



NOTICE OF COUNCIL MEETING

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on TUESDAY, SEPTEMBER 10, 2002, at 6.00pm and members of Council are requested to attend.

A handwritten signature in black ink, appearing to read "Paul G. O'Sullivan". The signature is fluid and cursive, with a large initial 'P' and 'S'.

Paul G. O'Sullivan)
GENERAL MANAGER

September 3, 2002

COUNCIL BUSINESS AGENDA

September 10, 2002

PUBLIC ACCESS SESSION:

PAGE NO.

PUBLIC QUESTION TIME:

OPENING OF MEETING AND PRAYER (MAYOR):

APOLOGIES AND LEAVE OF ABSENCE - Councillors Hampton & Gallen

CONFIRMATION OF MINUTES – August 13, 2002

CONDOLENCES

DISCLOSURE OF INTEREST

MAYORAL MINUTES

NOTICES OF RESCISSION

NOTICES OF MOTION

1

SUSPENSION OF STANDING ORDERS

(Consideration of the Suspension of Standing Orders to debate matters raised during Public Access).

REPORTS

2 - 21

COMMITTEE RECOMMENDATIONS

22 - 29

DOCUMENTS FOR SIGNING AND SEALING

QUESTIONS WITHOUT NOTICE

CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE

INDEX

REPORTS: 10/9/02

PAGE NO.

Clunes Wastewater Committee's Investigations	2 - 3
Draft Contaminated Lands Policy	4 - 6
Application for Closure of Council Public Road – Ridgewood Road, Rosebank	7 - 8
Amendment to DCP 18 - Off Street Car Parking	9 - 11
Minor Amendment to Section 94 Plan 1999 and Clarification of Procedure Relating to Reduction in Contributions	12 - 14
Investigation of Complaints by Department of Local Government	15
Performance Review Committee	16 - 17
Sale of Property – 13 Rous Road, Goonellabah	18 - 19
Contribution to Richmond River County Council	20 21

Committee Recommendations:

Traffic Advisory Committee 21/8/02	22 - 29
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Documents for Signing and Sealing:

Questions Without Notice:

CONFIDENTIAL MATTERS - Committee of the Whole:

NOTICE OF MOTION

I hereby give notice of my intention to move at the next meeting of the Council the following motion:

That appropriate signs be placed at Lismore Lake preventing the presence of dogs, except on leashes and advising people not to approach the birds.

COUNCILLOR R M Irwin

DATE September 26, 2002

STAFF COMMENT BY:

City Works Group:

The area around the Lismore Lake is a Council park. It is not a leash free area for dogs. All dogs should be restrained on a leash. Signs could be erected to advise the public of requirements under the Companion Animals Act.

(02-9829:S347,P27012)

Subject/File No: CLUNES WASTEWATER STUDY
S288

Prepared By: A/Manager, Lismore Water – Janaka Weeraratne

Reason: To inform Council of the Clunes Wastewater Committee's deliberations on the initial investigation of wastewater management options

Objective: To gain Council approval to further investigate the preferred wastewater management options for the Village of Clunes

Management Plan Activity: Investigate sewerage schemes for new and existing villages.

Background:

At Council's meeting held on August 25, 1998, Council resolved to commence a wastewater management study for the village of Clunes.

At Council's meeting held on February 1, 2000, Council adopted the recommendation to form a community-based committee to investigate wastewater disposal options for the village of Clunes. Lismore City Council is represented on this committee by Councillors King, Baxter and Tomlinson and staff members Anu Atukorala (Manager, Lismore Water), Janaka Weeraratne and Carol Davis.

Report

The Clunes Wastewater Committee (CWC) has now met fifteen times, and on top of this, they have just completed a day and a half workshop assessing the various options available to provide an improved wastewater management process for the village of Clunes. At this workshop, the CWC reviewed the Clunes Wastewater Strategy report prepared by consultants, Geolink. A copy of this concept options report (210 pages) is available in the Councillors' room for review by Councillors. After reviewing the information presented in this report, the CWC have made the following recommendations:

1. Council endorse the actions and preferences of the CWC (as given in Attachment A).
2. Authorise the CWC to proceed with the preparation of a supplementary brief and investigate the preferred options further within the limits of the current approved funds.
3. On completion of this investigation, CWC will prepare another report to Council stating the community's preferred option(s) for Council's endorsement.

This supplementary brief and study can be undertaken within the current approved budget. Council staff concurs with these recommendations.

Manager - Finance & Administration Comments

Not required.

Public Consultations

Not Required.

Other Group Comments

Manager Environmental Health & Building

The Community of Clunes has been diligent in their interest and attendance at the CWC during the community consultative process over the previous two years.

The Committee has worked well in developing the preferred range of options for Stage II. Environmental factors have been appropriately screened and duly considered by the community in selection of the treatment, transport and disposal methods now short-listed for further investigation.

Council's Environmental Health section supports the community consultation process and selection criteria to date, which has ensured that the environmental integrity of systems has been considered.

Author's Response to Comments from Other Staff

Not Required.

Conclusion

The CWC have undertaken the role of reviewing the various options available for the management of wastewater in Clunes with great enthusiasm and should be commended for their input. The CWC's identification of further works to be carried out on the preferred options is the way to finalise the option(s) that will enable the Village of Clunes to progress towards the management of the wastewater in an environmentally sustainable manner which protects the community's health.

Recommendations (ENT14)

That:

- 1 Council endorse the actions and preferences of the CWC (as given in Attachment A).
- 2 Authorise the CWC to proceed with the preparation of a supplementary brief and investigate the preferred options further within the limits of the current approved funds
- 3 On completion of this investigation, the CWC prepare another report to Council stating the community's preferred option(s) for Council's endorsement.

Subject/File No: DRAFT CONTAMINATED LANDS POLICY
(S246)

Prepared By: Manager Environmental Health & Building - Tony Kohlenberg

Reason: To advise Council of the Draft Contaminated Lands Policy

Objective: To gain Councils approval to exhibit the Policy for public comment

Management Plan Activity: Development of Contaminated lands Policy

Background:

In 1994 the Federal Court made a landmark ruling, which has caused considerable review of the liability and responsibility of Local Government in the discharge of its land use and regulatory powers and the advice it provides by way of certificates issued under Section 149 of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

The case related to the issue of contaminated land and a particular Council's failure to adequately consider contamination issues during the planning process.

As a direct response to the Federal Courts decision the NSW Government amended the EP&A Act to specifically clarify the responsibilities of Local Councils in the identification and consideration of contaminated land issues and the provision of appropriate advice in Section 149 Certificates.

Consequently, section 149 of the EP&A Act was amended and Part 7A introduced to clarify Local Governments responsibilities.

In September 1998, the Department of Urban Affairs and Planning (DUAP) issued a document titled "Managing Land Contamination-Planning Guidelines" (Contaminated Land Guidelines) in accordance with Section 145C of the Environmental Planning and Assessment Act, 1979.

State Environmental Planning Policy No 55 Remediation of Land (SEPP 55) was also gazetted in 1998. SEPP 55 requires Councils to consider the potential for land, which is the subject of rezonings or development proposals to be contaminated, and to require certain investigations to be carried out if there is the potential for land to be contaminated and where sensitive uses are proposed.

Need For a Policy

A Draft Contaminated Lands Policy (attached) has been developed to meet the following needs.

- As a result of the introduction of the Contaminated Lands Guidelines and SEPP 55 there is a need for Council to have in place procedures by which to ensure that Council consistently and accurately assesses the potential for contamination on land, which is the subject of rezoning or development proposals, having regard to the information available to the Council.
- Furthermore, section 145B of the EP&A Act has the effect that Council will not incur any liability in respect of the exercise by the Council of its planning functions, if those functions are exercised in good faith, in relation to contaminated land or the nature or extent of contaminated land. Council will be taken to have acted in good faith if it has acted in accordance with the guidelines.

Contaminated Land

The adoption of a Contaminated Lands Policy is important for a number of reasons

- It will be easier for Council to establish that it has acted in good faith and in accordance with the Guidelines in order to avoid liability.
- It will be clearer for Council officers preparing section 149 certificates to provide accurate information regarding the existence of Council policies, which restrict development due to contamination. If inaccurate information is included in 149 certificates, or if there is an omission from the certificates then the applicant could have an action in damages against Council.
- Members of the public can expect that legitimate processes and procedures will be followed when applying for 149 certificates or lodgement of applications for rezoning or development. Applicants could have a cause of action against Council should processes not be followed.

KEY PRINCIPLES OF THE POLICY

The integration of land contamination management into the planning and development system will:

- Ensure that changes of land use will not increase the risk to human health or the environment
- Avoid inappropriate restrictions on land use
- Provide information to support decision making and to inform the community

The general principle of the Contaminated Lands Planning Guidelines is that Council should adopt a precautionary approach when exercising a planning function. The object of this approach is to enable any land contamination issues to be identified and dealt with at an early stage in the planning process in order to prevent human harm and reduce delays and cost.

OBJECTIVES OF THE POLICY

The objectives of the Policy are:

- To establish an administrative and management regime to enable the effective on-going identification and recording of contaminated land issues;
- To establish a Data Base of contaminated or potentially contaminated land to assist Council in the discharge of its statutory obligations under the EP&A Act and the Local Government 1993;
- To ensure Council fulfils its statutory obligations in respect of Part 7A of the EP&A Act and in particular to comply with the "Contaminated Lands – planning guidelines for Contaminated Land" issued by DUAP from time to time pursuant to S145C of the EP&A Act;
- To ensure that Council attracts the full statutory indemnity from liability contained in S145B of the EP&A Act;
- To establish protocols for public access to information held by Council in respect to contaminated land;
- To minimise potential for adverse social, environmental and public health issues and economic impacts as a result of contaminated land issues.

Contaminated Land

The Policy

The policy document contains the following elements;

- Background – Including listing some activities associated with contamination
- Introduction – Principles, objectives and definitions
- Implementation – Identification of contaminated lands, Data base of contaminated land, Information required to be submitted with applications for rezoning and development
- Requirements for providing Information on contamination
- Access to information
- Schedule of some potentially contaminating activities
- Schedule of consultants requirements

Manager - Finance & Administration Comments

The legal and social costs associated with inappropriate development of contaminated land are well documented. Council needs to take all appropriate steps to protect itself and the public from such development. The suggested policy is a measured response to the requirements placed on Council and its adoption is supported.

Other Group Comments

Manager Planning Services supports the introduction of the Policy, as it contains clear guidelines for the public and Council staff on the management of this important issue.

Recommendation (PLA32)

- 1 That Council exhibit the Contaminated Lands Policy for public comment for a 30 day period.
- 2 That after the expiration of the exhibition period a further report be provided to Council indicating comment received and seeking adoption or otherwise of the policy.

Subject/File No: APPLICATION FOR CLOSURE OF COUNCIL PUBLIC ROAD –
RIDGEWOOD ROAD, ROSEBANK
(P11977)

Prepared By: Manager Client Services - Lindsay Walker

Reason: Request by Applicant – Mr and Mrs Watt

Objective: To formalise the actual location of part of Ridgewood Road.

Management Plan Activity: City Works

Background:

Mr and Mrs Watt own Lot 102 in D.P. 755697, being 199 Ridgewood Road, Rosebank. Although they have owned this property for some considerable time it recently came to their attention that:-

- a) their dwelling was constructed wholly on council's road reserve; and
- b) that the carriageway currently formed as Ridgewood Road did not conform with the road reserve.

To assist Councillors to understand the magnitude of variation between the formed carriageway and the road reserve I enclose an overall site plan and recent identification survey carried out by Aspect North.

Mr and Mrs Watt are very concerned by the circumstances which prevail on their property and have asked Council to assist them to rectify the problem.

It can be seen from the enclosed site plan that there is a further misalignment in Ridgewood Road to the south of Watt's property. Accordingly, Council wrote to the affected landowners and they have indicated that they will cooperate in dedicating a road reserve over the current formation.

It is not anticipated that any compensation will be sought by any of the parties involved.

Manager - Finance & Administration Comments

Not requested.

Public Consultations

Not required.

Other Group Comments

Group Manager – City Works

This is a relatively common problem. The proposed solution is sound and endorsed by the City Works Group.

Author's Response to Comments from Other Staff

Not required.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Application for Closure of Council Public Road – Ridgewood Road, Rosebank

Conclusion

Council should take the initiative in this matter to create a dedicated road reserve over the existing and currently used formation. At the same time releasing the road reserve over which the Watt's have constructed their residence.

While Council is rectifying this anomaly, it should take the opportunity to extend the work southerly to include similarly effected properties.

Recommendation (GM59)

- 1 That the application to close part of Ridgewood Road and open an alternative road reserve (which follows the existing formation) through lot 102 in D.P. 755697 and lot 1 in D.P. 587788 be endorsed and the application sent to the Department of Land and Water Conservation for adoption and gazettal.
- 2 That survey costs be borne by Lismore City Council.
- 3 That all legal and lodgement costs be borne by applicants.
- 4 That Rous Water be consulted and the existing water supply pipeline be protected by suitable easements when the road reserve is relocated.
- 5 That the General Manager be authorised to sign all documents necessary to bring about this resolution.

Subject/File No: AMENDMENT TO DEVELOPMENT CONTROL PLAN NO. 18 - OFF STREET CAR PARKING (S510)

Prepared By: Manager Planning Services – Helen Manning

Reason: To obtain Council's adoption of the amended DCP.

Objective: To ensure the development of shopping centres includes provision for access by public transport.

Management Plan Activity: Strategic Planning

Background:

At its meeting of June 11, 2002, Council considered a report recommending an amendment to Development Control Plan 18 Off Street Car Parking. The amendment aimed to ensure that provision for access to shopping centres by public transport is incorporated into the planning and design of such centres.

Council **RESOLVED** *that the report be received and pursuant to cl. 22 of the Environmental Planning and Assessment Regulation, Council alter Development Control Plan No. 18 as described by the draft Amendment to the DCP within the attachments, and to publicly exhibit the draft amendment for 28 days. The amendment to the DCP to define the size of the development prior to exhibition.*

In summary, the plan requires the development of 'neighbourhood' shopping centres of between 1,000 and 10,000 square metres gross leaseable area to provide:

- Marked safe pedestrian routes through the car park;
- The footpath to the nearest bus stop to be suitable for use by the disabled;
- Car parking for the disabled close to the entrance of the centre; and
- Secure and well lit bicycle parking.

Larger shopping centres of more than 10,000 square metres GLA are to provide, in addition to the above:

- A covered taxi rank in close proximity to a bus stop/shelter;
- A covered walkway from the nearest bus shelter to the entrance to the centre;
- Signage to direct patrons to the bus stop and taxi rank.

The amending DCP altered on the basis of submissions and comments received is in the attachment to the Business Paper.

Manager - Finance & Administration Comments

Not required.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Amendment to DCP No. 18 – Off Street Car Parking

Public Consultations

The amending DCP was exhibited for public comment for 28 days. Copies, with an explanatory letter, were also sent directly to the owner or manager of all Lismore shopping centres. Representatives of the Goonellabah Town Centre and the Wyrallah Road Centre telephoned to discuss the amending plan, but did not lodge any objection.

One submission was received, from Northern Rivers Community Transport Inc., and Council staff in City Works and Planning Services made some suggestions for improvement of the draft plan based on experience with evaluation of applications for shopping centres, including the current evaluation of the Lismore Square DA. The proposed alterations were considered by the Public Transport Advisory Panel at its meeting of 21 August; the Panel supported the alterations proposed.

The NRCT requested that provision be inserted to require the identification of a bus loading/unloading area within a car park so that the aged and/or disabled patrons using either the NRCT bus or those used by aged care facilities can alight close to the entrance to the centre. Smaller buses with a maximum 25 seat capacity are used by these agencies. The following provision has now been inserted in the draft DCP in relation to centres of 10,000 square metres GLA or greater.

“A loading/unloading bay close to the entrance to the centre, or near access facilities, for use by 25 seat community buses transporting the aged or disabled.”

As a result of staff comments other alterations are as set out below.

- Point 3 of the exhibited draft plan required the provision of secure bicycle parking. It was recommended that this wording be clarified to require bicycle lock points or devices only, as the current wording could be construed as requiring an expensive locker system for the storage of bicycles (i.e. actual boxes with lockable doors) and this was not the intention of the draft plan.
- Point 4 of the exhibited draft plan required *‘an undercover taxi rank within the car park’*. However, in relation to the Lismore Square DA, it was pointed out that this requirement actually prevented the relocation of the taxi rank from within the car park to a site adjacent to the bus stop, as requested by the Panel, and was inconsistent with Point 6 of the draft plan which requires the taxi rank and bus stop to be located adjacent to each other. It is recommended that the words *‘within the car park’* be deleted, the result being that both taxi ranks and bus stops are to be close to the entrance to the centre but no further direction is given as to their location.

In addition, the Development Engineer suggested that the draft plan needs more direction on the number of parking spaces constructed before a designated pedestrian route is required. However the view of the Public Transport Advisory Panel was that an additional threshold of number of parking spaces was not required when the DCP would already contain a floor area threshold.

Other Group Comments

Comments from City Works representatives received during exhibition have been incorporated into the DCP.

Author’s Response to Comments from Other Staff

Not required.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Amendment to DCP No. 18 – Off Street Car Parking

Conclusion

The DCP, with amendments, will assist in equity of access to retail facilities for patrons using all forms of public transport.

Recommendation (PLA30)

It is recommended that Council adopt Amendment No. 2 to Development Control Plan No. 18 Off Street Car Parking, the DCP to come into effect as required by the Environmental Planning and Assessment Regulation.

Subject/File No: MINOR AMENDMENT TO S94 PLAN 1999 AND CLARIFICATION OF PROCEDURE RELATING TO REDUCTION IN CONTRIBUTIONS (S517)

Prepared By: Manager Planning Services – Helen Manning

Reason: To enable the effective levying of S94 contributions and clarify the intention of a previous decision of Council.

Objective: Efficient implementation of Council S94 Plan

Management Plan Activity: Strategic Planning

Background:

In 1999 Council adopted a new S94 Plan Contributions Plan which substantially reduced the amount of developer contributions required. More recently, a number of minor amendments were made to the Plan. Since that time two issues have arisen which require a further amendment to the Plan and clarification of its implementation. These are firstly, the omission from the Plan of the ability to levy contributions at Construction Certificate stage, and secondly, endorsement of current practice for levying reduced contributions upon application for a Subdivision Certificate for stages of subdivision approved prior to June 1999.

1. Clause 10 of the Plan, *When are Contributions Payable?* requires payment:

- (a) *in the case of DA involving subdivision – prior to the release of the Subdivision Certificate; where subdivision lots are released in stages, the contribution will relate to the number of lots (ETs) created by the Subdivision Certificate;*
- (b) *in the case of a DA involving building work – prior to the release of an Occupation Certificate;*
- (c) *in the case of a DA where no building works are involved – prior to occupation or commencement of the approved use.*

The problem is that this clause does not permit levying of contributions at Construction Certificate stage. It is understood that this was done deliberately in 1999 so as to give developers the benefit of not having to make payments up front before construction work has commenced but rather before the premises/facility is ready for occupation. However, since the introduction of this section it has become apparent that some developers do not seek an Occupation Certificate as required, so that levies remain unpaid until outstanding contributions are audited three years after the date of consent. If at that stage the development has commenced, the developer is levied for outstanding contributions plus CPI increases.

It is understood that an 'Interim Occupation Certificate' is sought more often than a final Occupation Certificate. It is recommended that provisions be inserted into the Plan permitting Council to require the payment of contributions at release of an Interim Occupation Certificate or at release of the Construction Certificate, which ever is appropriate to the type of development.

This amendment should require also that contributions be paid prior to the issue of a certificate under S149D of the Environmental Planning and Assessment Act. (This Section allows Council to issue a Building Certificate certifying that Council will not order demolition, alterations, additions or take proceedings regarding any encroachments).

Minor Amendment to S94 Plan 1999

It should be noted that this does not infer that levies will always be required to be paid upon application for a Construction Certificate rather than at Interim Occupation Certificate stage; rather, it means that Council has greater flexibility to require payment of levies at a stage appropriate to the type of development.

2. Payment of reduced levies for staged subdivisions.

On March 16, 1999, Council resolved:

"Following revision and adoption of the new Section 94 Plan, Council publicly promote that a 50% reduction in Section 94 levies can be obtained by previously approved development applications not yet activated by lodging a new development application."

In relation to subdivisions, the practice has arisen of permitting applications for Subdivision Certificates received after the introduction of the 1999 Contributions Plan, but relating to consents issued under the previous Contributions Plan, to take advantage of the reduced contributions required under the current Plan. This practice does not, strictly speaking, conform with the wording of Council's resolution but it does conform with Council's intention at the time to encourage development by reducing S94 levies. Council's endorsement of the current practice is now sought. Such endorsement will not require an amendment of the S94 Plan.

Manager - Finance & Administration Comments

In regards to the proposed amendment to Clause 10 "When are contributions payable?", I support it's inclusion as it provides improved certainty as to the collection of all S94 contributions at an appropriate time.

As it currently stands, the recovery of S94 contributions, sometimes at least three years after consent, can result in collection problems such as change of ownership, increased administration to enforce consent compliance, and in some cases, legal proceedings. It is anticipated that the proposed amendment will minimise the future number of these situations.

In regards to the practice of applying the current plan contribution rates to subdivision approved prior to its adoption, while this may result in reduced contributions, it is preferred that we continue to apply this consistently. The basis for supporting this position is that we have applied this principle since July 1999 and there would be few approved subdivisions left that could take advantage of this situation. It would be inequitable to change the principle for those that remain.

Public Consultations

The S94 Plan can be altered only by the preparation of an amending S94 Plan, which must be exhibited for public comment. Following exhibition the content of submissions will be reported to Council.

Other Group Comments

Comment from Manager - Economic Development and Tourism

Construction Certificate DAs

It is quite reasonable for Council to require payment of Section 94 contributions prior to the release of the Construction Certificate. If this places an onerous financial situation on the developer then they would be able to apply for deferral of the payment of the fees under the Incentives for Investment policy.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Minor Amendment to S94 Plan 1999

Such a deferral would require that payment be secured via the provision of a bank guarantee or similar instrument. Thus, Council would be sure of receiving the money without undue delay or needing to undertake expensive recovery processes.

Subdivision DAs

I support the existing practice of using the current (lower) Section 94 charges for subdivision stages on DAs that preceded the current Section 94 plan.

Author's Response to Comments from Other Staff

Not required.

Conclusion

Council's endorsement of the above proposals will assist in the efficient and equitable implementation of the S94 Contributions Plan.

Recommendation (PLA31)

It is recommended that Council:

- 1 Endorse the preparation and exhibition of the draft amending S94 Plan as included in the attachment to this Business Paper; and
- 2 Agree that applications for Subdivision Certificates for stages of a subdivision which received consent before the introduction of the 1999 Contributions Plan, may be charged reduced levies applicable under the 1999 Contributions Plan.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Subject/File No: INVESTIGATION OF COMPLAINTS BY DEPARTMENT OF LOCAL GOVERNMENT (DLG)
02-7023, 02-7220, 02-9371, 02-7516: S738

Prepared By: Group Manager–Corporate & Community Services – Col Cooper

Reason: Request by DLG to table letters

Objective: Council receive and note the tabled letters

Management Plan Activity: General Manager's Office

Background:

The DLG on May 30, 2002 advised that the Minister and their office had received a number of complaints about the procedures understood to have been followed by Council in its recruitment and appointment of the new General Manager. They also raised concerns regarding the appointment of the acting General Manager.

The mayor has responded to these concerns and the DLG have now requested Council to table publicly at the next meeting all of this correspondence, including Council's legal advice.

Tabled for the information of councillors and the public are the following documents:

- Letter from DLG dated May 30, 2002.
 - Letter from mayor to DLG dated June 12, 2002.
 - Letter from DLG dated June 20, 2002.
 - Letter from Phillips Fox (legal advice) dated June 25, 2002.
 - Letter from mayor to DLG dated June 28, 2002.
 - Letter from DLG dated August 13, 2002.
- Copies of letters at end of business paper.**

Manager - Finance & Administration Comments

Not required.

Public Consultations

All correspondence will be available for the information of the public.

Other Group Comments

Not required

Author's Response to Comments from Other Staff

N/A

Conclusion

Relevant correspondence is now tabled as requested by the DLG.

Recommendation (COR27)

That Council receive and note the correspondence as detailed above.

Subject/File No: PERFORMANCE REVIEW COMMITTEE

Prepared By: General Manager

Reason: Required under employment contract

Objective: Appointment of Councillors to Committee

Management Plan Activity: General Manager's Office

Background:

The Draft Contract of Employment between the Council and myself provides for regular reviews of my performance. Clause 6.3.2 of the draft Contract is couched in the following terms:-

6.3.2 Performance monitoring and review shall be conducted by a committee comprising four councillors including the mayor. An external independent facilitator approved by the Council and agreed by the Officer shall be engaged at Council cost to assist the committee with its annual review process. The Officer's agreement is not to be unreasonable withheld.

The Performance Agreement is to be in place by October 29, 2002.

As this is a new contract the Council should nominate the Councillors who will initially negotiate the draft Performance Agreement and subsequently carry out a monitoring exercise in February 2003 and the annual review in August 2003.

It is my understanding that Mr Garry Byrne from Lgov NSW (previously LGSA) has assisted the Council in such matters in the past. Mr Byrne has indicated his willingness to continue in this role, and if required, has advised his availability to meet with the new Committee on either September 12 Or 23 to commence the process.

For the purposes of clarity, Council is being asked to appoint three Councillors, in addition to Councillor King, to form the Performance Review Committee. The composition of the Committee of four is completely in the hands of the Council.

Manager - Finance & Administration Comments

Not required

Public Consultations

Not required

Other Group Comments

Not required

Author's Response to Comments from Other Staff

Not required

Conclusion

Not required

Recommendation

- 1 That Council appoint three Councillors to join with the Acting Mayor in creation of the General Manager's Performance Review Committee.
- 2 That Council engage Mr Garry Byrne from Lgov NSW to act as its facilitator in developing the General Manager's Performance Agreement and when conducting the performance monitoring and review sessions.

Subject/File No: SALE OF PROPERTY - 13 ROUS ROAD, GOONELLABAH
(P8728)

Prepared By: Group Manager – Corporate & Community Services

Reason: Proposed sale of property by Richmond Tweed Regional Library.

Objective: Council resolution to sell the property.

Management Plan Activity: Library Management

Background:

The Richmond Tweed Regional Library (RTRL) that comprises the councils of Lismore, Ballina, Byron and Tweed, is not a legal entity and as such, cannot hold property in its own name. As part of the regional library agreement, Lismore is the Executive Council and consequently holds all the property and other assets of RTRL in our name.

The RTRL in 1990 purchased and subsequently paid for, the property known as 13 Rous Road, Goonellabah for use as its regional administration headquarters and Genealogical Research Centre. Whilst this building has served its purpose adequately over the years, it was identified many years ago that a new premises would be required due to the size constraints and increasing use by the public of the genealogy facilities.

Earlier this year, RTRL purchased at well below market value, the old Sunbuster building and an adjoining block in the Goonellabah industrial estate. Renovations to the building are in progress and they intend to move within the next two months. The current site at Rous Road will then be surplus to requirements, with the proceeds of sale to be utilised to offset the purchase of the new building. The RTRL committee at its meeting on 15/8/02 unanimously resolved to recommend the sale of the property at the best negotiated price. A potential purchaser has made a suitable offer and as Council is the “official registered owner” of the property, a resolution to sell the property is now required.

Manager - Finance & Administration Comments

As RTRL have paid for this property, any proceeds from the sale will be returned to them to offset the cost of the new building.

Public Consultations

Not required.

Other Group Comments

Not required.

Author's Response to Comments from Other Staff

N/A

Conclusion

Section 377 of the LGA prohibits delegating the function of the sale of any property and as Council is the registered owner of the property, a resolution to sell 13 Rous Road, Goonellabah is now required.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Sale of Property – 13 Rous Road, Goonellabah

Recommendation (COR26)

That :

- 1 On advice from the Regional Library Manager, the General Manager proceed with the sale of 13 Rous Road, Goonellabah (Lot B DP 335804), with the Richmond Tweed Regional Library being responsible for any costs incurred in the sale.
- 2 The General Manager be authorised to execute and apply the common seal of the Council to the Contract of Sale, Memorandum of Transfer or any other instrument necessary for the sale of the property.
- 3 The net funds of the sale be forwarded to the Richmond Tweed Regional Library.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Subject/File No: CONTRIBUTION TO RICHMOND RIVER COUNTY COUNCIL
(02-9159: S409)

Prepared By: Administrative Services Manager – Graeme Wilson

Reason: Request from Richmond River County Council

Objective: To determine Council's response.

Management Plan Activity: Emergency Services

Background:

Council has received a request from Richmond River County Council (RRCC) to review and formalise the funding agreement of its constituent councils.

In 1997 Council agreed to enter into a four year agreement with RRCC on the basis that the member councils' contributions be based on the following ratios:

Lismore	40%
Ballina	40%
Richmond River	20%

At that time it also resolved that:

That Richmond River County Council undertake an independent evaluation of the option of future contributions being based on actual works undertaken prior to the termination of the new four year agreement, with the outcome being reported to the constituent councils.

The new proposed funding agreement retains the same funding formula, with Richmond Valley substituting for Richmond River.

The financial contribution mentioned above does not include special works undertaken at the request of, and at the full cost of a constituent council. Such works include the Lismore levee, special floodgate works and other specific local area projects.

With respect to the above request made to RRCC, part of the response is detailed below, with a full copy attached to the business paper.

..... advise that the suggestion of basing the financial agreement on the actual works undertaken in each council area is one that RRCC considers as potentially unworkable and unrealistic. Such an arrangement would mean that each council would be charged for all works in its own area without regard for the concept of common works that are of benefit to the river system as a whole.

Manager - Finance & Administration Comments

From a purely financial perspective, the allocation of all costs on an actual works basis would be desirable as this clearly quantify the contribution required from each constituent Council.

Given the whole of catchment approach to works, assumptions would have to be made as to the apportionment of costs between Council's. This outcome would be subjective to some extent and more than likely not result in a better outcome then the proposed position.

Also, the current practice whereby specific works in individual council's are charged to that Council is to continue and is supported.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

Contribution to Richmond River County Council

Consequently, I agree with Richmond River County Council that "*the present financial apportionment is considered to represent a fair and equitable basis for entering into the next four year agreement*".

Public Consultations

Not required.

Other Group Comments

Not required.

Author's Response to Comments from Other Staff

Not required.

Conclusion

The current arrangement is considered the best financial arrangement for Lismore City Council with potential external benefit to the whole catchment of a single construction authority.

Recommendation (COR25)

- 1 That Council enter into a four year agreement with RRCC on the basis that the member Councils' contributions be based on the following ratios:

Lismore	40%
Ballina	40%
Richmond Valley	20%

- 2 That the funding agreement be executed and the common seal of the Council affixed.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD AUGUST 21, 2002

AT 10.00 AM.

(WMacD:VLC:S352)

Present: Mr Bill Moorhouse (*Chairperson*), Councillor John Hampton, Messrs Thomas George, MP, Mike Baldwin (*Roads and Traffic Authority*), John Daley (*Lismore Unlimited*), Snr Const David Sales (*Lismore Police*), together with Mr Paul O'Sullivan (*General Manager*), Mrs Wendy Johnson (*Road Safety Officer*) and Mr Bill MacDonald (*Traffic & Law Enforcement Co-Ordinator*).

Apologies: Apologies for non-attendance on behalf of Councillors Mervyn King, John Chant and Ken Gallen were received and accepted and leave of absence granted.

Minutes of Traffic Advisory Committee Meeting – July 17, 2002

Members were advised that the Minutes of the meeting held on July 17, 2002 were adopted by Council at its meeting of August 13, 2002.

Disclosure of Interest: Nil

Correspondence:

- Ms Debra Hanson;** requesting the parking situation in front of her invalid Mother's residence at No. 181 Dibbs Street be improved.
Members were advised that an open earth drain and Jacaranda tree were situated in front of the property which restricted the number of vehicles that could be parked outside the property. This was common along most of the section of Dibbs Street in question. However, immediately below No. 181, units had been built a number of years ago and kerb and gutter and a bitumen road shoulder had been constructed as part of the development conditions. It was possible that this could be continued to include properties to the north but the cost would be outside the scope of Council's works at this stage.
The Chairperson pointed out that it may be possible to carry out kerb and gutter works and attribute one-half of the cost to the property which could be recovered when same was sold.

TAC111/02 **RECOMMENDED** that Council advise the writer that it is not in a position to carry out the required works.

TAC112/02 **FURTHER RECOMMENDED** that the one-half cost option be submitted to the writer provided Council could find its share. (02-8213:P3255)
- Woodburn Chamber of Commerce;** requesting a welcome sign be erected on the northern approach to Woodburn and a large sign be erected at the exit to Kilgin Road from the main road.
The Committee raised no objection to the erection of a "Welcome to Woodburn" sign on Forest Road but the cost of same would need to be met by the Richmond Valley Council following consent of a Development Application.
It was suggested that a "To Kilgin Road" sign could be erected at the intersection of Bank Street and Forest Road to assist motorists who were looking for Kilgin Road.

TAC113/02 **RECOMMENDED** that the writer be advised in accordance with the above and that a "To Kilgin Road" sign be installed as indicated. (02-8366:S347,R5771)

3. **Flynn Transport Pty Limited;** lodging a B-Double Access Application for the South Lismore area as well as through Wyrallah to Woodburn to access the Pacific Highway to Grafton.

It was noted that approval already existed for B-Doubles to use the Bruxner Highway through Lismore. The proposed streets where B-Doubles could operate were as follows –

- * Habib Drive and Krauss Avenue
- * Three Chain Road
- * Snow Street and the gravel road between Snow Street and Three Chain Road
- * Caniaba Street
- * Elliott Road between Union and Wilson Streets
- * Wilson Street between Elliott Road and the railway line
- * Union Street between Elliott Road and Casino Street
- * Casino Street between Union and Caniaba Streets
- * Coraki Road between the Bruxner Highway and Wyrallah Ferry Road
- * Wyrallah Ferry Road
- * Wyrallah Road between Wyrallah Ferry Road and Buckendoon School Lane
- * Broadwater Road between Wyrallah Road and Gollan's property, approx. 5Km
- * Buckendoon School Lane between Wyrallah and Forest Roads
- * Forest Road between Buckendoon School Lane and the Pacific Highway.

The Committee noted that the roads in question were already used by heavy transport and the use of B-Doubles could potentially reduce their numbers. An inspection of the proposed routes was carried out behind the Applicant's B-Double. The roads were negotiated without any obvious problems and all drop-off points along the route could be accessed in a full forward movement.

TAC114/02 **RECOMMENDED** that approval be given for B-Doubles to operate on the above roads with the provision that all movements, both at the terminal and enroute, be carried out in a full forward movement. (02-8469:S352)

4. **A Smith;** drawing attention to the lack of vision due to parked buses at the 'T' intersection of Taylors Road and Blue Hills Avenue, Goonellabah.

Mr MacDonald advised that he had observed vehicle movements at the intersection on the day prior to the meeting from 8.25 am to 9.00 am. Within this period there were seven (7) cars that had dropped off children at the Blue Hills Avenue Bus Stop; one (1) Kirklands bus which had stopped in Blue Hills Avenue, and J & B's bus which had pulled up on Taylors Road to collect children. This bus had stopped for approximately 45 seconds. There were no obvious problems with traffic movements within this time period.

TAC115/02 **RECOMMENDED** that the writer be advised accordingly and that the area be monitored to assess if further action was required. (02-8500:R6609,R6608)

5. **Westpac Lifesaver Rescue Helicopter;** submitting plans for a 30Km Walk-a-thon from Tintenbar Oval to Lismore's Davidson Oval via Eltham on Sunday, November 3, 2002.

Mr MacDonald advised that he had since received another letter from the Organisers advising that the event was now to be held on November 17, 2002. The Committee raised no objection to the event, as outlined, provided that the distance between the first and last walker was kept to the minimum possible to limit any potential conflict points with other road users.

LISMORE CITY COUNCIL - Meeting held September 10, 2002

MINUTES OF TRAFFIC ADVISORY COMMITTEE MEETING HELD AUGUST 21, 2002 (Cont'd)

5. **Westpac Lifesaver Rescue Helicopter** (Cont'd)
It was also suggested that the Organisers put to entrants that they generally wear light colored clothing to increase visibility. It was noted that an application had also been forwarded to the Richmond Area Command for its approval.
- TAC116/02** **RECOMMENDED** that approval be granted in accordance with the above provided consent was also obtained from the Richmond Area Command.
(02-8615:S336)
6. **Mrs WI Gibson**; requesting a pedestrian refuge be installed on the Bruxner Highway near the Media Centre, Goonellabah.
It was noted that a pedestrian refuge already existed on Ballina Road in the vicinity of James Road and it was considered that this was adequate to cater for pedestrian movements in this area. It was pointed out that a footpath/cycleway was currently been constructed up to the refuge in question on the southern side of Ballina Road and would eventually continue to Holland Street past the Bus Stop in question.
- TAC117/02** **RECOMMENDED** that the writer be advised in accordance with the above.
(02-8597:S342,R4807)
7. **E Schafer**; requesting a pedestrian crossing be installed on Dalley Street, East Lismore, between Wyrallah Road and the Lismore High School.
The length of Dalley Street in question was considerable and there were no defined areas where pedestrians crossed apart from at the High School where a marked crossing already existed. It was noted that a pedestrian refuge had been installed in the vicinity of the St Vincent's Hospital main entrance but this had been removed due to problems with larger vehicles negotiating around the facility and the fact that it was not particularly well used.
It was noted that work had now commenced on the Kellas Street 'top end' access and it was felt that this would have a significant impact on Dalley Street traffic volumes. An assessment of further pedestrian needs along Dalley Street would be better undertaken after this work was completed.
- TAC118/02** **RECOMMENDED** that the writer be advised in accordance with the above.
(02-9201:R7426,S342)
8. **Goonellabah Public School**; supporting a proposal to construct a pedestrian underpass beneath Ballina Road near the School.
This issue was discussed at length and it was noted that support for an underpass instead of pedestrian lights had come from the Department of Education and the Goonellabah Public School. The Chairperson advised that an estimate had been prepared for the installation of an underpass at an approximate cost of \$460,000. The RTA had \$100,000 available for the installation of lights which meant Council would need to find the balance. Initial investigations indicated that Council may be able to fund up to \$100,000 but finding the balance would be a major problem.
Concern was expressed that there were other sites along the Highway already identified as being in urgent need of upgraded pedestrian facilities; one being the intersection of Ballina and Keen Streets.
It was acknowledged that the current facility on Ballina Road, currently controlled by a 'lollypop' person, was a difficult site to manage due to the change in grade, the centre median and the overall width of road on which traffic had to be controlled. The RTA was investigating an option of concentrating pedestrian movements at the intersection of Jubilee Avenue in conjunction with full intersection control lights.

8. **Goonellabah Public School** (Cont'd)
This would also have the advantage of allowing buses, etc, easier access onto Ballina Road from Jubilee Avenue. Whilst the underpass option would be the ultimate solution, there were significant advantages in having pedestrian and vehicle flows controlled by lights. This was seen as clearly superior to the existing marked pedestrian crossing that had control before and after School hours but not at other times. The community would benefit overall with the operation of lights as opposed to a marked crossing at which sight distance was restricted.
It was pointed out that it was possible the 'lollypop' person could be retained for some time after the lights were installed to ensure correct usage by all users. Council's Road Safety Officer would also be involved in educating the community, including children, on their use.
- TAC119/02** **RECOMMENDED** that in light of the above and the unlikelihood of Council being able to find an additional \$360,000 for a pedestrian underpass, Council support the proposal to install full intersection control lights at the intersection of Ballina Road and Jubilee Avenue which would also include pedestrian phases.
(02-8596:S839,R6408)
9. **Wyrallah Road Public School;** referring to the turning circle at the end of Nielson Street, being the main entrance to the School and requesting the "No Standing" signs be changed to "No Stopping".
Whilst there were some concerns that the installation of 'No Stopping' signs may encourage parents to double park further along Nielson Street to drop off or collect their children, it was agreed that the signs be changed and their effect monitored to ensure no other problems resulted.
- TAC120/02** **RECOMMENDED** that the existing 'No Standing' signs around the cul-de-sac at the southern end of Nielson Street be changed to 'No Stopping' 8.45am to 9.15am and 3.00pm to 3.30pm School days.
(02-8704:S342,R7459)
10. **Mrs Judy Barnier;** requesting a mirror be installed at the corner of Ballina Street and Wyrallah Road to provide a safer crossing for pedestrians and people in wheelchairs.
Concern was raised that a mirror would not be of great effect at the location in question and would be open to vandalism. It was suggested that some type of railing could be installed directly on the bend across the footpath on the south-western corner in the form of a chicane that would ensure users had to slow down sufficiently to negotiate around the corner.
- TAC121/02** **RECOMMENDED** that the railing, as outlined above, be installed at the earliest opportunity.
(02-8650:S342,R6002,R5201)
11. **NSW TAFE;** suggesting a pedestrian crossing or refuge be installed on Conway Street, mid-block between Keen and Dawson Streets.
It was acknowledged that traffic volumes on Conway Street had increased dramatically since completion of the roundabout at the corner of Ballina Street and Wyrallah Road. Pedestrian movements and turning traffic into the Farmer Charlie's complex had also increased.
- TAC122/02** **RECOMMENDED** that this issue be referred to Council's Design Services Section for preparation of a plan and estimate for a pedestrian refuge and protected right-turn bay into the Farmer Charlie's complex, similar to that which had been installed on Ballina Road at the Invercauld Road intersection.
(02-8255:S342,R7307,R7313)
-

LISMORE CITY COUNCIL - Meeting held September 10, 2002

MINUTES OF TRAFFIC ADVISORY COMMITTEE MEETING HELD AUGUST 21, 2002 *(Cont'd)*

12. **B Shelford**; suggesting speed bumps might be a solution to speeding cars on Magellan Street between Carrington and Keen Streets.
It was noted that the area in question was part of a 'Shared Zone' with a speed limit of 10 kph. It was felt that for most of the time vehicles traveled relatively slow due to the considerable volumes. Traffic routes and flows around the "Main Block" were the subject of current investigations and it was suggested that vehicle speeds could be monitored to assess whether or not additional facilities were required.
- TAC123/02** **RECOMMENDED** in accordance with the above. (02-8827:R7319)
13. **Ms K Dean**; drawing attention to speeding traffic through the Village of Bexhill and requesting signs or other means to slow vehicles down.
Snr Const Sales advised that Bexhill had been patrolled regularly over the past few weeks and significant speeds were being detected. It was noted that houses along the main street through Bexhill were generally set well back from the road and the relatively open environment meant some motorists were disobeying the speed limit. It was felt that the current enforcement levels by the Richmond Area Command was the best way to deal with the problem in the short term.
- TAC124/02** **RECOMMENDED** that the writer be advised in accordance with the above. (02-8769:S342)
14. **Woolworths (QLD) Pty Limited**; referring to Council's letter of July 16 and advising it has written to the owner of Lismore Central regarding the delivery bay on Keen Street.
The Committee noted the contents of the letter.
- TAC125/02** **RECOMMENDED** that the above be noted.
Note: The Manager of Lismore Central, Ms Julie Taylor, has since contacted Council to confirm her intention of engaging an Engineer to provide options to correct the current problems with the loading bay driveway. (02-9043:R7313)
15. **Woodlark Street Crossing (Pickett, Wilson, Vidler, Mackey) and petition from the Hon Ian Causley, MP**; submitting several suggestions to alleviate the problems associated with this crossing. (*Refer Minutes of Council Meeting 13/8/02.*)
Members noted Council's resolution and that a letter was being forwarded to the Premier and the Minister for Transport seeking their support for the urgent installation of traffic lights for a trial period. Considerable discussion took place about this proposal and other actions that were being taken such as the investigation of other options.
Concern was expressed that either lights or a marked pedestrian crossing would have a significant impact on access to the CBD in general. However, in light of community concerns and the expectation that immediate action was needed, the Committee supported the actions currently being taken. It should be noted that if lights or a crossing was installed, a contingency plan to handle the expected traffic congestion would need to be formulated in conjunction with the implementation of the new facility. The Committee was keen to see a planned approach to solving this problem.
- TAC126/02** **RECOMMENDED** that the above views be noted. (02-8926:S352)
-

16. **B Bigelow**; suggesting the limiting of the de-restricted speed on Rous Road, Tregeagle, to the intersection with Ellis Road.
Mr Baldwin advised that Rous Road had been the subject of a N-limits survey a couple of years ago to determine the most appropriate speed limit, with the result that the current speed limit was deemed to be the most appropriate. It was acknowledged that the condition of the road in general was poor and the Chairperson advised that it had been identified in the roadworks programme for maintenance. As the roadside environment was generally rural, it was felt that the current de-restriction signposting was the most appropriate.
- TAC127/02** **RECOMMENDED** that the writer be advised in accordance with the above.
(02-8833:R6610)

17. **Australian Red Cross**; requesting the "No Parking" sign on Rural Street, at the rear of its premises, be repositioned to provide easier egress from its carpark. The Committee raised no objection to the relocation of the existing "No Parking" sign on the eastern side of Rural Street to a position 6.0m further south.
- TAC128/02** **RECOMMENDED** in accordance with the above. (02-9370:S346,R7327)

General Business

18. **South Lismore Village Development**
The Committee was advised that development consent was required for awning support posts as part of proposed refurbishment of Union Street. Whilst the Members raised no objection to the proposed awning supports, it did not feel that such issues needed to be submitted to the Committee. Such matters could be determined by the RTA with direct advice back to Council's Planners.
- TAC129/02** **RECOMMENDED** that approval be granted with future applications being referred directly to the RTA. (DA2002/21)

19. **Lismore Regional Library – Request for Two Disabled Bays on Magellan Street**
It was noted that the three (3) existing disabled bays in the nearby Fredericks Carpark were to be removed and it was felt that on-street bays would be more visible and likely to be used.
- TAC130/02** **RECOMMENDED** that two (2) disabled parking bays be provided on the northern side of Magellan Street in the vicinity of the entrance to the new library building. (T22033,R7319)

20. **Skyline Road Upgrade**
The Committee did not support the proposal to introduce a 60 kph speed limit or a 40 kph limit at certain times of the year. Compliance with such a low limit would be minimal. It was noted that the plan attached to the "Conditions of Approval" showed a proposal to install 'slow points' at various locations along Skyline Road, not 'speed humps' as proposed.
It was suggested that representatives of the National Parks & Wildlife Service (NPWS) be invited to the next meeting to further discuss the proposed upgrading. It was the Committee's intention to come to an agreed position at this meeting and therefore important that the Officer attending the meeting was able to represent the NPWS and had appropriate delegation to agree to a solution.
- TAC131/02** **RECOMMENDED** in accordance with the above. (S642,R5102)

21. **Intersection of Coleman and Clunes Streets, Bexhill**
A plan was tabled by the RTA representative showing a proposal to upgrade the existing pedestrian refuge in front of the General Store which would include medians each side of the intersection of Coleman and Clunes Streets and a protected shared right-turn lane for approaching traffic from both directions along Coleman Street. The Committee raised no objection to the proposal as submitted by the RTA.
- TAC132/02** **RECOMMENDED** that the proposed upgrade, as shown on the plan, be approved. (R1103,R1110)
22. **Wyrallah Road – Line-marking**
Councillor Crowther had lodged a request for continuous white lines to be applied to Wyrallah Road, between Riverbank Road and the crest of the hill south of the intersection with Tulk Road.
Snr Const Sales advised that he traveled Wyrallah Road daily to and from work and had never observed any problems with the existing line-marking within the area in question. The existing broken white centre line afforded the opportunity to pass a slow moving truck or farm machinery. It was considered that adequate sight distance was available.
- TAC133/02** **RECOMMENDED** that the current line-marking remain. (R5201)
23. **Intersection of Coleman and Withers Streets, Bexhill**
A plan was tabled showing a proposal to widen the road shoulder of Coleman Street at its intersection with Withers Street to allow through traffic sufficient space to manoeuvre around motorists who were propped to turn right into Withers Street.
This proposal was a result of previous concerns raised by the Bexhill School community.
- TAC134/02** **RECOMMENDED** that the proposed intersection upgrade be approved and works implemented as soon as funds became available. (R1103,R1106)
24. **Ross Street, Lismore Heights – Parking Facilities**
Mr MacDonald advised that a number of residents had 'phoned expressing concern for road safety at Ross Street due to the University recently constructing a concrete footpath from the University housing units to join up with Council's footpath. For convenience, a number of students were now parking their vehicles along Ross Street instead of using the Units' carpark. Parking was being carried out around a left-hand bend forcing through traffic onto the wrong side of the road. It was suggested that a double white centre line around the bend from the second speed bump would stop parking within the area of concern. Mr MacDonald advised that he had also spoken with Jeff Cottee of the University regarding the problem. Mr Cottee undertook to speak with relevant personnel and students in an effort to reduce the current problems.
- TAC135/02** **RECOMMENDED** that the above be noted and a double white centre line be installed as outlined. (R7132)
25. **No. 25 Dalley Street, East Lismore – Parking Facilities**
The Committee was advised that "No Stopping" signs had been installed each side of a number of driveways along Dalley Street opposite the St Vincent's Hospital to improve access to and from the properties. Sr Mary McFadden from the Hospital had now requested the same for the Hospital's driveway at No. 25 Dalley Street.
- TAC136/02** **RECOMMENDED** that "No Stopping" signs be installed 6.0m east of the driveway and 1.0m west of the double driveway the Hospital shares with the residence on the bottom side. (R7426)
-

LISMORE CITY COUNCIL - Meeting held September 10, 2002

MINUTES OF TRAFFIC ADVISORY COMMITTEE MEETING HELD AUGUST 21, 2002 (Cont'd)

26. **Intersection of Wyrallah Road and Buckendoon School Lane**
Snr Const Sales proposed that the existing "Give Way" sign on Buckendoon School Lane be relocated to Wyrallah Road to give priority to the major traffic flow. Mr Baldwin advised that "Give Way" signs would need to be placed on Wyrallah Road, both sides of Buckendoon School Lane in order for the treatment to meet current guidelines.
- TAC137/02** **RECOMMENDED** that the above works be carried out at the earliest opportunity. (R5201,R5707)
27. **Bangalow Road, Boatharbour – Line-Marking**
Snr Const Sales advised that Police Officers had expressed concern for the current line-marking on Bangalow Road adjacent to the Lions Park rest area, several Kilometres from Lismore. The broken white centre line currently allowed motorists to overtake around the bend when coming into Lismore. Sight distance was not considered adequate to allow this practice, particularly at night.
- TAC138/02** **RECOMMENDED** that the double white centre line on Bangalow Road be extended to include around the bend adjacent to the Lions Park rest area. (R4101)
28. **Proposed Pedestrian Underpass - Ballina Street (near Keen Street)**
Mr George advised that he had not heard from the Roads Minister regarding the above project which he had discussed with Mr Scully during a recent visit. Mr George undertook to report back to the Committee as to the status of the proposed underpass.
- TAC139/02** **RECOMMENDED** that the above be noted. (R6002)
29. **Hollingsworth Creek Bridge, South Lismore**
Mr George expressed concern for the lengthy delays that were occurring along Union Street and suggested that part of the problem stemmed from two lanes of north-bound traffic merging into one at Hollingsworth Creek Bridge. It was noted that this issue had been raised previously and a survey of traffic movements had revealed that part of the problem was also related to the roundabout at the intersection of Union Street and Elliott Road. It had been suggested that the existing bridge could be replaced with a large culvert due to a reduction in water flow requirements as a result of the current flood works. This proposal had already been referred to Council's Design Services Section for investigation and preparation of a plan and estimate for consideration by the RTA.
- TAC140/02** **RECOMMENDED** that the above be noted. (S819)
30. **Kyogle Street Upgrade, South Lismore**
Mr George advised that the South Lismore Public School community had raised concern for the poor state of Kyogle Street adjacent to the School and the consequent problems for parents and children. It was noted that this item had been raised previously and was currently with Council's Design Services Section. A plan and estimate for any proposed upgrade would be submitted back to the Committee for further consideration upon completion.
- TAC141/02** **RECOMMENDED** that the above be noted. (R6925)

This concluded the business and the meeting terminated at 12.05 pm.

CHAIRPERSON

TRAFFIC & LAW
ENFORCEMENT CO-ORDINATOR

DOCUMENTS FOR SIGNING AND SEALING

The following documents have been prepared in accordance with previous resolutions of the Council and/or the provisions of the Local Government Act, 1993 and other relevant statutes.

It is now proposed that the Council authorise the signing and sealing of these documents.

Recommendation:

The following documents be executed under the Common Seal of Council:-

Kerbside Dining Licence Agreement – Mecca Café, 80 Magellan Street, Lismore
Agreement for period 1/7/02 to 30/6/04.
(P6314)

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, AUGUST 13, 2002 AT 6.05PM.

- Present:** His Worship the Mayor, Councillor Gates; Councillors Baxter, Chant, Crowther, Gallen, Hampton, Irwin, King, Suffolk, Swientek and Tomlinson, together with the General Manager; Group Managers-Corporate & Community Services, City Works, Business & Enterprise; Acting Manager-Planning & Development (Helen Manning), Manager-Client Services, Manager-Finance & Administration, Manager-Communications & Community Relations, Manager-Human Resources, Fleet Manager, Waste Minimisation Officer, Contracts Officer, Manager-Economic Development & Tourism, Manager-Environmental Health & Building, Recreation Planner, Administrative Services Manager and Team Leader-Administrative Support.
- 182/02 **Apologies/ Leave of Absence:** An apology for non-attendance on behalf of Councillor Roberts was received and accepted and leave of absence granted. Leave of absence was granted to Councillors Baxter (from August 21-29), Chant (August 14-19) and Gallen (September 9-11). (Councillors Irwin/Hampton)
- 183/02 **Minutes:** The minutes of the Ordinary Meeting held on July 9, 2002, were confirmed. (Councillors Baxter/Crowther)
The minutes of the Special Meeting held on July 24, 2002 were confirmed. (Councillors Irwin/Chant)

PUBLIC ACCESS SESSION:

Prior to the commencement of the meeting, a Public Access Session was held at which Council was addressed by the following:-

Paul Recher re Mayoral Minute – Leave of Absence – Mayor

(See Minute No. 185/02)

Mr Recher spoke in support of the concept of a mayor directly elected by the people. In this respect he urged Council to reject the request for leave of absence for the Mayor.

(S44)

Elma Hancock re Mayoral Minute and Motions re Woodlark Street

(See Minute No. 188-189/02)

Ms Hancock advised she represented concerned business people of Woodlark Street and citizens using the CBD. She described the current crossing arrangement as unsafe and supported a trial zebra crossing or pelican lights. She urged urgent action on this matter.

(R7329)

Stephen Duthy re Notice of Motion – Rocky Creek Dam Catchment

Mr Duthy spoke on the land tenure of the Rocky Creek Dam catchment area. This tenure permitted logging, mineral exploration and mining, all of which Mr Duthy claimed would impact on the water supply. He urged Council to include this area into a National Park.

(02-8426: P12431)

Barbara Worthington re Report – Lismore Lake

(See Minute No. 193/02)

Ms Worthington supported the retention of the Lake area as a bird life sanctuary, passive recreation area, education resource and tourist attraction.

(P27012)

Paul Recher re Report – Draft Amendment 10 to LEP – General Amendment for 2002

(See Minute No. 194/02)

Mr Recher spoke against allowing motels in rural areas, assisting the decline in the CBD and urban areas and the loss of rural ambience.

(S800)

Gai Longmuir re Report – Lismore Neighbourhood Centre

(See Minute No. 195/02)

Ms Longmuir advised support for the relocation of the Neighbourhood Centre, expressed appreciation for support over the years, and detailed achievements to date. She advised the new centre would reduce uncertainty and increase service delivery.

(P6621)

WELCOME TO GENERAL MANAGER:

The Mayor welcomed the new General Manager, Mr Paul O'Sullivan to the Council and briefly outlined his experience in local government. This welcome was echoed by fellow councillors.

(E/0SU-100)

CONDOLENCES:

Family of the Late J C (Joe) Pestell

Joe Pestell passed away on Saturday, August 3, 2002.

Born in South Lismore in 1929, the son of a bridge carpenter and an ALP stalwart. Joe's mum came from Kempsey. Joe grew up in South Lismore and loved to regale friends and family with his tales from the south side. He grew up in testing economic times and started high school during the war.

Schooled locally at Lismore High School he excelled in his studies and trained to be a teacher at Wagga and New England. After attaining his teaching qualifications he started teaching at Walcha, then moved to Orama near Coffs Harbour, then Findon Creek near Kyogle and later at Greenridge near Casino.

He married Heather on 15/1/55 and they started their family, having Mark in 1958 followed by Rosalyn a few years later. Joe and Heather were heavily involved in running the Sunday School – this was despite the fact that Joe was an agnostic. He felt that his children should be led by example and be provided with support from both parents.

Joe never did anything in half measures. He was a keen athlete, renowned footballer and local swimming record breaker.

Joe completed his economics major at New England University and commenced teaching economics at Lismore High school. His love of theatre extended into his teaching where he often organised the local school play performances and many of his students still fondly regard and remember Joe for his commitment, dedication and good humour.

Joe's teaching colleagues had a very high regard for his dedication and commitment to public education and his professionalism. He was President of Lismore Teachers' Association for a number of years as well as Councillor for Lismore Teachers' Association at the monthly council meeting of the NSWTF and the annual conference at NSWTF.

Joe was recognised for his organising skills and good relationship with his peers on the North Coast and promoted to Senior Education Officer of the North Coast Region as Staff Liaison Officer.

Joe was involved in numerous committees in the local community. He was founding member and senior vice president of the Goonellabah Progress Association and founding member and media officer of the Friends of the Koalas.

Joe ran for Lismore City Council in 1989 coming 13th in the primary poll and again shortly after he retired in 1991. He again just missed out but he always maintained his interest in local issues.

Joe had enjoyed his retirement and relished his bowls tournaments.

Family of the Late R H (Dick)Trevan

Dick Trevan could best be described as one of Lismore's great larrikins but certainly also as one of Lismore's more notable identities and one of its prominent business people. Dick came from a prominent Lismore family but forged his own business and personal identity. As a businessman he contributed significantly to the prosperity of Lismore and made many philanthropic contributions to local organisations. He had a wide range of interests, from various sporting pursuits to pigeon racing to cultural activities. This brought Dick into contact with a broad cross spectrum of the population which his easygoing style allowed him to mix with comfortably.

The passing of Dick is a last link with the history of Lismore, one which will be sadly missed.

- 184/02 The Mayor moved that Council's expressions of sympathy be conveyed to the families of Joe Pestell and Dick Trevan and the motion was carried with members standing and observing the customary moment's silence.
(S75)

MAYORAL MINUTES:

Leave of Absence – Mayor

- 185/02 **RESOLVED** that the minute be received and -
- 1 Grant to the Mayor, Councillor I R (Bob) Gates, leave of absence until the February 2003 meeting.
 - 2 Not pay the annual councillor fee to the Mayor during this period of absence in accordance with Section 254A of the Local Government Act 1993.

(Councillors Gates/Crowther)

Voting Against: Councillors Irwin, Tomlinson and Gallen.

(S44)

Radiation Oncology Unit in Lismore

- 186/02 **RESOLVED** that the minute be received and –
- 1 That the Lismore City Council work with the Northern Rivers Area Health Service and other Northern Rivers councils to secure Federal Government funding for a radiotherapy unit in Lismore.
 - 2 That the Lismore City Council make available staff and resources to contribute to a delegation to State and Federal Government ministers and departments to explain the need for a radiotherapy unit in Lismore.

- 3 That Lismore City Council support the collection of signatures for a petition to the Honorable Speaker of the House of Representatives in support of a radiotherapy unit in Lismore, including making the petition available at council offices and via the council's website at www.lismore.nsw.gov.au.
(Councillors Gates/Chant) (S149)

187/02 **Allocation of Royalties Received from Sale of Fill from Riverbank to Flood Levee**
RESOLVED that the minute be received and revenue from the sale of fill from the riverbank project be allocated as follows:

- 1 Tree relocation, removal and landscaping.
- 2 \$20,000 be allocated to an electric pump at Lismore Lake.
- 3 The remainder be allocated to walking pathways and the riverbank project.
(Councillors Gates/Baxter) (S106)

Pedestrian Safety – Woodlark Street

A MOTION WAS MOVED that the minute be received and -

- 1 The Traffic Advisory Committee be asked to look at all options to divert traffic away from Woodlark Street if there are to be any changes to pedestrian safety.
- 2 Further, that Council, through its Traffic Committee and Design Services Section, consider all options to improve pedestrian safety at the Woodlark Street shared zone. These to include –
 - a) Options to divert traffic away from Woodlark Street.
 - b) Council's Design Services Section develop a plan to upgrade Woodlark Street into a more pedestrian friendly environment, taking into account any community feedback.
 - c) The results of the RTA's risk assessment on the current crossing, the traffic modelling to simulate traffic and pedestrian flows in Woodlark Street and the possible effects of alternate pedestrian facilities such as marked crossings with or without lights be considered.
 - d) That RTA legal advice on best options, relevant to current legal views, be considered.
 - e) That any option that may be selected should be explained fully through media, road safety training and on site, so that pedestrians and motorists are fully aware of their rights and responsibilities.
 - f) That Council hold a workshop within 4-6 weeks to include both RTA representatives, consultant traffic engineers, any interested members of the public and the Police before making a final decision.

(Councillors Gates/Hampton)

AN AMENDMENT WAS MOVED that the minute be received and –

- 1 The Traffic Advisory Committee be asked to look at all options to divert traffic away from Woodlark Street if there are to be any changes to pedestrian safety.
- 2 Further, that Council, through its Traffic Committee and Design Services Section, consider all options to improve pedestrian safety at the Woodlark Street shared zone. These to include –
 - a) Options to divert traffic away from Woodlark Street.
 - b) Council's Design Services Section develop a plan to upgrade Woodlark Street into a more pedestrian friendly environment, taking into account any community feedback.
 - c) The results of the RTA's risk assessment on the current crossing, the traffic modelling to simulate traffic and pedestrian flows in Woodlark Street and the possible effects of alternate pedestrian facilities such as marked crossings with or without lights be considered.
 - d) That RTA legal advice on best options, relevant to current legal views, be considered.

- e) That any option that may be selected should be explained fully through media, road safety training and on site, so that pedestrians and motorists are fully aware of their rights and responsibilities.
- f) That Council hold a workshop within 4-6 weeks to include both RTA representatives, consultant traffic engineers, any interested members of the public and the Police.

(Councillors Irwin/Tomlinson)

On submission to the meeting the amendment was DEFEATED.

Voting Against: Councillors Gallen, King, Chant, Baxter, Hampton, Suffolk, Gates and Crowther.

188/02 **RESOLVED** that the minute be received and –

- 1 The Traffic Advisory Committee be asked to look at all options to divert traffic away from Woodlark Street if there are to be any changes to pedestrian safety.
- 2 Further, that Council, through its Traffic Committee and Design Services Section, consider all options to improve pedestrian safety at the Woodlark Street shared zone. These to include –
 - a) Options to divert traffic away from Woodlark Street.
 - b) Council's Design Services Section develop a plan to upgrade Woodlark Street into a more pedestrian friendly environment, taking into account any community feedback.
 - c) The results of the RTA's risk assessment on the current crossing, the traffic modelling to simulate traffic and pedestrian flows in Woodlark Street and the possible effects of alternate pedestrian facilities such as marked crossings with or without lights be considered.
 - d) That RTA legal advice on best options, relevant to current legal views, be considered.
 - e) That any option that may be selected should be explained fully through media, road safety training and on site, so that pedestrians and motorists are fully aware of their rights and responsibilities.
 - f) That Council hold a workshop within 4-6 weeks to include both RTA representatives, consultant traffic engineers, any interested members of the public and the Police before making a final decision.

(Councillors Gates/Hampton)

Voting Against: Councillors Irwin, Swientek and Tomlinson. (R7329)

NOTICE OF MOTIONS:

Woodlark Street Crossing

189/02 Formal notice having been given by Councillor Irwin it was **RESOLVED** that –

- 1 That Council support the installation of pelican lights in Woodlark Street in principle.
- 2 That Council pursue this matter as a matter of urgency with the Premier and the Minister for Transport, including funding the installation of temporary lights for a 3 month trial period.

(Councillors Irwin/Tomlinson)

Voting Against: Councillor King.

(02-8156: R7329,S342)

Woodlark Street Crossing

Formal notice was given by Councillor Swientek that –

- 1 Council install a zebra crossing at the Woodlark Street crossing between the kerb and either side of the raised transformer shelter in the middle of Woodlark Street.

- 2 This be done for a three month trial period to observe its efficacy and the matter be reviewed and reported back to Council.
(Councillors Swientek)
The Mayor ruled this motion out of order.
(02-8643: S342,R7329)

Funding for Footpaths

- 190/02 Formal notice having been given by Councillor Irwin it was **RESOLVED** that –
- 1 That Council support the notion that footpaths and cycleways are an integral part of roads, and that the current funding available is inadequate to address the needs of pedestrians in urban areas, particularly in the Lismore basin and villages.
 - 2 That Council staff develop a funding formula, linked to the budget for roads, and provide a report to Council on how existing footpaths can be made safe and new footpaths be constructed within a five year timeframe.
(Councillors Irwin/Tomlinson)
- Voting Against:** Councillors King, Baxter and Hampton.
(02-8156: S342,S552)

Plaque “Syl Bertoli Bridge”

- 191/02 Formal notice having been given by Councillor Suffolk it was **RESOLVED** that a plaque be placed on the new pedestrian access bridge constructed over the stormwater drain connecting Wade Park to Gail Place, East Lismore with the inscription “Syl Bertoli Bridge”.
(Councillors Suffolk/Gallen) (02-8426: P12431)

Rocky Creek Dam Catchment

- Formal notice having been given by Councillor Tomlinson it was **MOVED** that Council –
- 1 Urge the NSW State Government to include the Rocky Creek Dam catchment area of Whian Whian State Forest in the Nightcap National Park to ensure the integrity of the Lismore, Ballina and Byron Bay water supply.
 - 2 Write to our local Members of Parliament notifying them of our concern, and asking them to lobby the Government to ensure that this occurs.
 - 3 Council write to the Federal Minister for Mineral Resources and the Federal Local Member objecting to this or any other exploration licence in the catchment area.
(Councillors Tomlinson/Irwin)
- On submission to the meeting the motion was **DEFEATED**.
Voting Against: Councillors Swientek, King, Chant, Baxter, Hampton, Suffolk, Gates and Crowther.
(02-8426: P12431)

SUSPENSION OF STANDING ORDERS:

- 192/02 **RESOLVED** that standing orders be suspended and Council now deal with the undermentioned matters:-
- Lismore Lake
 - Draft Amendment 10 to Lismore LEP – General Amendment for 2002
 - Lismore Neighbourhood Centre
- (Councillors Irwin/Baxter)

Lismore Lake

- 193/02 **RESOLVED** that the report be received and -
- 1 The existing Lismore Lake Plan of Management be amended (i.e. a new draft plan be prepared) so that powerboats are not permitted to use the Lake.

- 2 The Department of Land and Water Conservation be advised that powerboats will not be permitted at the Lake and that the Lake will be managed and used to protect the threatened bird species and for scenic and passive recreation opportunities.
- 3 That a water management strategy be developed in consultation with the National Parks and Wildlife Service, the Department of Land and Water Conservation and other relevant agencies/groups and that this strategy be incorporated into the new plan of management.
- 4 Council apply to the National Parks and Wildlife Service for a Section 91 Licence under the Threatened Species Conservation Act 1995 as an interim measure to allow pumping from Wilsons River until approval of the permanent licence application before the Department of Land and Water Conservation.
- 5 National Parks & Wildlife Service be approached to determine whether it would take over the management of the Lismore Lake as well as the financing of such management.

(Councillors Irwin/Swientek)

Voting Against: Councillors Baxter and Suffolk.
(P27012)

Draft Amendment 10 to Lismore LEP

194/02 **RESOLVED** that the report be received and that Council adopt Amendment No. 10 to Lismore Local Environmental Plan and forward it to the Minister for Planning with a request that the Plan be made.

(Councillors Chant/King)

Voting Against: Councillors Irwin, Tomlinson and Gallen.
(S800)

Lismore Neighbourhood Centre

195/02 **RESOLVED** that the report be received and -

- 1 Council, subject to consent being issued for a land use Development Application, resolve to relocate the Neighbourhood Centre to the existing Library site.
- 2 Council retain ownership of the existing Library site and enter into a long term lease with the Neighbourhood Centre. Such lease to commence with the same rental payment as is currently being paid for the McKenzie Street property, but to include clauses which ensure that any increase in sub-leasing revenue which derives from the improved premises afforded by the work being undertaken on the existing Library site be shared between Council and the Neighbourhood Centre.
- 3 Council increase its budget allocation for the proposed refurbishment of the existing Library to a maximum of \$105,000.00.

(Councillors Irwin/King) (P6621)

RESUMPTION OF STANDING ORDERS:

196/02 **RESOLVED** that standing orders be resumed.

(Councillors Baxter/Hampton)

REPORTS

Lismore Lake

(See Minute No. 193/02)

Lismore Unlimited Marketing Strategy – Special Business Rate Variation Levy

197/02 **RESOLVED** that the report be received and -

- 1 Council endorse the Three Year Marketing Strategy for the period of the financial years of 2003 to 2005.
- 2 Council make available the full amount of the levy plus rate pegging increases, for the implementation of the strategy (an increase of \$12,700 in 2002/03).
(Councillors Swientek/Irwin)

198/02 **RESOLVED** that Lismore Unlimited take note of the other businesses of Lismore that contributed in the past to its economic welfare.
(Councillors Crowther/Baxter)
Voting Against: Councillors Irwin, Tomlinson, Gallen and King.
(S740)

Revised Integrated Waste Strategy

199/02 **RESOLVED** that the report be received and Council –

- 1 Approve the revised Integrated Waste Minimisation and Management Strategy and endorse the 3-year action plan.
- 2 Staff be congratulated on the quality of the annual report.
(Councillors Hampton/Irwin) (S763)

Women in the Community

200/02 **RESOLVED** that the report be received and Council –

- 1 Receive and endorse the Framework .
- 2 Continue to actively develop and implement strategies that are inclusive of elected members and staff that are both underpinned by the Framework and relevant to this council.
- 3 Forward details on the ways in which Council is addressing the Framework to the National Steering Committee for Women in Local Government.
(Councillors Gallen/Tomlinson)
(S749)

Draft Amendment 10 to Lismore LEP - General Amendment for 2002

(See Minute No. 194/02)

Draft Amendment 11 to Lismore LEP

201/02 **RESOLVED** that the report be received and –

- 1 That pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council resolve to prepare a draft LEP Amendment to rectify the LEP 2000 as outlined in this report.
- 2 That Council inform the Director-General of Planning NSW of its decision to prepare a Local Environmental Plan.
- 3 Council agree that, should no issues arise during consultation which would significantly alter the proposed draft plan, the draft plan can be placed on public exhibition without further reporting to Council.
(Councillors Irwin/Chant) (S826)

Draft Amendment to DCP 26 - Industrial Development Standards

202/02 **RESOLVED** that the report be received and Council place the draft amendment to DCP No. 26 on public exhibition for a period of twenty eight (28) days.
(Councillors Irwin/Hampton) (S545)

Review of DCP 41 - Notification and Advertising of Development Applications

203/02 **RESOLVED** that the report be received and Council endorse for public exhibition Draft DCP 41 Notification & Advertising of Development Applications (August 2002).
(Councillors Crowther/Swientek) (S739)

Section 356 Donations

- 204/02 **RESOLVED** that the report be received and –
- 1 That the 2002/2003 miscellaneous Section 356 donations be provided to the following fifteen (15) projects:-

a) Bexhill Uniting Church	\$2,200
b) Northern Rivers Community Transport	\$2,200
c) LINC Television Inc.	\$1,800
d) NSW Sports Council for the Disabled – North Coast Region	\$1,500
e) Caring is Sharing	\$2,200
f) Summerland Early Intervention Programme	\$2,200
g) Girl Guides Association of NSW – Lismore District	\$2,000
h) Goonellabah RSL Cricket Club	\$2,200
i) Woodburn Chamber of Commerce	\$2,000
j) Cedar Guitar Country Music Awards	\$1,700
k) Stoney Chute Rural Fire Brigade	\$2,200
l) Wyrallah Rural Fire Service	\$2,200
m) The Channon Rural Fire Brigade	\$2,000
n) NSW Fire Brigades	\$500
o) Boatharbour Rural Fire Service	\$2,200
 - 2 Ngulingah Local Aboriginal Land Council be allocated \$1,400.
(Councillors Crowther/Baxter) (S164)

Lismore Neighbourhood Centre

(See Minute No. 194/02)

Laurie Allan Centre – Rental Charges

- 205/02 **RESOLVED** that the report be received and the weekly rental paid by the Westpac Life Saver Rescue Helicopter for the hire of the Laurie Allan Centre be set at base of \$50.00 per week for the 2002/2003 period and adjusted by CPI annually in accordance with Council's pricing policy.
(Councillors Crowther/Baxter) (P15856)

Provision for Cleaning Services at Various Council Assets

- 206/02 **RESOLVED** that the report be received and –
- 1 The contract for the provision of cleaning services for the facilities stated, excluding the Lismore Public toilets and cleaning of the Nimbin Village for the period to June 30, 2005 be awarded to Tempo Services.
 - 2 The contract for the provision of cleaning services for the Nimbin Village for the period to June 30, 2005 be awarded to Jungle Patrol Community Safety.
 - 3 The Mayor and General Manager be authorised to execute the contracts on Council's behalf and attach the Common Seal of the Council.
(Councillors Irwin/Baxter) (T22023)

Tenders for Sprayed Bituminous Surfacing Works

- 207/02 **RESOLVED** that the report be received and That Council adopt the following order of priority for the engagement of bitumen sealing contractors for major and minor works:
- 1 Boral Asphalt
 - 2 Pioneer Road Services.
- (Councillors Crowther/Chant) (T22026)

Tenders for Pavement Stabilisation Works

- 208/02 **RESOLVED** that the report be received and That Council adopt the following order of priority for the engagement of stabilised pavement contractors for major and minor works:

- 1 Stabilised Pavements of Australia Pty Ltd
 - 2 Pavement Salvage Pty Ltd
 - 3 Stabilex (NSW) Pty Ltd.
- (Councillors Baxter/Swientek) (T22027)

Water Main Replacement – Kyogle Road & Casino Street, South Lismore

209/02 **RESOLVED** that the report be received and –

- 1 The contract for the water main replacement at Kyogle Road & Casino Street is awarded to Camglade Pty Ltd for the amount of \$173,216.00 excluding GST plus rate only item costs.
 - 2 The Mayor and General Manager are authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.
- (Councillors Swientek/Hampton) (T22029)

Water Main Replacement – Various Locations – Lismore and Nimbin

210/02 **RESOLVED** that the report be received and –

- 1 The contract for the water main replacement at various locations in Lismore & Nimbin be awarded to Camglade Pty Ltd for the amount of \$253,665.00 excluding GST plus rate only item costs.
 - 2 The Mayor and General Manager be authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.
- (Councillors Hampton/Crowther) (T22030)

Replacement of Council Plant - Two Backhoes

211/02 **RESOLVED** that the report be received and -

that the report be received and Council purchase the following machines -

- 1 One (1) only JCB 3CX-P21 as tendered (T22022 Item (a) by Construction Equipment Australia (CEA), Sumner Park, Qld, at a cost of **\$142,798.00**, (includes \$10,619.00 GST), and accept its *'Trade in offer'* of **\$24,200.00 (Includes GST) for V244** (Urban Roadworks).
- 2 One (1) only JCB 3CX-P21 as tendered (T22022 Item (b) by Construction Equipment Australia (CEA), Sumner Park, Qld, at a cost of **\$136,110.00** (includes \$8,210.00 GST), and accept its *'Trade in offer'* of **\$44,000.00 (Includes GST) for V252** (Lismore Water).
- 3 Once the Insurance company formally agrees to pay Council for the Stolen Backhoe i.e. \$96,800, the General Manager be authorised to purchase a replacement machine as follows:
 - * One (1) only JCB 3CX-P21 (T22022 Item (a) from Construction Equipment Australia (CEA), Sumner Park, Qld, at a cost of **\$142,798.00, less no trade discount.**

(Councillors Crowther/Hampton) (T22022)

Management Plan Review 2001/02 – June Quarter

212/02 **RESOLVED** that the report be received and the content noted.
(Councillors Irwin/King) (S4)

June 2002 Quarterly Budget Review Statement

213/02 **RESOLVED** that the report be received and –

- 1 Council adopt the June 2002 Budget Review Statement for General, Water and Sewerage Funds.
 - 2 This information be submitted to Council's Auditor.
- (Councillors Irwin/Hampton) (S779)

2002 Annual Local Government Association Conference
214/02 **RESOLVED** that the report be received and the Mayor and Councillors Suffolk and Swientek attend the conference as voting delegates, with the General Manager attending as an observer.
(Councillors Irwin/Baxter) (02-8142: S569)

Australian Local Government Regional Co-operation and Development Forum
215/02 **RESOLVED** that the report be received and Councillors Hampton and Swientek be authorised to attend the ALGA Regional Co-operation and Development Forum.
(Councillors Crowther/Suffolk) (S44)

Attendance at the Australian Airports Association Conference
216/02 **RESOLVED** that the report be received and Council authorise the attendance of Cr John Crowther to the Australian Airports Association Conference in Adelaide, South Australia.
(Councillors Suffolk/Hampton) (S370)

Roads Advisory Committee
217/02 **RESOLVED** that the report be received and Mr C Smith be appointed to the Roads Advisory Committee for the remainder of this term.
(Councillors Hampton/Irwin) (S745,S36)

COMMITTEE RECOMMENDATIONS:

Traffic Advisory Committee 17/7/02
218/02 **RESOLVED** that the minutes be received and the recommendations contained therein be adopted, excluding Item 2.
(Councillors Irwin/Hampton)

Item 2 – Summerland Christian College
219/02 **RESOLVED** that the College be advised in accordance with the minute TAC96/02.
(Councillors Irwin/Hampton) (02-7561: R6550) (S352)

DOCUMENTS FOR SIGNING AND SEALING:

220/02 **RESOLVED** that the following documents be executed under the Common Seal of Council:-

S88B Instrument – DA01/558 – Figtree Village Estate, Clunes

The Subdivision Certificate and Final Linen Plan Release was approved on June 25 2002. The subject 88B Instrument releases an easement for a sediment trap which was placed on a previous stage of the development and is no longer required.
(Councillors Irwin/Chant) (D01/558)

At this juncture (9.00pm) Councillor Chant left the meeting.

CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE:

221/02 **RESOLVED** that Council now exclude the press and public and meet in Committee of the Whole to consider the following matter:

Item 1 – Professional Indemnity Claim
(Councillors Irwin/Baxter)

RESUMPTION OF OPEN COUNCIL:

When the Council had resumed its former sitting, the General Manager reported that Council, meeting in Committee of the Whole, had resolved to exclude the press and public during its consideration of the beforementioned matters to preserve the confidentiality of legal proceedings

AND IT NOW RECOMMENDED

Item 1:

That the General Manager be authorised to deal with this matter as detailed in the report.

222/02 **RESOLVED** that the General Manager's report of Council meeting in Committee of the Whole be received and adopted.
(Councillors Irwin/Crowther)

This concluded the business and the meeting terminated at 9.17 pm.

CONFIRMED this 10TH day of SEPTEMBER 2002 at which meeting the signature herein was subscribed.

MAYOR

Department of Local Government

CONFIDENTIAL

Clr Bob Gates
Mayor
Lismore City Council
PO Box 23A
LISMORE NSW 2480

LISMORE CITY COUNCIL	
19 JUN 2002	
File No:	5738
Letter No:	02-203
Ad. Off:	Mayor
Complaint:	Ack:
File out with:	
Completed:	Resub:

Our Reference: FF96/1121
DTS 71802

Your Reference:

Contact: Robert Bullford
(02) 9793 0636

30-5-02

AT

19.6.02

D.W.

Dear Clr Gates

I am writing to you following the receipt by the Department and the Minister for Local Government of a number of complaints about the procedures understood to have been followed by Council in its recent recruitment and appointment of a new General Manager.

A number of allegations have been made in that regard, all of which appear to have been widely reported in your local papers in recent days. These allegations, if correct, are a matter of serious concern, and would appear to indicate that due process has not been followed and that the appointment made by Council has not been an open and transparent or proper one.

In essence, the allegations are that you intervened to ensure that a candidate who was not on the recommended and agreed short list, namely Mr Paul O'Sullivan, would be interviewed. It also alleged that during the interview Mr O'Sullivan was led and given assistance by you in answering questions put to him by the interview panel, questions which are said not to have been in accordance to the pre-agreed questions put to other candidates. The allegations also are that Mr O'Sullivan did not meet the relevant agreed selection criteria that applied to other candidates, but was appointed nonetheless.

Another allegation is that Mr O'Sullivan was led to believe even before the interview that he would be appointed, and that he communicated this to member Councillors of Rous Water County Council, of which he is presently the General Manager.

It is further alleged that Mr O'Sullivan's candidacy was promoted, notwithstanding that he had indicated the advertised remuneration was too low, and that steps have been taken, to the detriment of other candidates or prospective candidates, since the decision to appoint him, to ensure that the remuneration is increased, without re-advertising the position.

Email: dlg@dlg.nsw.gov.au Web: <http://www.dlg.nsw.gov.au> ARN: 99 567 863 195
67-72 Rickard Road, Bankstown, NSW 2200 Locked Bag 15-91, Bankstown, NSW 2200
Telephone: (02) 9793 0793 Facsimile: (02) 9793 0799 TTY: (02) 9707 2508
Email: dlg@dlg.nsw.gov.au Web: <http://www.dlg.nsw.gov.au> ARN: 99 567 863 195



New South Wales Government

Council will be aware that it is accountable to its community and ratepayers for its decisions, and that Council, and in particular Council's elected body, the Councillors, led by you as Mayor, must act in a way that both promotes community confidence in Council and local government in general, and is seen to do so.

In the circumstances, the Department would appreciate your full written response to the allegations.

In providing that response it would be appreciated if copies of all relevant documents could be provided to the Department for examination and assessment by it, including copies of any relevant legal or other advice taken into account by Council in making this appointment and in adopting the procedures followed.


The Department has also received correspondence raising concerns about the processes followed in relation to the appointment of Council's interim or acting General Manager. It is alleged that this appointment was made by you as Mayor.

The Department notes that under section 336 of the Local Government Act 1993 the filling of a vacancy in the position of General Manager must be an appointment made by Council. And section 377 (1) dot point 1 prohibits this task being delegated by Council.

Therefore, when responding to the other allegations, it would be appreciated if advice could be given as to the procedures followed in relation to the appointment of the current Acting General Manager.

Your response is requested within twenty-one (21) days of the date of this letter.

Yours sincerely



Garry Payne
Director General

Mayor's Office

June 12, 2002

Garry Payne
The Director General
Department of Local Government
Locked Bag 1500
BANKSTOWN 2200

Dear Sir

RE: RECRUITMENT AND APPOINTMENT OF A GENERAL MANAGER

Thank you for your letter received at council on June 11, 2002 regarding the above.

I have addressed your request for information regarding the recruitment of a general manager for Lismore City Council, please find attached. I hope this makes things clearer in understanding the process in which council went through to appoint a new general manager and an acting general manager.

There has been no legal advice sought consequently there is no legal documents to forward to you. Our Human Resources Manager, Isabel Perdriau is currently on two weeks leave. I cannot access any relevant files and suggest if you require further details of candidates you can contact Isabel on ☎ 66250 575.

Yours faithfully

I R Gates
MAYOR

Enc

RECRUITMENT AND APPOINTMENT OF A GENERAL MANAGER FOR LISMORE CITY COUNCIL

- 1 Procedures followed by council in the recruitment of a new General Manger
 - Council agreed on number of councillors of the selection panel being 5
 - The Recruitment Firm was selected (McArthurs Management Services) and was responsible for,
 - Advertising of the position
 - Training and preparing the selection panel for the interview process
 - Short listing the applications
 - Preparing the interview questions and case study
 - First interviews by phone

 - 2 Allegations of incorrect due process not being taken
 - Due process was carried out at all time under the guidance of McArthurs Management Services

 - 3 Allegations that I intervened to ensure that a candidate who was not on the recommended and agreed short list, namely Mr Paul O'Sullivan would be interviewed
 - Four of the selection panel of five were of the opinion that Mr O'Sullivan should be interviewed to determine the salary level he required also he was locally based and the cost to council would be nil, subsequently one candidate dropped out before the interview date.
 - Initially the four councillors wanted to observe how Mr O'Sullivan interviewed compared to the other candidates to determine whether to increase the salary range.

 - 4 Allegations that during the interview Mr O'Sullivan was led and given assistance in answering questions
 - This is refuted
 - The question related to public consultation on a case study, I said to Mr O'Sullivan that we have in our area a very strong well organised green lobby group. I also pointed out the business community preferred not to become involved in public consultations as it was bad for their business. I ask Mr O'Sullivan how would he deal with such a situation. The question was ruled out by the consultants as that was what was agreed to by the panel.

 - 5 Allegations that Mr O'Sullivan did not meet the relevant agreed selection criteria that applied to other candidates
 - The answer from the consultants regarding the possibility of appointing Mr O'Sullivan without having to re-advertise the position was, there would be nothing to stop council appointing Mr O'Sullivan
 - Four of the five selection panel thought Mr O'Sullivan was the preferred candidate
 - This recommendation was then taken to the next council meeting (May 14, 2002) where it was voted (7) seven to (4) four with one councillor absent

 - 6 Allegations that Mr O'Sullivan was led to believe before the interview that he would be appointed
 - This claim is here say and I am unaware of any such advice given to Mr O'Sullivan

 - 7 Allegations that Mr O'Sullivan's candidacy was promoted, notwithstanding that he had indicated the advertised remuneration was too low, and that steps have been taken, to the detriment of other candidates or prospective candidates
-

- The position was advertised offering \$150,000 plus a 5% bonus. On enquiring what level of salary Mr O'Sullivan required he indicated \$158,000 and he would not pursue a 5% bonus
- The Consultants when asked said there was nothing stopping council from appointing Mr O'Sullivan without having to re-advertise or go through the interview process again.
- With this advice Mr O'Sullivan was then appointed

8 Accountable to its community and ratepayers for its decisions

- The majority of councillors are of the opinion that Mr O'Sullivan will serve council efficiently and effectively. He has raised a family in Lismore and he and his wife have been involved in the community and many organisations and he is well respected in the area. I do take my position as Mayor and councillor very seriously and at all times I make my decisions with the community and ratepayers my first priority.
- Most of this information that has surfaced in the local press although much is inaccurate was supposed to be confidential. I can only guess this information has been leaked by someone who had the motive that they did not agree with the appointment.

9 The processes followed in relation to the appointment of council's interim or acting General Manager

- The appointment of the Acting General Manger for the interim I have enclosed documents relating to a bonus payment and a retirement package for the General Manager which council adopted (resolution 122/02) and I draw your attention to clause six of the departure package which delegates the Mayor to appoint the acting General Manager.
- Section 377 allows for the council to delegate to the mayor any of its functions other than those expressly excluded under sections 377 and 379. As you point out, section 377(1) dot point 1, prohibits the appointment of a general manager being delegated by Council. I would contend that the temporary appointment of an acting general manager has been made under section 351(1) (a) and the council has delegated to me as mayor, the authority to appoint a person to that position. This is consistent with the provisions of section 226, that provides for the mayor to exercise such other functions of the council as the council determines.

Department of Local Government

FAXED ON 20/6/02

Clr Bob Gates
Mayor
Lismore City Council
PO Box 23A
LISMORE NSW 2480

LISMORE CITY COUNCIL	
24 JUN 2002	
File No:	5738
Letter No:	02-7220
Complaint:	Mayor
File out with:	MHR
Completed:	Bob Gates

Our Reference: FF96/1121
DTS 72346

Your Reference:

Contact: Robert Bulford
(02) 9793 0636

Copy: Councilors
Cmbe, Cmew
Comics, CmPA
20 JUN 2002

Replied to 25/6/02

Dear Clr Gates

Refer 02-7024

I refer to your letter of 12 June 2002 advising as to the steps and procedures followed by Council in its recent appointment of a new General Manager to succeed Mr Ken Gainger.

It is also noted that this letter includes your advice and response in relation to concerns expressed about the procedures followed in Council's appointment of its Acting General Manager, in the absence of Mr Gainger on leave.

It is on this latter issue that I now write to you. The Department's response on the former issue will be issued in due course, but I must point out at this time that your reply on that aspect is not, as presently advised, considered to have answered all concerns expressed to the Department.

Your advice that the appointment of the Acting General Manager was purportedly made by you under delegated authority is noted.

The Department considers that this appointment was ineffective, as section 377 (1) dot point 1 prohibits, as was indicated in the Department's letter to you of 3 June 2002, the delegation to any person, including yourself as Mayor, of such an appointment. References in that section to the appointment of a General Manager are considered to extend to and include the appointment of an Acting General Manager.

The Department has also noted your advice that you contend that section 351 (1) (a) is relied on in respect of the appointment of the Acting General Manager, and that you contend in that regard that that section avoids or gets around the prohibition in section 377.

The Department does not agree.

The Department considers that the provisions of section 377 apply equally to an appointment of a General Manager under section 334, section 336 or section 351.

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New South Wales Government

It is particularly noted that nothing in the last-mentioned section refers to or contemplates such a temporary appointment being made under delegated authority – the reference in section 351 (1) (a) is to the appointment being made by "the council", with the result that section 377 clearly applies and is not overridden by the former section.

Given that the Department considers that the appointment of the Acting General Manager is invalid and ineffective, the question arises as to the validity and effectiveness of all actions and decisions of the purported Acting General Manager since his appointment.


It is considered that this raises a serious matter for Council and requires an immediate response and rectification by Council. It is strongly recommended that Council seeks urgent legal advice as to the steps that Council needs to take to retrieve the situation.

I should add that the Department considers that nothing in the Act, and in particular sections 729 and/or 697 would immediately assist Council in overcoming this problem.

The Department therefore seeks your urgent written advice as to what actions Council proposes to take to deal with this matter.

Would you kindly provide a copy of this letter to all Councillors, and arrange for it to be publicly tabled at the next Council meeting.

Yours sincerely



Garry Payne
Director General

Confidential

Our ref: LXT
Your ref: S386

25 June 2002

The Acting General Manager
Lismore City Council
DX 7761 LISMORE

Attention: Colin Cooper
By email colc@liscity.nsw.gov.au

Dear Sir

Appointment of Acting General Manager

- 1 This letter confirms oral advice given to Mr Cooper by the writer this morning.
- 2 We note that the Council may deal with the issues the subject of this advice at its meeting this evening.
- 3 We are instructed that:
 - 3.1 The general manager of the Council, Mr Gainger, has resigned from his position and has taken leave of absence pending his resignation taking effect.
 - 3.2 Mr Gainger's resignation takes effect at midnight on 30 June 2002.
 - 3.3 The Council, by resolution, approved a 'departure package' relating to Mr Gainger's resignation.
 - 3.4 The Council's resolution purportedly involved a delegation by the Council to the Mayor of the power to appoint an acting general manager pending the commencement of a newly appointed general manager.
 - 3.5 The Mayor has purported to exercise his delegated power to appoint Mr Moorehouse and, subsequently, Mr Cooper to act as general manager pending the commencement of the newly appointed general manager.
 - 3.6 The Director-General of the Department of Local Government ('DG') has expressed the views that:
 - 3.6.1 the Council had no power under section 377 of the Local Government Act 1993 ('the LGA') to delegate to the Mayor the power to appoint an acting general manager, whether that

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.

112730864 \ LXT \ LMT01



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Perth
Sydney
Auckland
Wellington
Hanoi
Ho Chi Minh City

LISMORE CITY COUNCIL	
28 JUN 2002	
File No: 5738	
Letter No: 02-7516	Act. Off: GMLCS
Complain: [blank]	Ack: [blank]
File out: MHR	
Complete: [blank]	Result: [blank]

Sub 2/7

used for Council resolution at Sp. C. meeting 25/6 9 reply to DLG 28/6.

appointment was made to fill a vacancy in the position under section 336 or as a temporary appointment under section 351

3.6.2 'nothing in the Act, and in particular, sections 729 and/or 697 would immediately assist Council in overcoming this problem'

3.6.3 'this is a serious matter for Council and requires an immediate response and rectification by Council.'

4 The facts set out above raise two distinct issues:

4.1 Whether the appointment of the acting general managers up to 30 June 2002 were valid.

4.2 What is required under the Act in respect of the appointment of an acting general manager from 1 July 2002 pending the commencement of the newly appointed general manager.

5 We note the D-G's concerns regarding the appointments of Mr Moorehouse and Mr Cooper by the Mayor purportedly exercising the powers delegated to him by the Council in accordance with Mr Gainger's approved 'departure package'.

6 In our view, some of the D-G's concerns in relation to the appointment of Mr Moorehouse and Mr Cooper as acting general managers up to 30 June are open to question.

6.1 It is clear that there is currently no vacancy in the office of general manager within the meaning of section 336 of the LGA. That vacancy does not arise until Mr Gainger's resignation takes effect on 1 July 2002. Accordingly, we do not understand the relevance of the discussion by the D-G in relation to section 336 for the period up to 30 June 2002.

6.2 Further in relation to section 336, it is not correct for the D-G to say that 'the filling of a vacancy in the position of General Manager must be an appointment made by Council' and that 'section 377(1) dot point (1) prohibits this task being delegated by Council.' This interpretation of the LGA is self-serving. The LGA is replete with sections conferring or imposing functions on the Council. A reference to the Council in section 336 does not of itself suggest that the power cannot be delegated. Further, it is wrong to suggest that section 377(1) prohibits the function of filling a casual vacancy under section 336 from being delegated. What is prohibited is the delegation of 'the appointment of a general manager'. No specific reference is made to section 336 and it is a matter of properly construing the statute to determine if the power to fill a casual vacancy under section 336 can be delegated. In our view, there is an argument that the prohibition on delegation only extends to a permanent appointment under section 334.

6.3 The same can be said of the D-G's interpretation of section 351, relating to the making of a temporary appointment to the position of general manager

due to the general manager's 'absence', which is materially similar to his interpretation of section 336.

- 7 It does not seem to us to be necessary to form a concluded view on these issues as the Council, at this evening's meeting, clearly has the power to pass a resolution ratifying the appointments of Mr Moorehouse and Mr Cooper as acting general managers for the period from when Mr Gainger resigned and took leave of absence up to 30 June 2002. In our view, the Council's resolution may be as follows:

'Pursuant to section 351(1)(a) of the Local government Act 1993, the Council ratifies the temporary appointment of the following persons as general manager for the period specified in relation to that person:

- (a) Mr Bill Moorehouse – period ## to ##
- (b) Mr Colin Cooper – period ## to ##.'

Once the Council has so resolved, it does not seem to us that sections 697 or 729, as referred to by the DG, have any relevance to the facts.

- 8 On 1 July 2002, a casual vacancy in the office of general manager will arise. The Council may fill that position in accordance with section 336 of the LGA. To avoid any argument with the DG, we recommend this be done by way of a resolution of the Council at this evening's meeting, as follows:

'Pursuant to section 336(1) of the Local Government Act 1993, the Council appoints ## to be acting general manager until the commencement of the appointment of the person appointed to that position pursuant to section 334 or until further resolution of the Council pending that commencement.'

- 9 We trust this advice is of assistance. Please let us know if we can be of further assistance.

Yours sincerely

Dr Lindsay Taylor
Partner
Direct +61 2 9286 8124
Email lindsay.taylor@phillipsfox.com

June 28, 2002

Mr Garry Payne
Director General
Department of Local Government
Locked Bag 1500
Bankstown 2200

Dear Mr Payne

RE: Appointment of Acting General Manager

I refer to your letter dated June 26, 2002 advising that the Department considers the appointment of the Acting General Manager is invalid and ineffective which requires an immediate response and rectification by Council.

Council sought a legal opinion as suggested (copy attached) and that advice indicates that your concerns are open to question. As you would have been aware from the previous correspondence, Mr Gainger's tenure does not cease with the Council till midnight on June 30, 2002 and as such, there is currently no vacancy in the office of general manager within the meaning of section 336 of the LGA (refer clause 6.1 of legal advice). Despite questioning other aspects of your letter, the need to form a concluded view on those issues was not required as the advice indicated that the Council has the power to ratify the appointments, for the period up to June 30, 2002. Council has resolved accordingly, as detailed below.

It is acknowledged that on July 1, 2002 a casual vacancy in the office of general manager will arise, and Council has resolved to appoint Mr Colin Cooper as acting general manager. Details of this resolution are also detailed below.

Council at a Special Council meeting held on June 25, 2002 passed (unanimously) the following resolutions:

Temporary appointments to the position of general manager

Resolved that pursuant to section 351(1)(a) of the Local Government Act 1993, Council ratifies the appointment of the following persons as general manager for the period specified in relation to that person:

- (a) Mr William J Moorhouse – period 16/5/02 to 10/6/02.
- (b) Mr Colin M Cooper – period 11/6/02 to 30/6/02.

Casual vacancy in the position of general manager and appointment of acting general manager

Resolved that pursuant to section 336(1) of the Local Government Act 1993, Council appoints Mr Colin M Cooper to be acting general manager until the commencement of the person appointed to that position pursuant to section 334, or until further resolution of the Council pending that commencement.

Prior to the above meeting a copy of your letter and the legal advice, was provided to all councillors. Although technically a copy of your letter was not *publicly* tabled at this meeting, the matter has been openly and I believe, adequately addressed. As the contents of your letter are very much open to question, please advise if you still require the letter to be publicly tabled at the next ordinary meeting of council, to be held on July 9, 2002.

Yours faithfully

IR Gates
Mayor

Department of Local Government

Clr Bob Gates
Mayor
Lismore City Council
PO Box 23A
LISMORE NSW 2480

LISMORE CITY COUNCIL	
19 AUG 2002	
File No:	S-738
Letter No:	02-9371
Complaint:	mayor cc. RM
Ack:	
File out with:	
Signature:	Recd:

Our Reference: FF96/1121
DTS 72679

Your Reference:

Contact: Robert Bulford
(02) 9793 0636

13 AUG 2002

Dear Clr Gates

I refer to your letter of 28 June 2002, responding to the Department's letter of 26 June 2002 about the appointment of Council's Acting General Manager, and advising that this letter had not been tabled at a meeting of Council, as requested.

It is noted that the Council complied with the Department's request for an immediate response and rectification of the matter by:

1. Providing a detailed report on the procedures for recruitment and appointment of Council's new General Manager and providing answers to allegations made.
2. Obtaining legal advice on the issues relating to the appointment of an Acting General Manager.
3. Passing resolutions to ratify the appointments of the Acting General Managers.

The copy of the legal advice provided by you has been noted and examined. In particular, the differences of opinion between the Department and Council's solicitors on the interpretation of the applicable provisions of the Local Government Act 1993 have been noted.

Notwithstanding these continuing differences of opinion, Council has appropriately resolved the issue of the validity of the appointments of Acting General Managers by passing ratification resolutions at an extraordinary Council meeting of 25 June 2002.

However, no satisfactory explanation has to date been given as to why the Department's letter of 20 June 2002 has not been tabled.

In the interests of addressing the continuing concerns of the public in this matter, Council is now requested to table publicly at its next meeting all of the

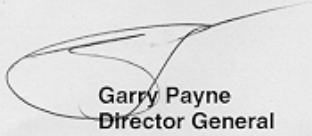
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Email: dlg@dlg.nsw.gov.au Web: <http://www.dlg.nsw.gov.au> ABN: 99 567 863 195



Department's correspondence with the Council on the issue of the appointments of the General Manager and Acting General Managers, as well as this letter, together with Council's own legal advice.

Would you kindly advise in writing when this has been done.

Yours sincerely



Garry Payne
Director General