



# PLANNING PROPOSAL

Proposed amendment to the Kyogle Local Environmental Plan 2012

---

Amendment to address deferred matters and introduce a biodiversity overlay.

21 April 2021

# Overview of Planning Proposal

The Planning Proposal seeks to amend Kyogle Local Environmental Plan 2012 by:

- Applying an RU1 Primary Production zone to all deferred rural land in the Kyogle local government area (LGA) and the road reserve adjoining the Kyogle Showground, being land subject to Interim Development Order No. 1 – Shire of Kyogle and Interim Development Order No. 1 – Shire of Terania.
- Applying an R1 General Residential zone to deferred land in the Kyogle town area and applying a 9m maximum height of building control to this land on the Height of Buildings Map.
- Applying an RE1 Public Recreation zone to deferred land within the Kyogle showground and sports fields.
- Applying a minimum lot size control (MLS) to the deferred land based on the MLS of adjoining land with a similar land use zone.
- Removing the RU2 Rural Landscape zone and land use table, and all references to the RU2 Rural Landscape zone from the Kyogle Local Environmental Plan 2012.
- Rezoning all RU2 Rural Landscape zoned land in the LGA to RU1 Primary Production.
- Listing 'places of public worship' as a land use that is permissible with development consent in the RU1 Primary Production zone.
- Making consequent changes to the Land Application Map, Heritage Map, Height of Buildings Map, and Flood Planning Map.
- Introducing a Mapped Biodiversity Overlay and corresponding written clause. The biodiversity controls apply, where relevant, to the entire LGA.
- Repeal Interim Development Order No. 1 – Shire of Kyogle and Interim Development Order No. 1 – Shire of Terania.
- Adding an additional objective to the RU1 Primary Production Zone; and
- Undertaking various minor mapping corrections.

# Introduction

## Overview

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

Council at its Ordinary Meeting of 14 March 2016 resolved to prepare an amendment to 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 areas originally identified by Council for inclusion in Zone E3 Environmental Management (the E Zone areas). The proposed E Zone areas were not approved by the then Planning Minister 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 planning instrument applying to the deferred areas continued to be the relevant provisions of 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 will zone the affected land RU1 Primary Production consistent with the recommendations of the Final Recommendations Report, with the exception of two small areas within the Kyogle town area which are more appropriately zoned for residential and public recreation purposes.

Once the Deferred Matter Areas are removed from the KLEP the Interim Development Orders currently applying to the affected lands can be repealed as the KLEP will apply to all land within the Kyogle Council Local Government Area (LGA).

Land that is presently zoned RU2 Rural Landscape Zone is proposed to be rezoned to RU1 Primary Production 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.

Moreover, the objectives of the RU1 Primary Production zone are preferred to promote sustainable primary industry enterprise consistent with the current and projected future use of the land and are satisfactory subject to the inclusion of an additional objective to address the impact of proposed developments on the natural environment.

This Planning Proposal also proposes to introduce a biodiversity overlay and associated clause to provide a statutory planning mechanism for Council to protect significant environmental values present in the LGA from the impacts of future land use and development. The biodiversity controls apply, where relevant, to the entire LGA.

### **Removal of Deferred Matter Areas (originally 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.”*

The ‘rural zones’ denoted in the IDOs are identified as “Non-urban” zones, being:

- Non-Urban “A”
- Non-Urban “B”

The deferred matters land highlighted in the KLEP are almost exclusively zoned Non-Urban “A” under the IDOs (i.e. with the exception of some small parcels of land within the Kyogle township). The Non-Urban “B” zoned land was applied to land within 400 metres of main roads. Council is proposing to apply the RU1 Primary Production zone to the deferred matters; this land use zone is considered to be equivalent to the Non-Urban “A” zone.

### **Use of a Single Rural Zone – RU1 Primary Production Zone**

Section 10 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 NSW Department of Planning, Industry and Environment’s Practice Notes for the Preparation of LEPs.

The Planning Proposal will apply a single zone being the RU1 Primary Production zone to all rural land 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 IDOs. Application of both the RU1 Primary Production and RU2 Rural Landscape zones would in many instances result in multiple zoning of rural lands.

Furthermore, the use of multiple zones for the deferred matters 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 RU1 Primary Production zone is the preferred zone because it is the most ‘equivalent’ rural zone to that under the IDOs:

- Both the IDO Non-Urban “A” zone and the KLEP RU1 zone are primary production zones. While the RU1 zone has a 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.

- The IDO Non-Urban “B” zone was applied to land within 400 metres of main roads. It is considered that the RU1 Primary Production zone is equally as equivalent to this zone under the Standard Instrument LEP Template because it contains an identical range of permitted uses to the IDO Non-Urban “A” zone.
- Moreover, the IDO zones did not contain objectives regarding ecological and/or scenic landscape qualities, and would not be readily equivalent to the RU2 Rural Landscape zone under the Standard Instrument Principal Local Environmental Plan.
- As discussed further below, the proposal to incorporate rural land into a single zoning while introducing a biodiversity overlay is considered to provide the most consistent response to the Final Recommendations Report, while ensuring the environmental values of the Kyogle LGA are maintained.

Integration of the two principal rural zones into a single zone (i.e. the RU1 Primary Production zone) will help simplify 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 Primary Production and RU2 Rural Landscape 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 Rural Landscape 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 Rural Landscape 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 Rural Landscape and RU1 Primary Production zones and in this regard integration of the RU2 Zone with the RU1 Zone will not compromise this objective.

Furthermore, it is proposed to introduce a biodiversity overlay to protect the environmental values of the land from the impacts of land use and development through the statutory planning framework (see below).

### **Introduction of biodiversity overlay**

The Planning Proposal proposes the introduction of a biodiversity overlay which will consist of a map and associated written clause. The introduction of the biodiversity overlay is proposed in order to recognise the significant environmental values which exist in the Kyogle LGA and to provide a mechanism to protect those values from the impacts of future land use and development through the statutory planning framework. The biodiversity controls apply, where relevant, to the entire LGA.

The biodiversity overlay mapping layer has been prepared by the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment. The mapping layer has principally been determined by the presence of woody vegetation cover indicated in satellite imagery. Lands of certain public tenure have been excluded including Crown Land, State Forest and National Park (as other existing legislation already provides biodiversity protection to this land) and the layer has filtered out any vegetation parcels less than 0.5 ha in area.

Land subject to the biodiversity overlay covers more than 100,000ha of land across the LGA.

### **Revised Mapping**

The Planning Proposal identifies amendments to the existing maps of the KLEP as well as the introduction of a new map being the biodiversity overlay map. The amendments apply the adjacent zoning and planning controls (e.g. height of building control, minimum lot size, flood planning, etc) to

the deferred matter locations. The amendments will also require an update to the Land Application Map. Proposed maps are included in this Planning Proposal at Attachment B.

### **Preparation of Planning Proposal**

This Planning Proposal has been prepared by Kyogle Council following a resolution of Council made at its Ordinary Meeting of 14 March 2016 (see Attachment A). The Planning Proposal reflects 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 9.1 Direction 2.5 issued by the NSW Minister for Planning on 25 February 2016.

This Planning Proposal has been prepared in order to seek Gateway Determination from the Department of Planning, Industry and Environment.

# Part 1 – Objectives and Intended Outcomes

## Objectives

The objectives of the proposed amendment are to:

- 1) Provide for a single environmental planning instrument to apply land within the Kyogle LGA.
- 2) Rationalise the rural land use zoning affecting the broader rural area across the Kyogle LGA.
- 3) Provide for greater rural economic certainty for the LGA through a more streamlined approach to rural land use zoning.
- 4) Remove any uncertainty regarding the future of previously unclear E Zone areas within the Kyogle LGA with the introduction of an environmental overlay and associated clause consistent with Section 9.1 Direction (2.5).
- 5) Give effect to the directions in the Northern Councils E Zone Review Final Recommendations.

## Intended Outcomes

The intended outcomes of the proposed amendments are to:

1. Provide clarity and certainty for development and use of rural land across the Kyogle LGA.
2. Identify and protect land with significant environmental (biodiversity) values.
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
<b>Part 1 Preliminary</b>	
Clause 1.3 (1A) Land to which Plan applies	<ul style="list-style-type: none"> <li>Removal of Clause 1.3(1A)</li> </ul>
Clause 1.7 Maps	
a) Land Zoning Maps: <ul style="list-style-type: none"> <li>Sheet LNZ_001A</li> <li>Sheet LZN_001B</li> <li>Sheet LZN_001BA</li> <li>Sheet LZN_001C</li> <li>Sheet LZN_002A</li> <li>Sheet LZN_002B</li> <li>Sheet LZN_002BA</li> <li>Sheet LZN_002C</li> <li>Sheet LZN_002CA</li> <li>Sheet LZN_003A</li> <li>Sheet LZN_003B</li> <li>Sheet LZN_003C</li> <li>Sheet LZN_003D</li> <li>Sheet LZN_004A</li> <li>Sheet LZN_004B</li> <li>Sheet LZN_004C</li> <li>Sheet LZN_004CA</li> </ul>	a) Land Zoning Maps <ul style="list-style-type: none"> <li>Deferred Matter (DM) locations on Sheet LNZ_004CA to be mapped as RE1 Public Recreation or R1 General Residential according to the zoning of the immediately adjacent land.</li> <li>All other indicated Land Zoning Map sheets, other than Sheet LNZ_004CA to replace Deferred Matter (DM) location with RU1 Primary Production zoning.</li> <li>Omit all references to 'RU2 Rural Landscape' and replace affected areas with 'RU1 Primary Production' zoning.</li> <li>Housekeeping amendment to Sheet LNZ_004C, which incorrectly shows a portion of land in the east of Kyogle LGA zoned 'E3 Environmental Management'. This land to be zoned 'RU1 Primary Production'.</li> </ul>
b) Flood Planning Map <ul style="list-style-type: none"> <li>Sheet FLD_004</li> </ul>	b) Flood Planning Map <ul style="list-style-type: none"> <li>The two Deferred Matter locations on Flood Planning Map Sheet FLD_004 to be mapped as being within the Flood Planning Area.</li> </ul>
c) Height of Building Map <ul style="list-style-type: none"> <li>Sheet HOB_004CA</li> </ul>	c) Height of Building Map <ul style="list-style-type: none"> <li>The Deferred Matter area on Sheet HOB_004CA to be zoned R1 General Residential is to be mapped as 'J - 9 metre' height.</li> </ul>
d) Land Application Map <ul style="list-style-type: none"> <li>Sheet LAP_001</li> </ul>	d) Land Application Map <ul style="list-style-type: none"> <li>All Deferred Matter areas on Sheet LAP_001 to be omitted.</li> </ul>
e) Lot Size Map <ul style="list-style-type: none"> <li>Sheet LSZ_001A</li> <li>Sheet LSZ_001B</li> <li>Sheet LSZ_001BA</li> <li>Sheet LSZ_001C</li> </ul>	e) Lot Size Map <ul style="list-style-type: none"> <li>All affected Deferred Matter areas to be mapped as having minimum lot size as per adjacent RU1 Primary Production zoned land – as shown on the map sheets.</li> </ul>

Proposed Amendment to the Kyogle Local Environmental Plan 2012  
Deferred Matter Areas and biodiversity overlay

Section of KLEP	Proposed Amendment
<ul style="list-style-type: none"> <li>- Sheet LSZ_002A</li> <li>- Sheet LSZ_002B</li> <li>- Sheet LSZ_002BA</li> <li>- Sheet LSZ_002C</li> <li>- Sheet LSZ_003A</li> <li>- Sheet LSZ_003B</li> <li>- Sheet LSZ_003C</li> <li>- Sheet LSZ_003D</li> <li>- Sheet LSZ_004A</li> <li>- Sheet LSZ_004B</li> <li>- Sheet LSZ_004BA</li> <li>- Sheet LSZ_004C</li> </ul>	
<p>f) Heritage Map</p> <ul style="list-style-type: none"> <li>- Sheet HER_002A</li> <li>- Sheet HER_004CA</li> </ul>	<p>f) Heritage Map</p> <p>Deferred Matter areas located on land that is in Schedule 5 of the KLEP as Items or Archaeological Sites of Local Heritage Significance are to be mapped as Heritage Items or Archaeological Sites.</p>
<p>g) New maps - terrestrial biodiversity</p> <ul style="list-style-type: none"> <li>- Sheet BIO_001A</li> <li>- Sheet BIO_001C</li> <li>- Sheet BIO_002A</li> <li>- Sheet BIO_002B</li> <li>- Sheet BIO_002C</li> <li>- Sheet BIO_003B</li> <li>- Sheet BIO_003D</li> <li>- Sheet BIO_004A</li> <li>- Sheet BIO_004C</li> </ul>	<p>g) New Map – Terrestrial biodiversity</p> <p>Insert a new map that identifies land with terrestrial biodiversity values.</p>
<p>h) All Maps</p>	<p>h) Rectify minor alignment issues between cadastre and planning controls across all map sheets where necessary.</p>
<p>Clause 1.3 Land to which Plan applies</p>	<ul style="list-style-type: none"> <li>• Delete clause (1A).</li> </ul>
<p>Clause 1.8 Repeal of planning instruments applying to land</p>	<ul style="list-style-type: none"> <li>• Removal of Subclause (2) and the Note referring to Interim Development Orders, as this will no longer be applicable when Deferred Matter Areas are replaced with KLEP provisions.</li> </ul>
<p><b>Part 2 Permitted or prohibited development</b></p>	
<p>Clause 2.1 Land use zones</p>	<ul style="list-style-type: none"> <li>• Delete of all references to “RU2 Rural Landscape”.</li> </ul>
<p>Land Use Table</p>	<ul style="list-style-type: none"> <li>• Delete Zone RU2 Rural Landscape zone and all related provisions.</li> <li>• Insert ‘Place of public worship’ as a use that is permissible with consent in Zone RU1 Primary Production.</li> <li>• Include a new objective to the RU1 Zone to address the potential impact of development on the natural environment.</li> </ul>

Proposed Amendment to the Kyogle Local Environmental Plan 2012  
Deferred Matter Areas and biodiversity overlay

Section of KLEP	Proposed Amendment
<p>Clause 4.1AA Minimum subdivision lot size for community title schemes</p> <p>Clause 4.1AA(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Delete of reference to “Zone RU2 Rural Landscape” in subclause 4.1AA(2)(b).</li> </ul>
<p>Clause 4.1A Boundary adjustments of land in certain zones</p> <p>Clause 4.1A(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Delete reference to “Zone RU2 Rural Landscape” in subclause 4.1A(2)(b).</li> </ul>
<p>Clause 4.1B Minimum subdivision lot sizes for certain split zones</p> <p>Clause 4.1B(2)(b) – application of clause</p> <p>Clause 4.1B (3)(a)(ii) – circumstances where other lots may be created</p>	<ul style="list-style-type: none"> <li>Delete reference to “Zone RU2 Rural Landscape” in subclauses 4.1B(2)(b) and 4.1B(3)(a)(ii).</li> </ul>
<p>Clause 4.2 Rural subdivision</p> <p>Clause 4.2(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Update the note under subclause 4.2(2) to identify “the RU2 Zone is not used in this Plan”.</li> </ul>
<p>Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones</p> <p>Clause 4.2A(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Delete reference to “Zone RU2 Rural Landscape” in subclause 4.2A(2).</li> </ul>
<p>Clause 4.2B Minimum subdivision lot size for strata plan schemes in certain zones</p> <p>Clause 4.2B(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Delete reference to “Zone RU2 Rural Landscape” in subclause 4.2B(2).</li> </ul>
<p>Clause 4.2C Erection of rural workers’ dwellings in Zones RU1 and RU2</p> <p>Clause 4.2C(2) – application of clause</p>	<ul style="list-style-type: none"> <li>Delete the following words “Zones RU1 and RU2” in clause heading and insert with “Zone RU1”.</li> <li>Delete the following words “Zone RU2 Rural Landscape” in subclause 4.2C(2)(b).</li> </ul>
<b>Part 6 Additional local provisions</b>	
New clause	<p>Insert the following new clause:</p> <p><b>6.7 Terrestrial biodiversity</b></p> <p><i>(1) The objective of this clause is to maintain terrestrial biodiversity by—</i></p> <p><i>(a) protecting native fauna and flora, and</i></p>

Section of KLEP	Proposed Amendment
	<p><i>(b) protecting the ecological processes necessary for their continued existence, and</i></p> <p><i>(c) encouraging the conservation and recovery of native fauna and flora and their habitats.</i></p> <p><i>(2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.</i></p> <p><i>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—</i></p> <p><i>(a) whether the development is likely to have—</i></p> <p><i>(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and</i></p> <p><i>(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and</i></p> <p><i>(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and</i></p> <p><i>(iv) any adverse impact on the habitat elements providing connectivity on the land, and</i></p> <p><i>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p><i>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</i></p> <p><i>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</i></p> <p><i>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p><i>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></p>
<b>Schedule 1</b>	
Clause 1	<ul style="list-style-type: none"> <li>• Delete the following words “(b) Zone RU2 Rural Landscape”</li> </ul>
<b>Maps</b>	
All maps	<ul style="list-style-type: none"> <li>• All Maps to be amended as indicated for clause 1.7 (see above) as illustrated in Attachment B</li> <li>• Map to be amended to reflect realignment identified between cadastre and planning controls</li> </ul>

## Detailed Explanation of Provisions

### 1. Land Application Map

The Land Application Map will be amended to demonstrate that all land subject to Interim Development Order No. 1 – Shire of Kyogle and Interim Development Order No. 1 – Shire of Terania will now be subject to the provisions of the KLEP. This is appropriate and the use of the Land Application Map to identify that all land in the Kyogle LGA will be subject to the KLEP is consistent with the approach adopted by the Standard Instrument LEP.

### 2. Development Standards and Other Planning Controls

The Planning Proposal will apply height of building, minimum lot size and heritage provisions to the land previously subject to Interim Development Order No. 1 – Shire of Kyogle and Interim Development Order No. 1 – Shire of Terania via mapped planning controls. This is required to ensure the planning controls that apply to the subject land are consistent with the Standard Instrument LEP as adopted in KLEP.

- **Height of Building** – The Planning Proposal applies a 9m maximum height of building control to the currently deferred land in the Kyogle town area. This 9m maximum height is consistent with the controls applies to surrounding land in the same zone.
- **Minimum Lot Size (MLS)** – The Planning Proposal will amend the Minimum Lot Size Map, such that it will apply MLSs for subdivision to the deferred land being integrated into the KLEP. The MLS for this land will be the same as for adjoining land which has a similar land use. The approach means that the deferred land will generally have either a 40 hectare or 100-hectare MLS applied to it, except those portions in the town area to be zoned R1 General Residential which will have a 500m<sup>2</sup> MLS. The MLS to be applied will be the MLS that predominantly applies to the currently deferred land. This has ensured that a single lot size generally applies to an entire lot and that the lot sizes are consistent across localities.
- **Heritage items** – the Planning Proposal will amend the Heritage Map in the KLEP to include the entirety of the land on which two heritage items (items A164 and I057) are located. Only part of the land containing the heritage items was deferred from the KLEP and therefore the heritage items are already identified in Schedule 5 of the KLEP. The integration of the deferred land means that the heritage maps need to be revised.
- **Flood Planning Map** – the Flood Planning Map includes land around the Kyogle urban area which also includes some deferred land. The Flood Planning Map will need to be amended to include the deferred land and indicate its flood liable status.

### 3. Removal of RU2 Zone

The Planning Proposal will remove reference to the RU2 Rural Landscape zone from the KLEP. The land which is currently zoned RU2 Rural Landscape will be zoned RU1 Primary Production.

This will simplify Council's planning framework and potential for split rural zoning occurring on land within the same primary activity, that being rural production.

In preparing the KLEP, the RU2 Rural Landscape zone applied to Agricultural Suitability Class 6 and 7 lands. The RU1 Primary Production zone applied to classes 1-5 lands (highest suitability) and the E3 Environmental Management zone was proposed for class 8 land (lowest suitability). Council considered applying an RU1 Primary Production zone to all rural land but concluded it was appropriate to differentiate between the primary production land, so that it could be protected for the intended purpose while other land uses could be established on the balance of rural land without detracting or encroaching on the best agricultural land.

This intent was however undermined with a change to the land use table which meant that all land uses permissible in the RU2 Rural Landscape zone were also permissible in the RU1 Primary Production zone.

### 4. Permissible Land Uses

The current RU1 Primary Production and RU2 Rural Landscape zones have effectively identical permissible uses, the only differences being 'boat sheds' and 'open cut mining' are listed as permissible with consent in the RU1 Primary Production but not in the RU2 Rural Landscape zone while 'places of public worship' are listed as permissible with consent in the RU2 Rural Landscape zone but not in the RU1 Primary Production zone. Council is seeking to rectify this discrepancy by adding 'places of public worship' as a land use permitted with consent in the RU1 Primary Production zone. This proposed amendment to the RU1 Primary Production land use table is not inconsistent with the Standard Instrument LEP.

The rural zones in the KLEP were allocated on the basis of land capability rather than topographical or natural features or biodiversity value. The RU2 Rural Landscape zone was therefore applied to land suitable for rural production but was not identified as prime agricultural land.

The use of a single rural zone is consistent with the Final Recommendations Report which requires that, as a general principle, the use of multiple zones on a property should be minimised. Council has

identified that the primary use of the rural land in the LGA is substantially grazing or other rural production activities and therefore the use of a single rural zone is appropriate.

The major differences between the existing RU1 Primary Production and RU2 Rural Landscape zones is in the objectives of the zones. Apart from the mandatory objectives specified in the Standard Instrument Principal LEP, the RU1 Primary Production zone has the following objectives:

- *To ensure that the productive capacity of agricultural land is appropriately recognised and managed.*
- *To enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment.*

While the RU2 Rural Landscape zone includes the following objectives:

- *To provide for agricultural processing and support facilities directly related to the use and development of resources in the zone.*
- *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 objectives of the RU1 Primary Production zone support the productive agricultural capability of land while the objectives of the RU2 Rural Landscape zone also require consideration of the impact on the natural environment and enhancement of the natural environment.

As it is likely that the deferred areas and the current RU2 Rural Landscape zone do include some areas of important natural environment, the planning proposal includes a biodiversity overlay and a new objective in the RU1 Primary Production zone to address impact of proposed developments on the natural environment, as follows:

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

It is noted that having a single rural zone is also consistent with the adjoining Richmond Valley LGA, and Lismore which has only applied a RU2 Rural Landscape zone to a small area on the edge of the Lismore urban area which has a high flood risk hazard.

The proposal to rezone RU2 Rural Landscape zoned land to RU1 Primary Production does not result in a significant change to the development potential of the land as the land use tables for the two zones are practically identical.

## 5. Mapping

Existing and proposed maps illustrating all the changes are included in the proposal.

The mapping prepared for this Planning Proposal also includes various minor adjustments to rectify alignment issues between the cadastral boundaries and planning controls.

This exercise has been required because:

- Kyogle's northern boundary with Queensland has been realigned. The cadastre has been adjusted accordingly, however other data from National Parks, State Forests has not. The mapping in this Planning Proposal corrects this.
- When the KLEP was created, many rural residential areas did not have a cadastre because subdivisions had not occurred. As subdivisions have now occurred, Council is now able to better align the cadastral boundaries and planning controls.
- Various rivers have changed course over time and as subdivisions have occurred, the stream banks have been corrected accordingly. These changes have been included in mapping in this Planning Proposal.

The boundary realignment exercise described above will not create altered or split zoning of land, nor will it result in properties being split across State or LGA boundaries.

## 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 State Government initiated investigations into the application of E Zones by Councils on the Far North Coast of NSW. The recommendations of the Final Recommendations Report and subsequent Section 9.1 Direction are that Kyogle Council should apply a rural zone equivalent to the zone in the superseded Interim Development Orders to the land which was proposed to be zoned E2 Environmental Conservation or E3 Environmental Management and was deferred from the KLEP. The equivalent zoning is considered to be RU1 Primary Production zone. An exception exists for some minor parcels of land located within the Kyogle Township which are to be zoned R1 General Residential or RE1 Public Recreation.

In proposing to apply an RU1 Primary Production zone to the deferred land and rezone RU2 Rural Landscape zoned land to RU1 throughout the LGA the planning proposal is consistent with the recommendation of the Final Recommendations Report to minimise the use of multiple zones over a single property.

The biodiversity overlay map has been prepared on behalf of Council by the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment using satellite mapping data and analysis. Application of the overlay is enabled by Section 9.1 Direction 2.5.

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

Yes, the Planning Proposal is the best way of achieving the objectives and intended outcomes of the LEP amendment.

The LEP Amendment will result in:

- A repeal of outdated environmental planning instruments.
- Streamline the planning controls applying to rural land.
- The introduction of an environmental overlay to protect, where required, natural attributes of the LGA.
- Updated mapping to correct discrepancies and to reflect land use zoning changes.

The Planning Proposal will simplify the local planning provisions while introducing clear guidance for environmental management.

By applying the RU1 Primary Production zone to all rural land with the deletion of the RU2 Rural Landscape zone from the KLEP this will remove ambiguity and duplication of control from KLEP.

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

The proposed LEP Amendment will provide greater certainty for development within the rural localities of the Kyogle LGA through a more robust approach to protecting environmentally sensitive areas, in keeping with the findings of the Final Recommendations Report with the introduction of the environmental overlay.

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

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

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

The North Coast Regional Plan 2036 recognises the importance of agricultural land and protection of 'Important Farmland'. The Planning Proposal is consistent with the overall intent and specific goals of the North Coast Regional Plan. It enables important farmland within the Kyogle LGA to be used for intended purposes while also providing a level of recognition of environmental qualities as a significant contributor to the region's character and amenity.

The Planning Proposal is consistent with the following Actions in the North Coast Regional Plan:

*Action 2.1- Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.*

*Action 11.1- Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.*

*Action 12.1- Promote the expansion of food and fibre production, agrichemicals, farm machinery, wholesale and distribution, freight and logistics, and processing through flexible planning provisions in local growth management strategies and local environmental plans.*

### **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 2016-2026* (Kyogle CSP) which is:

*Working together to balance Environment, Lifestyle and Opportunity*

The CSP has been drafted around four key themes, one of which is "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 Primary Production and RU2 Rural Landscape zonings and remove any unnecessary duplication of approval requirements affecting rural land.

The CSP includes the following 'priority action':-

*Review and amend the Kyogle Local Environmental Plan to allow for a variety of activities in rural areas and ensure removal of any barriers to development that enhances the agricultural sustainability and economic viability of rural land.*

The Planning Proposal is consistent with this priority action of the CSP.

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

The Planning Proposal is consistent with the Action A1.3 of the Kyogle Local Strategic Planning Statement which states:

*'Amend the Kyogle LEP to introduce a single rural land use Zone (RU1) and biodiversity overlay.'*

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

The State Environmental Planning Policies relevant to the Planning Proposal and consistency with the relevant provisions are summarised in Table 2.

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

SEPP	Planning Proposal Consistency
<i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>	The SEPP is not applicable to the Planning Proposal.
<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>	The SEPP is not applicable to the Planning Proposal.
<i>State Environmental Planning Policy (Concurrences and Consents) 2018</i>	The SEPP is not applicable to the Planning Proposal.
<i>State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017</i>	The SEPP is not applicable to the Planning Proposal.
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>SEPP (Housing for Seniors or People with a Disability) 2004</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development. The Planning Proposal is consistent with the relevant aims of the SEPP.
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
<i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
<i>State Environmental Planning Policy 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. 55 - Remediation of Land</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>State Environmental Planning Policy No. 50 - Canal Estate Development</i>	The Planning Proposal does not affect the ongoing operation of the SEPP.
<i>State Environmental Planning Policy (Koala Habitat Protection) 2020</i>	The SEPP provisions applying to koala habitat protection are not affected by the Planning Proposal.
<i>State Environmental Planning Policy No. 21 - Caravan Parks</i>	The SEPP provisions applying to caravan parks are not affected by the Planning Proposal.

SEPP	Planning Proposal Consistency
<i>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land or development.
<i>State Environmental Planning Policy No. 19 - Bushland in Urban Areas</i>	The SEPP provisions applying to bushland in urban areas are not affected by the Planning Proposal.
<i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>	The Planning Proposal does not affect the ongoing operation of the SEPP on any referred to land.

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

The Section 9.1(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 s9.1 Directions**

Section 9.1 Direction	Planning Proposal Consistency
<b>1. Employment and Resources</b>	
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.
<b>2. Environment and Heritage</b>	
2.1 Environment Protection Zones	The Direction provides that a Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The Planning Proposal is consistent with this Direction because it proposes to introduce provisions to protect biodiversity.
2.2 Coastal Protection	The Direction does not apply to the Planning Proposal.

Proposed Amendment to the Kyogle Local Environmental Plan 2012  
Deferred Matter Areas and biodiversity overlay

Section 9.1 Direction	Planning Proposal Consistency
2.3 Heritage Conservation	<p>The Direction provides that a Planning Proposal must contain provisions which facilitate the conservation of items and places of heritage significance.</p> <p>The proposal will update the heritage maps of the KLEP to include the currently deferred land which contains items of heritage significance.</p> <p>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.</p>
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	<p>The Direction provides that where a Planning Proposal proposes an E2 Environmental Conservation or E3 Environmental Management zone or an overlay and associated clause the proposal must be consistent with the Northern Council E Zone Review Final Recommendations.</p> <p>The overlay proposed as part of this Planning Proposal is consistent with the Northern Council E Zone Review Final Recommendations.</p>
2.6 Remediation of Contaminated Land	The Planning Proposal may apply to land to which this Direction applies but it does not facilitate any change of use of land which is likely to be affected by potentially contaminated land.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	The Planning Proposal does not affect the operation of the Direction regarding residential development.
3.2 Caravan Parks and Manufactured Home Estates	The Planning Proposal does not affect the 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.
3.6 Shooting ranges	The Planning Proposal is consistent with this Direction as it does not permit more intensive land uses adjacent to a shooting range nor permit land uses which are incompatible with a shooting range.
3.7 Reduction in non-hosted short-term rental accommodation period	The Direction does not apply to the Kyogle LGA.
<b>4. Hazard and Risk</b>	
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 the KLEP are not affected by the Planning Proposal
4.4 Planning for Bushfire Protection	Areas of the LGA that will be integrated into the KLEP and rezoned to RU1 Primary Production are identified as being bush fire prone. The direction provides that the Relevant Planning Authority must consult with

Proposed Amendment to the Kyogle Local Environmental Plan 2012  
Deferred Matter Areas and biodiversity overlay

Section 9.1 Direction	Planning Proposal Consistency
	<p>the Commissioner of the NSW Rural Fire Service. Consultation with the RFS will occur following Gateway determination.</p> <p>Existing bushfire protection provisions in KLEP are not affected by the Planning Proposal</p>
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	The Direction does not apply to the Planning Proposal.
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	<p>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.</p> <p>This Planning Proposal is consistent with this Direction as it does not propose to zone any land that is mapped as State or Regionally Significant Farmland for residential or urban purposes.</p>
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 (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.
5.9 North West Rail Link Corridor Strategy	The Direction does not apply to the Planning Proposal
5.10 Implementation of Regional Plans	<p>The Planning Proposal is consistent with the Direction as it responds to the North Coast Regional Plan's action to protect important farmland. The Planning Proposal is consistent with the overall and specific goals of the plan.</p>
5.11 Development of Aboriginal Land Council land	The Direction is not applicable to the Planning Proposal.
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	The Planning Proposal does not alter any existing concurrence, consultation or referral requirements.
6.2 Reserving Land for Public Purposes	The Direction provides that a Planning Proposal must not create, alter or reduce zonings of land for public purposes without the approval of the Secretary or the public authority.

Section 9.1 Direction	Planning Proposal Consistency
	<p>The Planning Proposal seeks to apply an RE1 Public Recreation zone to a small portion of the deferred land in the showground and sports field sites of the Kyogle urban area. Both the showground and the sports ground on the eastern side of Summerland Way are Crown Reserves. The showground is managed and administered by the Kyogle Showground Trust, the sports ground is administered by Council.</p> <p>The agreement of the Council to the rezoning of the land to RE1 Public Recreation is implicit in the endorsement of the Planning Proposal. The agreement of Crown Lands has not been provided. This consultation will occur after the Gateway determination is issued. The proposed RE1 Public Recreation zoning is consistent with the zone applying to the remainder of the land.</p> <p>It is considered that the inconsistency is therefore of minor significance and justified in accordance with the terms of the Direction.</p>
6.3 Site Specific Provisions	<p>The Planning Proposal proposes to use existing standard zoning and general provisions within KLEP. No site-specific provisions are proposed by the Planning Proposal.</p>

## 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.

The environmental overlay will provide additional protection.

### 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 Local Strategic Planning Statement. 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 seeks 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 will not materially 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 with relevant State agencies is proposed to be undertaken as per the conditions of Gateway determination.

## Part 4 – Mapping

The proposed LEP amendment includes a number of Map amendments referred to in Table 1 and shown in Attachment B. Below are extracts of existing and proposed LEP Land Zoning Maps demonstrating the zone changes to be applied to the two Deferred Matter areas within Kyogle town area.

Existing Zone Map Sheet LZN\_004CA



Proposed Zone Changes to Map Sheet LZN\_004CA



## Part 5 – Community Consultation

Community consultation is proposed to be undertaken as specified in Section 5.5.2 of the 'Guide to preparing local environmental plans' and will include:

- a) Placing a notice on Council's website.
- b) Publishing an article in Council's community newsletter.
- c) Running several 'talk to a planner' sessions where Council planning staff are available to speak to interested persons.

The period of exhibition is proposed to run from mid-May 2021 to mid-June 2021, being a period of 28 days. It is not proposed to notify the owners of individual properties affected by the proposed amendment as this would be impractical as there are over 450 affected parcels.

## 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	April 2021 (Gateway determination by 5 May 2021).
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 minimum 28 days which will run approximately between mid-May and mid-June 2021.
Public hearings	Not applicable
Consideration of submissions	Mid/Late June 2021
Further Consideration by Council	Mid July 2021
Date of submission to the Department to finalise	July 2021
Anticipated date the Council makes the LEP, if delegated	Not applicable (DPIE is the LPA)
Anticipated date Council will forward making of the LEP to the Department for notification	Not applicable (DPIE is the LPA) Estimated that LEP will be made by the end of August 2021

# Attachments

**Attachment A – Council Ordinary Meeting Minute – 14 March 2016**

**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

**Attachment B – Draft (Amended) LEP Maps**

## Attachment C – Proposed RU1 Zone Land Use Table

*Additions shown italicised.*

### Zone RU1 Primary Production

#### 1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that the productive capacity of agricultural land is appropriately recognised and managed.
- To enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment.
- *To enable development that does not adversely impact on the natural environment, including habitat and waterways.*

#### 2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture

#### 3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Crematoria; Dual occupancies; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Helipads; Home businesses; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Open cut mining; *Place of public worship*; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Timber yards; Turf farming; Veterinary hospitals; Water supply systems

#### 4 Prohibited

Any development not specified in item 2 or 3