also identifies the site as a 'proposed industrial zone'. The report to Council recommending this planning proposal, states that the land was previously not zoned for industrial purposes when the KLEP 2012 was being finalised due to the site also being used for residential purposes. The dwelling has since been subdivided from the subject site.

The proposed rezoning is considered to be consistent with the North Coast Regional Plan 2036 and all applicable State Environmental Planning Policies including the SEPP (Rural Lands) 2008.

The planning proposal is considered to be consistent with all applicable Section 117 Directions except in relation to Direction 1.2 Rural Zones, 4.4 Planning for Bushfire Protection and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast.

1.2 Rural Zones

This Direction applies as the planning proposal seeks to rezone land from RU1 Primary Production and RU2 Rural Landscape to IN1 General Industry. The inconsistency with this direction is considered to be justified as the land is identified for employment investigation in the North Coast Regional Plan 2036 and by a strategy and has been approved by the (former) Director-General of the Department of Planning (Kyogle Local Growth Management Strategy).

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

5.3 Farmland of State and Regional Significance on the NSW Far North Coast

A small strip of the subject site, fronting Kyogle Road, is identified as being Regionally Significant Farmland by the Northern Rivers Farmland Protection Project. As such Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast applies to the site. It is considered that the inconsistency of this proposal can be justified in accordance with the terms of this Direction as the land is identified in the North Coast Regional Plan as potential employment land, and it can satisfy the requirements of Section 4 of the the Northern Rivers Farmland Protection Project - Final Recommendations, February 2005 as outlined below.

Due to the existing land use and infrastructure of the subject site, the area and shape of land identified as regionally significant farmland, and the lack of potential for this area to be used for any viable agricultural production, it is considered that rezoning of this land:

- would not significantly undermine the integrity of a regionally significant farmland area; and
- would not compromise local or regional agricultural potential by alienating agricultural infrastructure or agricultural transport routes, or decreasing 'critical mass' for any existing

agricultural industry; and

- would not create impacts which would compromise the agricultural use of nearby regionally significant land; and
- would not be located in an area where there was an identified risk of land use conflict near an existing agricultural enterprise.

In addition, the proposal does not involve filling part of a floodplain and it is considered there is no viable alternative land available which is suitable for the proposed industrial use due to the unique nature of the infrastructure built on the site.

Environmental social
economic impacts :

It is considered that this proposal to rezone the site to IN1 General Industry will have a negligible impact on the environment. The site is already developed and has an industrial 'footprint'. There is minimal land that has not been cleared and the land that retains mature vegetation is unlikely to be developed due to slope constraints.

Council has not identified any critical habitat, threatened species or ecological communities that would be affected by the rezoning. It is unlikely that the proposed rezoning will impact upon any of these due to the developed nature of the site.

The land is not flood prone but is identified as being bushfire prone. Consultation with the NSW Rural Fire Service is required under Section 117 Direction 4.4. It is considered unlikely that the impact of bushfires would prevent this rezoning progressing.

Access to the site is via the Kyogle Road which has a turning lane into the property already constructed. As Kyogle Road is a classified Regional Road, consultation with the RMS is recommended. It is not anticipated that the access to the property will prevent the rezoning of land. Any necessary upgrade to the intersection or road can be adequately assessed and determined at the DA Stage.

Council has not identified any matters relating to cultural heritage significance of the site. Given the existing developed nature of the site it is unlikely that the rezoning of the site will have an impact on any cultural heritage.

Two dwellings are within located within 100m of the site, one of which was a dwelling excised from the lot subject to this Planning Proposal. The issue of potential land use conflict impacting upon these dwellings, particularly noise, are proposed to be addressed at the development application stage.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
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Timeframe to make LEP :	9 months	Delegation :	RPA
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Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service Transport for NSW - Roads and Maritime Services
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Is Public Hearing by the PAC required? **No**

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

It is recommended that a Land Use Conflict Risk Assessment be undertaken prior to the exhibition of the Planning Proposal.

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. 13 - 6399 Kyogle Road.pdf	Proposal	Yes
Cover Letter.pdf.docx	Proposal Covering Letter	Yes
Council Report 12-12-16.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**
- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 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**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information :

It is recommended that the Acting Director Regions, Northern as delegate of the Minister approve the planning proposal to rezone land at 6399 Kyogle Road, Kyogle for industrial purposes and alter the minimum lot size provisions for the site subject to the following conditions:

- 1. Prior to community consultation being undertaken a Land Use Conflict Risk Assessment (LUCRA) is to be undertaken addressing the potential land use conflicts that may arise due to the rezoning and subsequent use of this land with the surrounding residential dwellings and any other sensitive receptors.**
- 2. Prior to consultation being undertaken the Planning Proposal is to be amended as follows:**
 - (a) a Location Map is to be included identifying the subject land showing its proximity to Kyogle;**
 - (b) reference to the proposed change in minimum lot size provisions to 1500m2 on the site is to be included;**
 - (c) reference to the proposed change in zoning and minimum lot size provisions for the adjacent road reserve is to be included;**
 - (d) mapping showing the current and proposed minimum lot size provisions is to be included;**

(e) to reflect the results and any supported recommendations of the LUCRA, and
(f) reference to the Far North Coast Regional Strategy 2016-2031 and the Draft North Coast Regional Plan are to be removed and replaced with discussion on the North Coast Regional Plan 2036, including addressing the consistency of this proposal with the Plan.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

- (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Environment 2016) and must be made publicly available for a minimum of 14 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 required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- NSW Rural Fire Service
- NSW Roads and Maritime Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

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 9 months from the week following the date of the Gateway determination.

and that the A/ Director Regions/Northern as delegate of the Secretary:

1. issues an authorisation to exercise delegation to Council; and

2. determines that the inconsistencies with s117 Directions 1.2 Rural Zones, and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are justified in accordance with the terms of the respective directions.

Supporting Reasons :

The Planning Proposal is consistent with Council's and the Department's strategic planning. The land has been identified as being suitable for an industrial zone and this amendment to the LEP will facilitate that.

Signature:



Printed Name:

Craig Diss

Date:

7 April 2017