



Planning Proposal

Amendment to Local Environmental Plan

PROPOSED AMENDMENT TO THE KYOGLE LOCAL ENVIRONMENTAL PLAN 2012

Amendment No. 8 – Temporary workers' accommodation and roadside stalls

24 May 2016

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).

Council at its Ordinary Meeting of 9 November 2015 resolved to prepare a planning proposal to amend the KLEP to permit the development of roadside stalls as exempt development subject to certain criteria and to permit the development of temporary workers' accommodation with consent in Zones RU1, RU2, RU5, RE1 and RE2, and to provide additional local provisions for the assessment of these.

The intent of the proposed LEP Amendment is to support agricultural production and provide additional income generating opportunities for rural landholders.

Preparation of Planning Proposal

This Planning Proposal has been prepared by Kyogle Council following Council's deliberation of the matter at its Ordinary Meeting of 9 November 2015, and the resolution of Council at that meeting to proceed with the preparation of this Planning Proposal (see Attachment A). The proposed LEP amendment, if it is to proceed, will be the 8th amendment undertaken by Kyogle Council to its LEP.

This Planning Proposal has been revised following feedback from the Department of Planning on the initial Planning Proposal submitted for Gateway Determination. This revised Planning Proposes to amend Schedule 1 of the LEP to make *Temporary workers' accommodation* permitted with consent in certain zones and also removes Zone RE1 Public Recreation and Zone RU5 Village from this list of zones as the Department has advised that the use was not considered an appropriate use in Zone RE1 and that *Temporary workers' accommodation* is an innominate form of *Residential accommodation*, a use which is currently permitted with consent in Zone RU5.

Site Identification

The proposed LEP Amendment will apply to land in Zones RU1, RU2 and RE2.

Existing Planning Controls

The KLEP commenced on 11 February 2012 and is in the format of the NSW Standard Instrument for LEPs. Existing planning controls that are to be affected by the proposed LEP Amendment are summarised in Table 1. There are no other provisions affected and no other new provisions proposed as part of the proposed LEP Amendment.

Table 1 Existing controls and proposed changes

Section of KLEP	Existing provisions	Proposed provisions
Land Use Table Zone RU1 Primary production 3 Permitted with consent	• <i>Roadside stalls</i> are presently permitted with consent in Zone RU1. • <i>Temporary workers' accommodation</i> is not listed as a permitted use.	No change.
Land Use Table Zone RU2 Rural landscape	• <i>Roadside stalls</i> are presently permitted with consent in Zone RU2. • <i>Temporary workers' accommodation</i> is	No change.

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8– Temporary workers' accommodation and roadside stalls amendment

3 Permitted with consent

not listed as a permitted use.

Land Use Table
Zone RE2 Private Recreation
3 Permitted with consent

- *Temporary workers' accommodation* is not listed as a permitted use.

No change.

Additional local provisions

- Does not presently include provisions for '*temporary workers' accommodation*'
- Include provisions for development of '*temporary workers' accommodation*'.

Schedule 1 Additional permitted uses

- *Temporary workers' accommodation* is not listed as a permitted use.
- Include '*temporary workers' accommodation*' in Schedule 1 as a use that is permitted with consent in certain Zones.

Schedule 2 Exempt Development

- Does not presently include '*roadside stalls*'
- List '*Roadside stalls*' as exempt development subject to certain criteria

All other provisions

- All other provisions to remain the same.

No change

Part 1 – Objectives and Intended Outcomes

Objectives

The objectives of the proposed amendment are:

- To increase opportunities for agricultural producers to sell agricultural produce from their land.
- To support agricultural enterprises by improving the opportunities for accommodation of temporary or seasonal agricultural workers.
- To enhance economic growth opportunities and prosperity in the Kyogle Council local government area through a strengthened rural sector.

Intended Outcomes

The intended outcomes of the proposed amendment are:

1. Increased economic activity and employment opportunities.
2. A more resilient rural economy through provision of additional income generating opportunities for agricultural producers.
3. Increased likelihood of establishment of agricultural enterprises that require a seasonal or temporary workforce.

Part 2 – Explanation of Provisions

Roadside stalls

Roadside stalls are currently permitted within certain zones with consent of Council and are subject to a maximum size of 8 m². The process and associated cost to prepare a development application and obtain consent for such a small development is considered excessive and unreasonable and discourages agricultural diversity and the ability to generate income from rural properties.

The proposed LEP amendment for roadside stalls will make such development 'exempt' from the requirement for development consent within the RU1 and RU2 zones where such development complies with size and location criteria to ensure scale and safety considerations are achieved. Development that is outside of the stipulated provisions will be subject to the requirement to obtain development consent.

Temporary workers' accommodation

The amendment is intended to facilitate an additional form of temporary accommodation, primarily for itinerant farm workers, which is presently not adequately catered for under existing standard land use definitions permitted under the Standard Instrument on which the KLEP is based.

Council has recently amended the LEP to introduce 'camping grounds' as an additional use that is permitted with consent within RU1 Primary Production zoned land. The use has already been permitted with consent within RU2 Rural Landscape, RU5 Village and RE1 Recreation Reserve and RE2 Private Recreation zoned land. While 'camping grounds', in principle, can adequately cater for primarily tent-based accommodation, the definition does not cater for accommodation structures (e.g. transportable buildings) which are regularly associated with temporary accommodation arrangements for workers. Other land use definitions (e.g. caravan parks), similarly do not adequately cater for such forms of development. More substantial temporary camps with solid structures for either accommodation or amenities are not provided for in the KLEP.

The Department of Planning and Environment currently does not have an appropriate land use definition included in its standardised instrument and has indicated that it has no specific intention to add any such definitions or amend council LEPs because of the difficulty that is associated with this course of action. The Department has advised that its preferred approach to the matter is to enable councils individually to amend their respective LEPs in a manner that is similar to that proposed as part of this report.

It is proposed that the use of temporary workers' accommodation be included in **Schedule 1** as a use that is permissible with consent with the following zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RE2 Private Recreation

It is also proposed to introduce development controls under the **Part 6 Additional Local Provisions** section of the KLEP which will seek to ensure that temporary workers' accommodation;

- Is only approved in locations where there is a demonstrated need for the provision of temporary workers' accommodation, such as a significantly large agricultural development or infrastructure projects intended to support agriculture production in the area (e.g. major transport construction) within the nearby vicinity.
- Is adequately serviced by appropriate infrastructure
- Is not located where it will have a significant detrimental impact on the natural environment, local roads and infrastructure,
- Where proposed within Zones RU5 or RE2, the site has existing residential development on no more than one single or two adjoining property frontages. This provision is proposed in order to avoid development occurring on land that has a substantial interface with existing residential properties as it is considered Temporary workers' accommodation has potential to impact on residential amenity.

The proposed amendments to KLEP are summarised in Table 2 below.

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

Table 2 Summarised Amendments to Kyogle Local Environmental Plan 2012

Section of KLEP	Proposed Amendment
Part 6 Additional local provisions	Insert the following provisions; "6.6 Erection of temporary workers' accommodation on land zoned RU1, RU2, RU5 and RE2 1) <i>The objectives of this clause are as follows:</i> (a) <i>to enable development for temporary workers' accommodation if there is a foreseeable need to accommodate employees due to the nature of the work or the location of the land on which that work is carried out,</i> (b) <i>to ensure that temporary workers' accommodation is appropriately located,</i> (c) <i>to minimise the impact of temporary workers' accommodation on the natural environment, local roads and infrastructure.</i> 2) <i>Development consent must not be granted to development for the purposes of temporary workers' accommodation unless the consent authority is satisfied of the following:</i> a) <i>there is a need to provide temporary workers' accommodation because of the large-scale development or the remote or isolated location of the land on which the large-scale development is being carried out,</i> b) <i>water reticulation systems and sewerage systems will be provided to adequately meet the requirements of the development,</i> c) <i>any infrastructure provided in connection with the development will, if practicable, continue to be used once the temporary workers' accommodation is no longer required,</i> d) <i>where the development is proposed within a RU5 or RE2 zone, the site on which the development is proposed, has existing residential development located on no more than one single or two adjoining property frontages of the site.</i> 3) <i>In this clause:</i> temporary workers' accommodation means any habitable buildings and associated amenities erected on a temporary basis for the purpose of providing a place of temporary or short-term accommodation for persons employed on projects for or to support agricultural production, including associated infrastructure projects short term accommodation means accommodation that may be seasonal or for the duration of the completion of a development for or to support agricultural production in the area."
Schedule 1 Additional permitted uses	Insert the following; "1. Use of land in Zones RU1, RU2 and RE2 (1) <i>This Clause applies to all land in Zones RU1, RU2 and RE2.</i> (2) <i>Development for the purpose of Temporary workers' accommodation is permitted with consent."</i>
Schedule 2 Exempt Development	Insert the following provisions; "Roadside stalls 1) <i>Must be located on RU1 Primary Production or RU2 Rural Landscape zoned land or a road reserve directly fronting a property zoned accordingly for which the roadside stall is intended.</i> 2) <i>Must be located wholly on private land or where located in road reserve must be the subject of an approval by the road authority for the road reserve.</i> 3) <i>Must not exceed an overall sale area of more than 8 square</i>

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

metres.

- 4) *Must be no less than 100 metres from an intersection of the road onto which the roadside stall fronts with any other road*
- 5) *Must not be located fronting onto a State controlled road without written permission from the State road authority at the time.*
- 6) *Must be for agricultural produce farmed or processed on the subject property.*
- 7) *Adequate vehicle parking must be able to be provided off the road surface and road verge to enable safe use of the road by all vehicular traffic at all times.*
- 8) *Adequate vehicle sight lines must be maintained at all times either side of the stall for vehicles parking and leaving the stall location.*
- 9) *Stalls generally will not be operated by the owner at night (i.e. between sunset and sunrise).*

Note: *A vehicle access approval may be required from the road authority responsible for the road onto which a roadside stall is to be located under the provisions of the Roads Act 1993. Sight distances are generally assessed as part of such an application and must be complied with at all times for the roadside stall in order for the development exemption to apply."*

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 not a result of any specific strategic study or report. The Planning Proposal is a result of the Council's ongoing implementation of its KLEP since its gazettal in 2013 and its recognition that there is a need to support agricultural enterprise by providing additional, and more streamlined, opportunities for development that directly supports agriculture.

Roadside stalls

Presently roadside stalls are permitted with consent in Zones RU1 and RU2. For such a small scale development this is considered unreasonable. The Exempt provisions will avoid the need for proponents to prepare and submit a development application whilst ensuring that the required development standards are achieved.

Temporary workers' accommodation

Recently a large scale horticultural enterprise has been established on land adjacent to the Kyogle Local Government Area. The enterprise requires a substantial number of seasonal workers and during the last picking season a shortage of available and appropriate accommodation options for workers meant that many workers were camping illegally which created issues for Council and the community. The lack of appropriate accommodation and the ability to develop temporary workers' accommodation is also an issue for the horticultural enterprise and future enterprises or large scale infrastructure projects that may need to house substantial numbers of workers on a seasonal or temporary basis. This amendment is designed to provide another option for the development or provision of temporary accommodation for workers.

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

Roadside stalls

The Planning Proposal is the best means of achieving the Objectives and Intended Outcomes, as the only other means is to utilise site specific Planning Proposals (re-zonings or Schedule 1 amendments) which is not considered an efficient mechanism to manage the issue and would require proponents to make an even more complicated application.

Temporary workers' accommodation

The Planning Proposal is the best means of achieving the Objectives and Intended Outcomes, as the only other means is to utilise site specific Planning Proposals (that facilitate re-zonings or Schedule 1 amendments) which is not considered an efficient mechanism to manage the issue and would not reflect Council's intention to provide more opportunities for this type of development.

The proposed LEP amendments will be carried out in conjunction with an amendment to the KDCP to include relevant and appropriate development controls and guidelines for the assessment of development applications for the proposed additional permitted land uses. The proposed KDCP provisions are included in Attachment B of this Planning Proposal.

3. Is there a net community benefit?

It is considered there are a number of potential benefits to making roadside stalls exempt development, including:

- Additional opportunities for sale of agricultural produce from the farm gate without the regulatory hurdle and cost of making a development application.
- Additional economic activity and diversification of the rural economy.
- Facilitation of increased employment opportunities across the local government area, much of which is rural in nature.

It is considered there are a number of potential benefits to making temporary workers' accommodation permitted with consent in certain zones, including:

- Add support for enterprises or infrastructure projects that require accommodation for a short term or temporary workforce.
- Additional economic activity and diversification of the rural economy.
- Facilitation of increased employment opportunities across the local government area, much of which is rural in nature.
- Increasing the appeal of the LGA for investors.

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 Kyogle Council Local Government Area is affected by the provisions of the Far North Coast Regional Strategy. Relevant details of the provisions and the general compliance, or otherwise, of the Planning Proposal are discussed in the sections below.

Far North Coast Regional Strategy 2006-31

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.

Healthy and Prosperous- The Planning Proposal seeks to help achieve a prosperous community by offering opportunities for development that directly supports agriculture.

Sustainable future – the Planning Proposal promotes a balance between improved economic development and sustainable rural land uses and agriculture. Roadside stalls are very small scale and considered suitable to coexist with agriculture and rural locations. Temporary workers' accommodation is intended to directly support agricultural enterprises in the Kyogle Council Local Government Area. Agriculture is one the most important industries in the Kyogle Council local government area and is generally considered to be a sustainable practise. By supporting agriculture the Planning Proposal will enhance the sustainability of the area's economy. Furthermore, an amendment to the Kyogle Development Control Plan will include guidelines that will protect the potential and viability of good quality agricultural land, avoid the potential for land use conflict and ensure development responds appropriately to ecological values and natural hazards.

Diverse communities – the Planning Proposal provides for greater employment and income generating opportunities for people in rural areas. It is considered that this will support the vision for more lifestyle diversity for residents.

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

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

Key issues and challenges that were identified in the Kyogle CSP included:

- Reversing the long term decline of population and achieving critical population size
- Reversing the decline in services in rural areas
- Need to support and protect agricultural industry

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

- Sustainable and appropriate development

To address these issues and challenges, the Kyogle CSP included the following actions which are of relevance to the Planning Proposal:

- *Economic Development*
 - *'Assist and coordinate the ongoing development of Kyogle Council area and enhance and market its capacity as a location for residential opportunities, primary production, industry, commerce, government services and tourism.'*
- *Environmental and Planning*
 - *'The LEP is implemented, monitored and reviewed on an ongoing basis.'*

This Planning Proposal is consistent with the listed actions of the Kyogle CSP.

Sustainable Kyogle – An Economic Development Policy

The Kyogle Economic Development Policy was prepared in partnership with the NSW Department of Industry and Investment. Relevant key objectives of the Policy, included:

- *Strengthen and broaden our economic base and level of business support services.*
- *Build on our traditional rural industries to ensure their economic future. Explore opportunities for new agricultural industries. Pursue value adding, and use new technologies.*
- *Plan to avoid conflicts between land uses.*
- *Create jobs that meet our needs and expectations, and increase participation.*

The Planning Proposal is consistent with the objectives of the economic development policy.

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 3.

Table 3 Summary of Planning Proposal Consistency with SEPPs

SEPP Title	Planning Proposal Consistency
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	The Planning Proposal does not affect the ongoing operation of the SEPP for any referred to land or development.
<i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</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 (Affordable Rental Housing) 2009</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Western Sydney Parklands) 2009</i>	Not applicable to Planning Proposal.
<i>SEPP (Exempt and Complying Development Codes) 2008</i>	The Planning Proposal does not affect the ongoing operation of the SEPP for any referred to land or development.
<i>State Environmental Planning Policy (Western Sydney Employment Area) 2009</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Rural Lands) 2008</i>	Commentary on the consistency of the Planning Proposal with the Rural Planning Principles of the SEPP is presented below: a) <i>The promotion and protection of opportunities for current and</i>

SEPP Title	Planning Proposal Consistency
	<i>potential productive and sustainable economic activities in rural areas.</i> Comment: The underlying intent of the Planning Proposal is to provide opportunities for development that will support agricultural enterprises in the Kyogle Council LGA. Therefore, the Planning Proposal will promote and protect productive and sustainable economic activities.
	b) <i>Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.</i> Comment: The Planning Proposal will permit additional flexibility for development associated with agricultural enterprises. In this way the Planning Proposal recognises the importance of rural lands and agriculture, and the changing nature of agriculture.
	c) <i>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.</i> Comment: The Planning Proposal will allow development that directly supports agriculture and therefore it recognises the significance of rural land uses and seeks to provide further support.
	d) <i>In planning for rural lands, to balance the social, economic and environmental interests of the community.</i> Comment: The Planning Proposal seeks to support economic and social interests of the community whilst minimising environmental impacts.
	e) <i>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.</i> Comment: The Planning Proposal does not compromise identification and protection of natural resources.
	f) <i>The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.</i> Comment: The Planning Proposal does not specifically make provisions for rural settlement however it does facilitate development of additional accommodation for rural workers and opportunities for retail of agricultural produce. In this regard the Planning Proposal provides opportunities for lifestyle and housing that contribute to the social and economic welfare of communities.
	g) <i>The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.</i> Comment: The amendment seeks to provide opportunities for development of temporary or short term housing. The proposed provisions include consideration of servicing and infrastructure.
	h) <i>Ensuring consistency with any applicable regional strategy of the</i>

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

SEPP Title	Planning Proposal Consistency
	<i>Department of Planning or any Applicable local strategy endorsed by the Director General.</i> Comment: the amendment is considered to be consistent with the Far North Coast Regional Strategy 2006-31 as discussed elsewhere in this Planning Proposal.
<i>State Environmental Planning Policy (Kosciuszko National Park - Alpine Resorts) 2007</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>State Environmental Planning Policy (Temporary Structures) 2007</i>	The SEPP provisions applying to temporary structures are not affected by the 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 (Sydney Region Growth Centres) 2006</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Major Development) 2005</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 71 - Coastal Protection</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy 70 - Affordable Housing (Revised Schemes)</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 64 - Advertising and Signage</i>	The SEPP provisions applying to advertising and signage are not affected by the Planning Proposal.
<i>State Environmental Planning Policy No. 62 - Sustainable Aquaculture</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 59 - Central Western Sydney Regional Open Space and Residential</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 55 - Remediation of Land</i>	Not applicable to Planning Proposal.

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

SEPP Title	Planning Proposal Consistency
<i>State Environmental Planning Policy No. 52 - Farm Dams and Other Works in Land and Water Management Plan Areas</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 15 - Rural Land-Sharing Communities</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 50 - Canal Estate Development</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 47 - Moore Park Showground</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 44 - Koala Habitat Protection</i>	The SEPP provisions applying to koala habitat protection are not affected by the Planning Proposal.
<i>State Environmental Planning Policy No. 39 - Spit Island Bird Habitat</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 36 - Manufactured Home Estates</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 21 - Caravan Parks</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 32 - Urban Consolidation (Redevelopment of Urban Land)</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 30 - Intensive Agriculture</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 29 - Western Sydney Recreation Area</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy (Kumell Peninsula) 1989</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 26 - Littoral Rainforests</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 No. 19 - Bushland in Urban Areas</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning Policy No. 14 - Coastal Wetlands</i>	Not applicable to Planning Proposal.
<i>State Environmental Planning</i>	Clause 1.9 of KLEP states that SEPP No. 1 does not apply to land to which

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

SEPP Title	Planning Proposal Consistency
<i>Policy No. 1 - Development Standards</i>	the KLEP applies.

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 4.

Table 4 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 apply to land in Business or Industrial Zones.
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 change any zones within the local government area.
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 requires that a Planning Proposal is consistent with the Rural Planning Principles and Rural Subdivision Principles of the Rural Lands SEPP. As discussed under the commentary on the SEPP Rural Lands, this Planning Proposal is consistent with the Rural Planning Principles. This Planning Proposal does not compromise the Rural Subdivision Principles.
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.
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, in principle, is provided for by the Planning Proposal.
2.4 Recreation Vehicle Areas	The Planning Proposal does not affect the ongoing operation of the Direction.
2.5 Application of E2 and E3 Zones and Environmental overlays in Far North Coast LEPs	This Planning Proposal does not propose to apply E2 or E3 Zones or Overlays.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The Planning Proposal does not affect the ongoing operation of the

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

Section 117 Direction	Planning Proposal Consistency
	Direction
3.2 Caravan Parks and Manufactured Home Estates	The Planning Proposal does not affect the ongoing operation of the Direction
3.3 Home Occupations	The Planning Proposal does not affect the ongoing operation of the Direction
3.4 Integrating Land Use and Transport	The Planning Proposal does not affect the ongoing operation of the Direction
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	Parts of the Kyogle Council LGA are mapped as bushfire prone land; it is therefore likely that this Planning Proposal will affect land that is mapped as bushfire prone land. Part 5(a) of this Direction requires that a Planning Proposal must have regard to Planning for Bushfire Protection 2006. Part 5 (c) of this Direction requires that a Planning Proposal must introduce controls that avoid placing inappropriate developments in hazardous areas. The Planning Proposal will provide the opportunity for applications for development consent for temporary workers' accommodation to be made on Bushfire Prone Land. If an application is received for such development it will require assessment against Section 79BA of the <i>Environmental Planning and Assessment Act 1979</i> which requires the consent authority to have regard for the provisions of Planning for Bushfire Protection 2006 publication. In this regard, the Planning Proposal is not inconsistent with Direction 4.4.
5. Regional Planning	
5.1 Implementation of Regional Strategies	The Planning Proposal is consistent with the regional strategies affecting the local government area.
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. This Planning Proposal does not rezone any land.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The Direction does not apply to the Planning Proposal.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield	The Direction does not apply to the Planning Proposal.

Section 117 Direction	Planning Proposal Consistency
(Cessnock LGA) (Revoked 18/06/10)	
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	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?

Roadside stalls

The proposed LEP amendment will make roadside stalls exempt in rural areas. As roadside stalls must be less than 8m² in area and are likely to be located in rural and agricultural environments, it is considered that this part of the planning proposal is unlikely to create impacts on critical habitat or threatened species, populations or ecological communities or their habitats.

Temporary workers accommodation

The proposed LEP amendment will make temporary workers accommodation a use that is permitted with consent in Zones RU1, RU2 and RE2. This part of the LEP amendment is intended to facilitate the development of accommodation for workers engaged by agricultural enterprises. It is therefore considered likely that temporary workers accommodation will be sought in rural areas close to farms and that this land is likely to be cleared agricultural land. As the planning proposal will only provide the option of seeking development consent, it is not possible to predict the impact on specific ecological sites or values.

The LEP amendment will also provide local assessment provisions which include the following Objective-

'The objectives of this clause are as follows:

(c) to minimise the impact of temporary workers accommodation on the natural environment...'

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

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

Development of temporary workers' accommodation will generate impacts on local infrastructure (such as roads) and on development sites including through the requirement to develop infrastructure (roads, buildings, etc.) and

to operate the development (such as disposal of effluent). The proposed KLEP development criteria and DCP provisions will seek to minimise or mitigate any impacts on the site and its surroundings.

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. The intended outcomes of the Planning Proposal include positive economic and social outcomes such as, providing opportunities for additional rural employment opportunities and a more diverse and resilient rural economy.

Section D – State and Commonwealth interests

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

As the Planning Proposal does not relate to a specific development on a specific site, infrastructure requirements cannot be determined. In conjunction with the LEP amendment, Council proposes to amend the Kyogle Development Control Plan 2014 (KDCP) to include development guidelines relevant to the additional permissible land uses (see Attachment B). Performance Criteria P12 and P13 of the guidelines seek to ensure that development is adequately serviced.

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.

Part 4 – Mapping

The proposed LEP amendment does not require mapping amendments.

Part 5 – Community Consultation

Subject to an affirmative Gateway Determination it is proposed to carry out consultation with the community in accordance with section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Infrastructure 2013).

Part 6 – Project Timeline

The indicative timeline for the completion of the planning proposal is as shown in Table 5.

Table 5 Indicative Planning Proposal Timeline

Plan Making Step	Estimated Completion
Commencement of Gateway determination	30 March 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 30 days. 13 April 2016- 11 May 2016
Public hearings	Not applicable
Consideration of submissions	13 May 2016 – 20 May 2016
Further Consideration by Council	13 June 2016
Date of submission to the Department to finalise	20 June 2016
Anticipated date the Council makes the LEP, if delegated	4 July 2016
Anticipated date Council will forward making of the LEP to the Department for notification	5 July 2016

Attachments

Attachment A – Council Ordinary Meeting Minute – 9 November 2015.

Attachment B- Proposed development guidelines for inclusion in Kyogle Development Control Plan 2014.

4. That on receipt of a Gateway Determination stating that Council may proceed with the LEP amendment, the Acting 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. That on conclusion of public consultation, a further report is presented to Council outlining the outcomes of consultation, including submissions received.

CARRIED

FOR VOTE - Unanimous vote

Councillor Lindsay Passfield called for a Division under Section 375A of the *Local Government Act 1993*.

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

13B.4 PLANNING PROPOSAL TO AMEND THE KYOGLE LOCAL ENVIRONMENTAL PLAN 2012 TO INCLUDE ADDITIONAL AGRICULTURE SUPPORTING USES WITHIN THE RURAL AND VILLAGE AREAS

REPORT BY: PLANNING & ENVIRONMENT

**CONTACT: EXECUTIVE MANAGER PLANNING AND ENVIRONMENT
MANFRED BOLDY**

091115/17 RESOLVED

Moved by Councillor Ross Brown, seconded by Councillor Chris Simpson:

1. That Council receives and notes the report on Planning Proposal to Amend the Kyogle Local Environmental Plan 2012 to Include Additional Agriculture Supporting Uses Within The Rural And Village Areas.
2. That Council resolves to amend the *Kyogle Local Environmental Plan 2012* (KLEP), through the preparation of a Planning Proposal generally in accordance with the changes outlined in this report.

Proposed Amendment to the Kyogle Local Environmental Plan 2012
Amendment No. 8- Temporary workers accommodation and roadside stalls

Attachment B- Proposed development guidelines for inclusion in Kyogle Development Control Plan 2014.

4 Other development

4.1 Application

This section applies to other non-residential development in Zones RU1, RU2, RU3 and RU4 where permitted with consent, including; **camping grounds, charter and tourism boating facilities, helipads, information and education facilities, roadside stalls, community facilities, industrial training facilities, function centres, educational establishments, entertainment facilities, restaurants or cafes, recreation facilities (outdoor), places of public worship, plant nurseries, rural supplies, temporary workers' accommodation, timber yards, veterinary hospitals, crematoria and cellar door premises**, but excluding tourist and visitor accommodation, eco-tourist facilities, forestry or cemeteries.

4.2 Objectives

- a) To facilitate development in rural areas that is consistent with the objectives of the applicable zone.
- b) To promote development that complements the agricultural nature of the rural area and allows additional economic opportunities.
- c) To ensure development does not fragment or reduce the potential and viability of Regionally Significant Farmland¹ or Class 1, 2 or 3 agricultural land².
- d) To ensure that development does not result in unacceptable harm to the natural environment.
- e) To ensure that development does not create unacceptable potential for land use conflict.
- f) To ensure development is adequately serviced and does not impose unreasonable demand on public infrastructure.
- g) To ensure that infrastructure and persons on development sites are not exposed to unacceptable risk from natural hazards and contaminated land.
- h) To ensure that development does not adversely impact the landscape character of rural areas.
- i) To ensure the preservation of cultural heritage.
- j) To ensure that buildings and structures do not adversely impact on ecological or hydrological functions of watercourses, wetlands or water bodies.
- k) To ensure that development has safe and suitable vehicular access.

¹As defined by the Northern Rivers Farmland Protection Project (Department of Infrastructure, Planning and Natural Resources and Department of Primary Industries), 2005

²As mapped on Rural Land Capability maps produced by the NSW Department of Land and Water Conservation

Performance criteria	Acceptable solution
	A5.3 Buildings and structures are set back at least 20 metres
Visual impact	
P6 The development does not adversely impact significant vistas, landscape character or surrounding properties	A6.1 Buildings and structures are not located in visually prominent locations such as on ridgelines, hill tops or in prominent locations when viewed from public vantage points OR A6.2 Landscaping is provided to screen or break up the appearance of the development from surrounding areas and significant vantage points <i>* A landscape concept plan must be provided that demonstrates achievement of A6.2</i> AND A6.3 External walls and roofs are clad in non-reflective materials and colours are muted
Environmental impact	
P7 The siting of buildings and structures does not impact on ecological or hydrological values of watercourses, water bodies and wetlands	A7.1 Buildings, structures and operational areas are set back a minimum of 100 metres from the top of bank of permanent watercourses (Order 3 Stream or greater) or water bodies and 40 metres from the top of bank of an ephemeral watercourse (Order 1 or 2 Stream) A7.2 Buildings, structures and operational areas are set back a minimum of 100 metres from the edge of wetland
P8 Development does not create unacceptable impact on ecological functions or biodiversity values	A8.1 Construction of buildings, structures and operational areas does not require the clearing of native vegetation A8.2 Development is not located within a mapped ecological corridor
Protection of amenity of surrounding properties	
P9 Operation of the development does not create unacceptable impacts on the amenity of surrounding areas or agricultural production	A9.1 Hours of operation are in accordance with Table C1.2 in Appendix C1 A9.2 Operation of the development must comply with the NSW Industrial Noise Policy A9.3 Delivery and servicing is undertaken only between the hours of 7am to 6pm weekdays and 7am to 1pm Saturdays

Performance criteria	Acceptable solution
unreasonably from watercourses, water bodies or groundwater	A13.2 The development has adequate water supply
Natural hazards	
P14 Buildings, structures and persons on the development site are not exposed to unacceptable risk from flooding, landslip or bushfire	A14.1 Development is not proposed on land that is mapped as bushfire prone or a landslip hazard area A14.2 The development site is not prone to flooding from inundation or overland flow
Heritage	
P15 Development does not adversely affect the heritage significance of items of environmental heritage or of a heritage conservation area	A15 The development site is not land upon which an item of environmental heritage is situated or land within a heritage conservation area
Where development is for a roadside stall	
P16 Roadside stalls do not create unsafe road conditions	A16.1 Roadside stalls are not located within the road reserve A16.2 Roadside stalls are accessed via an approved vehicular access
P17 Roadside stalls are small scale and used for the sale of locally produced or grown goods and products	A17.1 The maximum gross floor area of a roadside stall is 8m² A17.2 Roadside stalls are only used to sell goods produced or grown on the property where the stall is located or an adjacent property
P18 Food products are stored and managed in accordance with NSW Food Authority requirements	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
P19 Signage does not create adverse impacts on rural landscape character or unduly distract motorists	A19.1 No more than 3 signs per premises are utilised A19.2 Signs are located on roadside stall or fence line of subject site

Table C1.2 Preferred operational or opening hours

Development use or activity	Monday to Friday	Saturday	Sunday and Public Holidays
Function centres, Restaurants and cafes, Cellar door premises, Neighbourhood shops, Educational establishments, Entertainment facilities, Information and education facilities, Place of public worship	7am-10pm	7am-10pm	7am-10pm
Charter and tourism boating facilities, Veterinary hospitals, Plant nurseries, Recreation facilities (outdoor), Rural supplies, Timber yards	7am-6pm	7am-5pm	7am-5pm
Rural industries, Industrial training facilities	7am-6pm	7am-1pm	Not permitted
Crematoria	8am-5pm	8am-4pm	9am-3pm

