

Summary of the proposed Kyogle LEP changes July 2021 by Scott Sledge

On Thursday 8th July a delegation from Kyogle Environment Group (KEG) and Nimbin Environment Centre (NEC) met with Kyogle Mayor Danielle Mulholland and Planner Chris White at Council Chambers. We were offered this meeting after NSW government brought in Covid restrictions which prevented a public meeting to discuss the proposed changes to land zoning under an amended Local Environment Plan (LEP.) Closing date for public comment has been extended to 4:30 PM Friday 16th July. I encourage people concerned to send comments. Many people have asked me to summarise the main points, and I will try.

The proposed changes will go to Kyogle Council at their August meeting. Council can: a) accept the changes; b. defer until a later meeting; or c. reject the proposal.

Proposed changes will be: 1. Eliminate all RU2 (Rural Landscapes) zones to make all non-urban zones RU 1 (Primary Production) 2. add a clause to land use conditions to reflect Council's concern that development be consistent with environmental stewardship, and 3. Remove all reference to Environmental Zones.

In May 2020 Council published an impressive vision statement entitled *Local Strategic Planning Statement* (LSPS) which sets out goals and priority actions. Although most of these are commendable, I can not find a good reason for assigning top Priority (A1) to a proposal to "introduce a single land use zone and biodiversity overlay in the LEP, as articulated in the action A1.3" I was told that Council voted to achieve this in 2016 and wants to get it voted on /enacted before the Council election on 4th September 2021. I asked if the proposal to create a biodiversity overlay could be voted in allowing E -Zones without changes to RU zoning and I was told, yes it could. This would leave the possibility for creating various opportunities as stated in A1.4 " to determine the viability and need for a range of smaller lot sizes to support diverse agricultural pursuits" and "to facilitate diversification of agriculture and provide opportunities for value-adding to existing agricultural enterprises." (A1.5)

So , why the change ? As best I could gather it is because Council wants to eliminate RU2 (and E Zones) because they said they would in 2016. There is no apparent intention to eliminate Zones RU3 (Forestry) or RU4 (Primary production small lots) or Rural Residential. I was assured that the rezoning will not effect Multiple Occupancy (permitted under RU1 and RU2.) I think that some landholders believe RU 2 and E Zones make property less valuable and a zoning change might increase profits. Perhaps it might be better to lobby for the **biodiversity overlay** to be created and agreed before changing zonings. After all, the work of mapping for the overlay will rest with the NSW state government which

has a poor track record in recent times for protecting biodiversity. And Kyogle has yet to determine a Koala Plan of Management (KPOM.)

According to Dailan Pugh, President of NorthEast Forests Alliance (NEFA): The *'Northern Councils E Zone Review, Final Recommendations Report'* identified the following allocation of high conservation value vegetation to environmental zones:

E2 Criteria

SEPP 26 Littoral Rainforests. SEPP 14 Coastal Wetlands. Endangered Ecological Communities, Key Threatened Species Habitat (including oldgrowth, key fauna habitat, critical habitat), >70% cleared ecosystems and Mitchell Landscapes, and Aboriginal culturally significant lands.

E3 Criteria

Riparian and estuarine vegetation and wetlands. Rare, Endangered and Vulnerable Forest Ecosystems. Native vegetation on coastal foreshores.

NEFA does not agree with the appropriateness of these allocations, but agrees that these should be protected as a minimum in Environmental zones. *This region's high population growth, with associated urban and tourist developments along the coast, is a major cause of habitat loss and fragmentation.*

The Kyogle Shire encompasses the spectacular volcanic remnants of the Tweed Shield Volcano, centred on Mount Warning, and the Focal Peak Shield Volcano, centred near Mount Barney. The volcanic ranges support rainforests, and the sedimentary soils of the valleys eucalypt forests and wetlands. These forests have been identified as being of outstanding international, national and state value for threatened ecosystems and biodiversity. They encompass the heart of the Gondwana Rainforests of Australia World Heritage property. They are part of one of the world's 35 biodiversity hotspots because of their exceptional species endemism and the threat of habitat loss.

While private lands within the shire have been extensively cleared, this just increases the significance and importance of remnant vegetation. The remnant vegetation includes areas of rainforest that would qualify for world heritage listing,...

The Border Ranges Rainforest Biodiversity Management (BRRBM) Plan (Department of Environment, Climate Change and Water NSW, 2010) covers the Border Ranges North and South (Queensland and New South Wales) Biodiversity Hotspot,...

The BRRBM Plan constitutes the regional recovery plan for species and ecological communities.... Kyogle Council should be providing the identified Conserve and Repair Priority Areas with the needed Environmental Zoning needed to achieve the Recovery Plan's intent.

Extract showing Repair Priority Areas Relevant to Kyogle:

The Plan then focuses on objectives and outcomes aimed at redressing the threats, noting: *The objective of this Plan is to protect rainforest and related biodiversity and to provide a consistent and effective recovery program for species and communities of conservation concern. The recovery program will focus on improving the condition (connectivity and integrity) of rainforest and related vegetation communities and their component species and systems.*

This is a State and Commonwealth Recovery Plan and as such has statutory weight.

- Ensure that land use objectives for local environment plan environmental zones (for the types of activities permissible) are compatible with the long-term protection and management of rainforest and related vegetation, including corridors, buffers, and ecological restoration activities.

NEFA is concerned that local Councils could pass their regulatory functions over to **Local Land Services (LLS) which could oversee further clearing of rural land**. Under the Local Land Services Act, land clearing can be self-assessed by land holders. The June 2019 Auditor General report on Managing Native Vegetation found that *“The clearing of native vegetation on rural land is not effectively regulated and managed.”*

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NB You can read more extracts from the NEFA submission at the end of this message:

Local Land Services is not a fit or proper organisation to regulate land management -

Logging and clearing operations occur over thousands of hectares of native forests inhabited by a variety of threatened species, many of which are threatened by extinction. They involve removal of trees and shrubs used by a variety of species for food, nesting and denning, extensive soil disturbance resulting in erosion and stream pollution, reductions in carbon sequestration and storage, and changes in evapotranspiration affecting microclimates, air moisture, temperature and stream flows.

Eucalypt trees are long lived organisms, taking decades to begin to flower and seed, over a century to begin to develop the hollows required by a plethora of native species for denning and nesting, and have lifespans measured in centuries. They can grow to massive sizes and are not quickly replaced. Logging impacts are long-lasting, so they are compounded by repeat events, and combined with clearing have landscape scale impacts.

Logging and clearing are high impact activities with significant environmental impacts that deserve due consideration. Numerous activities with far smaller footprints and impacts require Development Applications (DAs) be submitted to Councils, including mapping of tree removal and ecosystems, site-specific flora and fauna surveys, and species impact statements. Most importantly they require public exhibition of proposals and reports, giving neighbours and the broader community a right to raise concerns and objections.

Under the Local Land Services Act, land clearing can be self-assessed and most is unexplained while logging only requires a desktop assessment of impacts, and neither require any notification of neighbours or give the public a right to object, critique claims or raise issues. Unlike with Development Applications, neither clearing or logging require any surveys to assess, identify and map the distribution of threatened species and ecosystems as part of an approval process. This includes Koalas. Intentional ignorance allows them to kill and maim threatened species with impunity.

With most land-clearing “unexplained” it is obviously up to landowners to self-assess, with no environmental assessment requirements. Even when Local Land Services are involved, the Auditor General found clearing is “not effectively regulated and managed”, being fraught with problems of weak processes, poor assessments, inadequate protection, limited monitoring and poor enforcement. With no pre-clearing survey requirements, the identification of “core Koala habitat” as category-2 sensitive

regulated land appears to be the only constraint requiring Koalas to be considered, though, given the small areas mapped and the lax enforcement by LLS, this provides no substantial protection for Koala habitat. It is mostly a clearing free-for-all, including for Koala habitat....

While the PNF Code of Practice has numerous prescriptions for threatened species, there are no requirements to look before they log.... As illustrated by the 2020 Koala wars the Nationals are progressively implementing their agenda of removing all impediments to logging and clearing. They want a free-for-all on private lands and they are getting it.... While the Koala Wars were meant to be all about the Koala SEPP, the Nationals used the resultant capitulation of the Liberal Party to stop "greenie councils" limiting land use activities. The Liberals agreed to remove Council's rights to regulate logging, with the intent to allow logging across all Council environmental zones. They are also seeking to extend this to cover clearing in environmental zones. **? True?**

The NSW North Coast has around 2.8 million hectares of private native forests (DPI 2018), of which Council's Local Environment Plans prohibit logging of 167,217 ha (6%) and require development consent for 602,597 ha (25%). These protections will be over-ridden.

As an additional bonus, the Liberals intend removing Council's rights to create environmental zones, currently the Planning Minister is assuming their role though there are more draconian plans that will effectively stop Environmental Zones being created throughout NSW if adopted....

Land clearing free-for-all.

The WWF report *Deforestation Fronts: Drivers and Responses in a Changing World* (Pacheco *et. al.* 2021) identifies 24 "active deforestation fronts" worldwide, identifying eastern Australia as number 14 of the major deforestation fronts due to cattle ranching and large scale logging, and as the only developed country on the list. *agricultural use, forests, savannahs and grasslands continue to be destroyed.*

p. 17 - The June 2019 Auditor General report on Managing Native Vegetation found that "The clearing of native vegetation on rural land is not effectively regulated and managed", being fraught with problems of weak processes, poor assessments, inadequate protection, limited monitoring and poor enforcement.
P18 - The Land Management (Native Vegetation) Code 2018 specifies "Clearing is not authorised by this Code if the person who carries out the clearing harms an animal that is a threatened species and that person knew that the clearing was likely to harm the animal".

? HOW TO PROVE WHAT IS *Known* ?