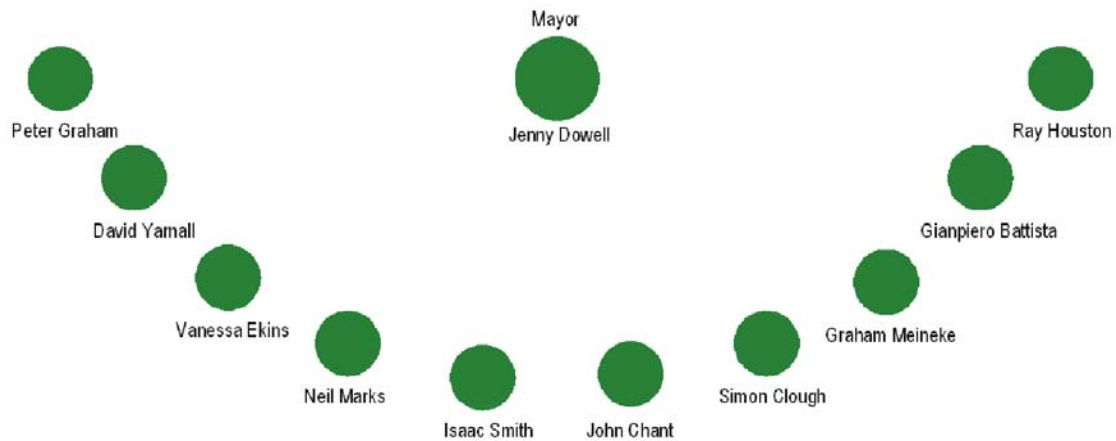


Notice of Council Meeting



Ordinary Meeting

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on **Tuesday, 10 November 2009, 6:00pm** and members of Council are requested to attend.

Paul G. O'Sullivan
General Manager

3 November 2009



Agenda

Opening of Meeting and Prayer (Mayor)

Apologies and Leave of Absence
Councillor Smith

Confirmation of Minutes
Ordinary Meeting held on 13 October 2009
Extra Ordinary Meeting held on 20 October 2009

Disclosure of Interest

Public Access Session
Paul Albertini – Report – Request for Financial Assistance – Lismore Thistles Soccer Club Inc.

Special Presentation
Darran Singh (Thomas Noble & Russell) – Report - 2008/09 Financial Reports

Public Question Time

Condolences

Mayoral Minutes

Notice of Rescission Motions

Notice of Motions
Councillor Clough – Review of Infrastructure Services

Altering Order of Business
(Consideration of altering the order of business to debate matters raised during Public Access)

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Lismore City Council Community Strategic Plan 2008 - 2018



Guiding Principles	Outcomes
Social Inclusion and Participation	That all Lismore residents enjoy equal opportunities within a strong, inclusive community.
Sustainable Economic Growth and Development	That Lismore's economy is vibrant and development is environmentally and socially sustainable.
Protect, Conserve and Enhance the Environment and Biodiversity	That Lismore's natural ecology is protected and maintained in a healthy and robust state for future generations
Best-Practice Corporate Governance	That best-practice management principles pervade our business; that we are innovative, ethical, and our use of resources provides maximum benefits to the community.

Community Strategic Priorities	Outcomes
Enhance Lismore as a Regional Centre	That Lismore retains and builds on its regional service centre role, including the provision of key medical, legal and tertiary education functions
Foster Youth Development	That young people are included in our community and can safely pursue their interests and aspirations.
Support an Ageing Population	That older people have access to appropriate services and facilities to enhance their health and wellbeing.
Provide Sustainable Land-use Planning	That land-use planning is founded on principles of sustainability.
Improve Catchment Management	That catchment management is integrated and holistic, in order to achieve a sustainable and balanced use of natural resources.
Revitalise the CBD	That the CBD becomes a vibrant meeting place and a cultural and entertainment hub for the Northern Rivers region.
Integrated Waste Cycle Management	That Lismore minimises waste to landfill by reducing, reusing and recycling.
Improve Roads, Cycleways and Footpaths	That Lismore has an extensive transport network and is an accessible, safe and efficient city for motorists, cyclists and pedestrians.
Mitigate Climate Change at a Local Level	That Lismore is a leader in reducing carbon emissions and minimising the impacts of climate change.
Develop and Support Art, Cultural, Sporting and Tourism Activities	That our regional art, cultural and sporting facilities remain a major component of Lismore life and an increasingly popular attraction for domestic tourists.
Integrated Water Cycle Management	That Lismore maintains long-term water security for its growing population through the efficient use of this precious resource.
Provide Greater Housing Choices	That Lismore offers a diverse range of housing options to accommodate a variety of households.
Improve Passive and Active Recreational Facilities	That Lismore retains and builds on its regional recreation centre to attract major events and tournaments.

Corporate Foundations	Outcomes
Efficient Use of Council Resources	That we maximise the value of our resources, continually review our operations to ensure best value, eliminate waste and duplication, and gain the full service potential from our assets
Engage With the Community	That the community is informed and consulted about the issues that are relevant to their lives and we are fully accountable to the community for our operations.
Promote a Constructive Corporate Culture	That customers and staff experience a supportive organisation, with a strong sense of integrity, which responds to their needs and provides innovative and creative services.
Whole of Council Corporate Planning	That we have clear goals and act as one in their co-ordinated implementation, in order to maximise the return on resource investment and staff expertise.
Providing Excellent Customer Service	That our primary focus is to understand and respond to the needs of the community we serve.

Notice of Motion

Cr Simon Clough has given notice of his intention to move:

That a report be prepared on the most effective manner in which to carry out a review of Council's Infrastructure Services section. The review will examine value for money and environmental issues concentrating on, but not be limited to:

- a. the maintenance workshop and fleet;
- b. the appropriateness of Council's plant and equipment for the work required;
- c. work practices;
- d. the role of outsourcing; and
- e. the techniques and technology applied to road construction and maintenance.

Staff Comment

Executive Director – Infrastructure Services

Council last undertook a comprehensive review of Roadworks Operations in 1999 and Plant, Equipment and Workshop in 2000. The reviews were undertaken by an independent Consultant, Neil Arbuthnot from Corporate Management Systems Australia.

As with any organisation a periodic review of operations can be beneficial. From a Council perspective Councillors and the community can be advised of the efficiency and effectiveness of operations. From an organisational perspective often improvements are identified and can be implemented.

There are a number of methods to undertake a review and a report can be prepared which examines the pros and cons of the options (EF09/1921:ED09/17584).

Report

Subject	2008/09 Financial Reports
File No	EF09/581:ED09/17583
Prepared by	Principal Accountant
Reason	Legislative requirement - s419, Local Government Act 1993
Objective	To present the 2008/09 Financial Reports
Strategic Plan Link	Best Practice Corporate Governance
Management Plan Activity	Financial Services

Overview of Report

At the October 20, 2009 extraordinary meeting, Council formed its opinion on the 2008/09 Financial Reports.

In accordance with the Local Government Act, 1993 and Local Government (General) Regulations 2005, Council is required to present the audited financial reports and audit report to the public at a meeting. Before doing so, they must have been advertised in the approved form and submissions from the public invited. Council has complied with these requirements.

Members of the public can make a written submission to Council up to seven days after the meeting (17/11/08). Council must forward a copy of any submission received to the auditor and take any action it considers appropriate. At this time, no submissions have been received.

Council's auditor will present the report on the Conduct of the Audit during public access.

Background

Council resolved at the October 20, 2009 extraordinary meeting to:

- a) In accordance with Section 413 (2) (c) of the Local Government Act 1993 and Regulation 215 of the Local Government (General) Regulation 2005 adopt the 2007/08 Financial Reports and 'Statement by Councillors and Management' for both the General Purpose Financial Reports and Special Purpose Financial Reports, with the Mayor and Deputy Mayor delegated to sign on behalf of Council.
- b) Submit the 2008/09 Financial Reports to the Department of Local Government and the Australian Bureau of Statistics.
- c) Advertise the presentation of the 2008/09 Financial Reports to the public from October 29, 2009 and invite both inspection and submission.
- d) Present the 2008/09 Financial Reports to the public at the November 10, 2009 Council meeting.

Council's resolutions have been implemented but it is important to note that the public has to November 17, 2009 to make a submission and Council is to ensure that copies of all submissions received by it are referred to the auditor and also take such action as it considers appropriate with respect to any

submission. If a submission or submissions are received after this meeting, a further report will be prepared for Council's December meeting.

As part of the review process there were minor adjustments required to the Financial Reports. These adjustments relate specifically to Notes 9 and 18 of the General Purpose Financial reports. These minor changes have been discussed with the Auditor and they do not alter the Audit Report or Statement made by Council.

Summary of Key Financial Data

Item	2008/09 (\$,000)	2007/08 (\$,000)
Income Statement		
Total income from continuing operations	82,650	72,979
Total expenses from continuing operations	81,098	73,431
Operating result from continuing operations	1,552	(452)
Net operating result from continuing operations	1,552	(452)
Net operating result before grants and contributions provided for capital purposes	(9,263)	(8,042)
Balance Sheet		
Total current assets	36,942	33,308
Total current liabilities	(14,028)	(15,484)
Total non-current assets	668,944	661,383
Total non-current liabilities	(40,116)	(36,103)
Total equity	651,742	643,104
Other Financial Information		
Unrestricted Current Ratio (expressed as a ratio)	2.63	2.15
Debt Service Percentage (%)	6.3	5.3
Rate Coverage Percentage (%)	39.0	42.7
Rates and Annual Charges Outstanding Percentage (%)	11.2	10.9
Building & Infrastructure Renewal Ratio (%)	65.23	109.4

Other staff comments

Not required

Public consultation

The financial reports in the prescribed format have been advertised in the Northern Rivers Echo for the edition dated October 29, 2009 seeking public comment.

Conclusion

In accordance with the Local Government Act, 1993 and Local Government (General) Regulations 2005, the 2008/09 Financial Reports were advertised and submissions from the public invited.

At the time of preparing this report, no submission had been received.

Recommendation

That Council acknowledge the presentation of the audited 2008/09 Financial Reports to the public.

Report

Subject	Request for Financial Assistance – Lismore Thistles Soccer Club Inc.
File No	EF09/723:ED09/17585
Prepared by	Management Accountant
Reason	Lismore Thistles Soccer Club Inc. has requested a loan from council to complete the 'Thistles Eco Project'.
Objective	For Council to determine the level of any financial assistance
Strategic Plan Link	Efficient Use of Council Resources
Management Plan Project	Community Services, Economic Development

Overview of Report

Lismore Thistles Soccer Club has requested support from Lismore City Council by way of a \$12,000 loan to be repaid over three years with interest adjusted annually in line with the Consumer Price Index

They require the funds to complete the 'Thistles Eco Project'. The 'Thistles Eco Project' is a project where the club will be able to irrigate the main playing field in an environmentally friendly manner.

Disclosure of Interest

Council's Finance Manager is a current registered player with Thistle Soccer Club Inc and therefore has excluded himself from involvement in the preparation of this report and its recommendations. There are no other staff members of Council that have been directly involved in the preparation of this report with a direct personal interest in Thistles Soccer Club Inc.

Background

The 'Thistles Eco Project' is a project where the club will be able to irrigate the main playing field in an environmentally friendly manner. Currently the main playing field is irrigated by hand. The project aims to install efficient and sustainable irrigation equipment along with a rainwater tank. The project also aims to install a new energy efficient heat pump and storage tanks to replace the 20 year old gas hot water system.

This project has gained the support of the NSW Government, through the Climate change Fund by means of a \$28,000 grant. A loan from Lismore City Council of \$12,000 will enable the club to complete this project for the club and the general community.

Thistles Soccer Club is the largest club in Lismore with 39 teams totalling 455 members. They have owned and developed their own facilities for the past 34 years. Each season the club holds a number of fundraising activities. Funds raised from these activities have been used to purchase lights, top dress the fields and carry out general maintenance of the facilities. They intend to increase fundraising activities going forward and believe that they will be able to repay any funds provided by Lismore City Council in a timely manner.

Loan Details

Loan Structure

The amount of the loan proposed is \$12,000. Thistles Soccer Club have requested terms of a 3 year repayment period and an interest rate equivalent to the CPI.

The loan funding sought would be sourced from Council's renewable Environmental Fund as it meets the payback criteria. Yearly repayments of approximately \$4,245 would be required to repay the loan within three years at a CPI rate of 3.0%. Alternatively, based on the current BBSW (currently 3.66% - Council's investment portfolio is returning 3.10% for October 2009) yearly repayments of approximately \$4,300 would be required to repay the loan within three years. Further, based on the cost of funds to Council if it were to borrow funds in the current market at a rate of 8-10%, yearly repayments of approximately \$4,825 would be required to repay the loan within three years

Security

Council has previously provided loans to, or been guarantor for various external parties both on a short term and long term basis. Security for these arrangements has ranged from personal guarantees (FNC Hockey \$420,000) to no security on the loan facility (Lismore Unlimited Opportunities \$18,000).

Given the amount requested, the short term nature of the loan and in keeping with previous loans of this size made to external bodies, it is reasonable that the loan be unsecured.

Ability to service Loan

Financial Information provided by the soccer club for the 2009 season (October 2008 to September 2009) showing a surplus of approximately \$8,000, supports that Thistles Soccer Club is capable of meeting loan repayments as and when they fall due.

Public consultation

This arrangement is considered to provide financial assistance to Thistles Soccer Club Inc. As such, Council is required to advertise it for a period of 28 days seeking public submissions. It is proposed to advertise in the Northern Rivers Echo under Lismore City News. A further report will be submitted to the February 2010 Council meeting listing any submissions received and recommendations.

Conclusion

Thistles Soccer Club Inc. has requested Council provide a loan of \$12,000. The soccer club has received funding from the NSW Government through the NSW Climate Change Fund but require a further \$12,000 to complete the 'Thistles Eco Project'. This project will allow the club to move forward into the future with sustainable, efficient and environmentally friendly irrigation and hot water systems.

Based on available financial information, Thistles Soccer Club Inc. is capable of repaying the loan.

Recommendation

1. Council provide in principle support to the request from Thistles Soccer Club Inc. to provide a loan of \$12,000 to be repaid over three years by equal annual payments of \$4,300.
2. Council advertise for 28 days seeking public submissions.
3. A report on submissions received and final recommendations be submitted to the February 2009 Council meeting.

Report

Subject	Lismore Memorial Baths Passes Entry Fees
File No	EF09/1851:ED09/17420
Prepared by	Acting Manager Arts, Tourism and Leisure
Reason	To review the 2009/10 Fees and Charges for the Lismore Memorial Baths.
Objective	To reinstate the six month passes
Strategic Plan Link	Social Inclusion and Participation
Management Plan Project	Community Services

Overview of Report

A complaint has been received in relation to the pricing structure for family passes at the Lismore Memorial Baths. This report sets out the 2009/10 Fees and Charges adopted by Council at its extraordinary meeting held on June 18, 2009. The process for changing the fees will be outlined in the report.

Background

A complaint has been received in relation to increases in the 2009/10 Fees and Charges affecting families at the Lismore Memorial Baths. The 2009/10 Fees and Charges for the Lismore Memorial Baths were adopted by Council at the extraordinary meeting of June 18, 2009. The 2009/10 Fees and Charges for family passes adopted were:

- | | | |
|---------------------|----------|-----------------------|
| • 3 months | \$273.00 | (\$208.00 in 2008/09) |
| • 6 Months | N/A | (\$374.00 in 2008/09) |
| • 12 Months | \$885.00 | (\$673.00 in 2008/09) |
| • Season (9 months) | \$735.00 | (N/A in 2008/09) |

The definition of 'family' adopted for 2009/10 was also changed to include all family members on the same Medicare card compared to a maximum of 4 people with at least 1 adult and maximum 3 children previously.

The public complaint is primarily in relation to the unavailability of the six month family pass. This pass was not popular in previous years and as a result, was not included in the 2009/10 Fees and Charges. In relation to the season passes that are available for families, three have been sold to date this financial year.

Justification of Charge

Lismore's Memorial Baths facility is the most modern in region, providing excellent amenities and an Olympic standard pool for competition swimming. There are also BBQ's available making it not only a swimming pool, but an entertainment venue available to families and the community at large at a reasonable cost.

Based on the fee structure in place for the three and twelve month passes along with the season pass, if

the six month passes were to be reinstated, they would be:

• Adult	\$162.00
• Child, Student, Pensioner/Concession	\$162.00
• Family	\$491.00
• Offpeak – Adult, Child, Student, Pensioner/Concession	\$122.00
• Offpeak – Family	\$368.00

For the purposes of the Lismore Memorial Baths Fees the following definitions apply:

- Child – 4 years to 16 years of age
- Offpeak – passes can only be used between 10.30am and 3.00pm Monday to Friday
- Family – Generally all members should be on same Medicare Card. Other circumstances at Manager's discretion

It must be noted that with the new definition of a family (previously a family pass was for a maximum of four people with minimum of one adult and maximum of three children), the cost of entry for a family with more than four members, for any period, has decreased.

Further analysis also shows that when using the pool on a regular basis (i.e. - five times per week) the cost of each visit per person in a family would be very reasonable. For example, a season pass at a cost of \$735 (for nine months) calculates to a cost of \$1.02 per visit per member of a family of four while a larger family would benefit from a per visit cost below \$1.00 each.

Issues

There is a process required by legislation for Council to reinstate the six month fee or adjust any other fees and charges. To be able to amend the Fees and Charges, Council is required to advertise the proposal for a period of twenty eight days, inviting public submissions during this time. The public submissions are then required to be considered at a council meeting before any changes can be adopted by Council resolution.

In anticipation of Council supporting the principle of reinstating the 6 month passes, the proposal has been advertised to enable reporting to the December meeting.

Comments

Financial Services

As to the financial impact, due to the low take up of these passes the impact is likely to be minimal.

Other staff comments

Acting Manager Arts, Tourism and Leisure

The Lismore Memorial Baths is a high quality facility offering excellent amenities, including Olympic standard facilities for competition swimming. A variety of pricing options are currently available for both leisure and competition swimmers. A current gap in the fees and charges for the Memorial Baths is based around the pricing structure for family passes. A three month family pass is available, along with a season family pass (nine months) and twelve month family pass. No family passes are currently available for six months.

The re-introduction of a six month family pass would provide further pricing options for community members. It should be noted the six month family pass was not included in the 2009/10 Fees and Charges this year based on the limited number of purchases from the community in previous years.

Public consultation

Not required.

Conclusion

The 2009/10 Fees and Charges for the Lismore Memorial Baths were adopted by Council at the extraordinary meeting of June 18, 2009. A complaint outlining disappointment in the removal of the 6 month family pass was received recently by council. The re-introduction of the 6 month passes would offer more options for families.

Recommendation

1. That Council endorse in principle the reinstatement of the 6 month pool passes.
2. That the charges be:-

• Adult	\$162.00
• Child, Student, Pensioner/Concession	\$162.00
• Family	\$491.00
• Offpeak – Adult, Child, Student, Pensioner/Concession	\$122.00
• Offpeak – Family	\$368.00
3. That the charges be effective from 1st October 2009.
4. That following advertisement of the proposed charge, community feedback be reported to the December Council meeting for determination.

Report

Subject	Regional and Local Community Infrastructure Program
File No.	EF09/712:ED09/17568
Prepared by	Manager – Assets
Reason	To advise Council of issues relating to the proposed nomination of the Nimbin Skate Park to be funded under the guaranteed funding component of the program.
Objective	To have Council confirm its project nomination under the guaranteed funding component of the program.
Strategic Plan Link	Develop and Support Art, Cultural, Sporting and Tourism Activities
Management Plan Project	Parks and Recreation

Overview of Report

This report outlines a range of issues identified with Council's nomination of construction of a skate park at Nimbin as its project to spend \$449,000 under the Regional and Local Community Infrastructure Program. If Council is to confirm its nomination of this project, it must commit to meeting additional costs that are likely to arise during the course of the project and a number of issues must be resolved with the Nimbin Community Centre Incorporated. Alternatively, Council could choose to nominate other projects.

Background

The federal government has implemented the Regional and Local Community Infrastructure Program (RLCIP) as part of its economic stimulus package. There are two components to the program. The non-competitive component guarantees each council in Australia an amount of money to undertake projects, whilst the competitive component allows councils to compete for funding for strategic projects.

Lismore City Council is eligible to receive \$449,000 under the non-competitive component of the program and at the meeting of October 13, 2009 Council resolved to allocate these funds to the provision of a concrete skate park in Peace Park at Nimbin. Nomination of projects under this component of the funding closes on November 15, 2009 and must be completed by December 31, 2010.

Nimbin Skate Park

In nominating the Nimbin Skate Park as its project under the non-competitive component of the project, Council has sought to address the problematic metal skate structure constructed at Nimbin by the community. The history to this matter is generally well known and will not be repeated in this report.

Since Council's decision at the meeting of October 13, 2009, staff have undertaken further investigations and met with the Nimbin Community Centre Incorporated (NCCI) to discuss the proposal. NCCI was heavily involved in the construction of the metal structure and has an option to purchase Peace Park at the expiry of the current deed of agreement in mid 2010.

Based on the costs of constructing the Goonellabah Youth Plaza (1,300m²), it would be expected that Council could construct a concrete skate park in Peace Park of approximately 550m² - 600m² in area for the \$449,000. This would essentially allow for construction of a small bowl and some other ramped areas. If a bowl was not constructed, the skateable area of the park would be at the higher end of the range. The final design of the facility would of course depend on the outcome of a consultation process with potential users of the facility.

The construction cost for the Goonellabah Youth Plaza was approximately \$686,000 and did not include any of the costs associated with preparation of the design and development application etc. These costs were met separately by Council as part of the Goonellabah Sports and Aquatic Centre project. Similarly, to construct elevated and ramped structures is more difficult and therefore expensive than relatively flat, simple structures. It is therefore not a straight per square metre rate comparison to calculate an area of skate park that can be built with a certain amount of money. The Goonellabah Youth Plaza contains significant flat and relatively easy to construct areas which offset the increased cost of constructing the more complex areas. As such, it could be expected that the average cost per square metre for the proposed Nimbin facility would be higher than the average cost for the Goonellabah Youth Plaza.

It must also be noted that this estimate does not include any allowance for conditions that may be imposed during the development assessment process. There are a number of additional costs that could arise from conditions imposed during the development assessment process. These include:

- *Noise abatement measures.* Whilst every effort would be made to design the facility such that these would not be required, it is difficult to be certain about the outcome. These could cost \$50,000-\$250,000 depending on the extent and nature of the barrier to be constructed.
- *Car parking.* There is a strong likelihood that parking will be required as part of the consent. Whilst it is difficult to be certain about how many spaces would be required, 8–10 is considered a conservative estimate. A carpark would need to be constructed or Council would have to pay a Section 94 car parking contribution. Ten spaces at \$2,865 amounts to \$28,650. Construction of a carpark would be problematic as there is no obvious space available. Any site in near proximity to the proposed skate park would involve further loss of open space from Peace Park.
- *Public amenities.* A condition may be imposed requiring the construction of an amenities block for users of the facility. An argument could be presented that the nearby amenities in the park further up Sibley Street could cater for users of the facility but there is no guarantee this would be accepted. A basic amenities block would cost \$100,000 - \$125,000.

If any of these are required as a result of conditions of development consent, and no additional funding was available from Council, the only option would be to reduce the size of the skate park. A facility any smaller than 550m² - 600m² is considered unsuitable and therefore the viability of the entire project would be called into question.

A further complicating factor is the apparent position of NCCI. In discussions with NCCI they have indicated their support for the construction of a concrete skate park on Peace Park, however, requested that Council pay for removal of the old metal skate structure and rehabilitation of the site out of the funding for this project. It was also suggested that Council could use Section 94 contributions to meet these costs. Whilst it is difficult to estimate the likely costs of this work, it is likely to be at least \$50,000 and could be as much as \$150,000. This would further reduce the amount of funding available for construction of the on-ground works to a level that is considered to make the project unviable. The amount of skateable area would be reduced to somewhere between 300m² – 450m² (assuming that the potential costs related to development conditions as identified above DO NOT arise).

Another matter to be considered is the future ownership of the land. At present NCCI has a deed of agreement with Council which provides that upon its expiry in mid 2010, NCCI must either take ownership of the land, or relinquish its option to purchase. In addition, the deed requires NCCI to pay for removal and disposal of the metal skate structure in the event that the noise issues could not be resolved.

Whilst the conditions of the funding agreement do allow expenditure of the funds on a project to be constructed on what is privately owned land, there are other requirements that need to be met. These generally revolve around the level of certainty that the project can and will remain available for use by the general public. At first glance it appears that NCCI would meet the criteria to allow expenditure of the funds on Peace Park.

This matter has also been discussed with NCCI and their indication is that they do not intend to take ownership of Peace Park, especially if Council constructs a concrete skate park on it. This would essentially mean that Council would be responsible for all future maintenance of the park, and regardless of the contents of the deed of agreement, would inherit the problem of the existing metal skate structure on the upper portion of the land. NCCI has in recent times (2009/10 budget) requested that Council contribute financially to the maintenance of Peace Park but to date Council has not provided any assistance.

In regard to the metal skate structure, Council would ultimately need to either enforce the terms of the deed of agreement with NCCI which requires that they remove the structure etc, or allocate its own funds to undertake the work at some point in the future. In the interim period, the ongoing problems of security of the site, vandalism etc. would be Council's responsibility.

It is unclear whether NCCI will insist that in return for relinquishing its right to purchase Peace Park that Council agree to pay for removal of the metal skate structure and restoration of the land on which it sits. To include the cost of this work in the project at this stage would make the project unviable with the funds available. If Council retains ownership of Peace Park, it will effectively become responsible for the metal skate structure in any case. Its removal and restoration of the site is considered to be a separate project and should Council agree to take on this responsibility by not enforcing the terms of the deed of agreement with NCCI, would need to be funded by Council at a time of Council's choosing. Clearly the work would need to be considered in the context of Council's overall budget process and priorities. It should also be noted that the cost of restoration would depend on the desired future use of the space. NCCI have indicated a desire to have picnic shelters and barbecues installed in the space. This would of course be more expensive than a basic restoration involving turf and some landscaping.

These matters all need to be resolved with NCCI prior to Council lodging its application for the funding.

Summary of Additional Costs

By committing its guaranteed share of the RLCIP funding to construction of a concrete skate park in Peace Park at Nimbin, Council will incur additional expenditure on an ongoing basis, and may incur some one-off costs. These are summarised as follows:

Item	Cost	Ongoing or One-off	Comment
Maintenance of Peace Park	\$24,000	Annual	Need to maintain the park in public ownership to secure funding.
Operation of concrete skate facility	\$6,000	Annual	Ongoing cost of maintenance, water consumption, rubbish collection, vandalism repairs etc.
Removal of metal skate structure and restoration of site	\$50,000 - \$150,000	One-off	Depending on whether Council chooses to enforce the requirements of the deed of agreement with NCCI.
Installation of noise barriers	\$50,000 - \$250,000	One-off	Depending on whether these are required as a condition of development consent. Every effort will be made in the design process to avoid the need for these.

Item	Cost	Ongoing or One-off	Comment
Provision of car parking	\$28,650	One-off	High likelihood that this will be required. Paying the Section 94 contribution is considered preferable to constructing a carpark.
Provision of Amenities Building	\$100,000 - \$125,000	One-off	Potential cost to construct an amenities building if required as a condition of development consent.

Alternative Projects

In the event that the matters with NCCI cannot be resolved satisfactorily, or that Council deems the risk associated with potential cost increases as identified in the report is too great, Council would need to nominate an alternative project or projects, or forego the funding.

Council had previously considered a range of projects at a workshop on September 29, 2009. The proposed Lismore Lake Water Park was not considered further due to many issues. Further works at Nesbitt Park were also discussed and are ready to proceed given that development consent has been issued for all works up to Stage 2. This includes construction of the walking/ jogging track, refurbishment of the amenities building, construction of the carpark and installation of a half basketball court. The funding may be sufficient to also consider the proposed BMX Track (Stage 3).

Providing funds towards the expansion of the solar heating system for the pool at the Goonellabah Sports and Aquatic Centre was also considered but rejected at that time. Staff are still progressing this and other matters for report to the December Council meeting. Whilst this is a project that Council could fund internally through its sustainability program, it is considered prudent to fund it through this program should the skate park not proceed.

In the event that Council chooses not to proceed with the proposed skate park at Nimbin, it is recommended that the funding be allocated to the following projects:

- Goonellabah Sports and Aquatic Centre – Solar Water Heating Expansion: \$ 55,000
- Nesbitt Park (Walking Track, Carpark, Half Basketball Court): \$394,000

Comments

Financial Services

Council has been allocated \$449,000 in the Round 2 - Regional and Local Community Infrastructure Program (R&LCIP). To assist in the preparation of applications, guidelines have been issued. On face value, an application to use these funds to develop the Nimbin Skate Park would more than likely meet the funding criteria.

A preliminary assessment of this project has identified a number of issues which have a potential capital cost implication. If these materialise, additional funding, which is not readily available, will be required or the size of the skate park would need to be reduced.

Regardless of the size of the facility, the annual budget may need to be increased to cater for new operating costs associated with this facility.

In regards to the R&LCIP guidelines, the following information/ requirements are provided as they are relevant in this case:-

- Eligible projects must be additional, ready to proceed, or additional stages of current projects.

Additional projects are those which have not been included in the local government's financial budget for 2009/10 and can be brought forward as a result of RLCIP funding. Projects that are ready to proceed are those that will begin construction within three months of signing the Funding Agreement (contract).

- Funding will be provided to councils for community infrastructure, including new construction and major renovations or refurbishments of assets.
- Councils are encouraged to submit a number of prioritised projects, the aggregate value of which may exceed their allocation. Should the Department find that a higher priority project is ineligible, a lower priority yet eligible project may then be substituted in its place.
- Once projects are approved and a Funding Agreement has been executed, councils are reminded that they are legally committed to delivering these projects in accordance with the terms of their Funding Agreement.
- Councils should exercise particular care when compiling project budgets. Where a council undertakes to deliver a project for an agreed budget and the project exceeds that budget, councils are still required to deliver that project and will need to pay for any funding shortfall.
- Applications are due no later than midnight, Australian Eastern Standard Time, Friday, November 20, 2009.

Given the issues raised with the Nimbin Skate Park project, consideration should be given to lodging applications for alternative projects (as listed) instead so as to not jeopardise the R&LCIP funding or create a potential liability by the project exceeding the available funding and Council being forced to complete in accordance with the funding agreement.

Other staff comments

Not required.

Public consultation

Discussions that have taken place with the Nimbin Community Centre Inc. have been outlined in the report. Council would also consult with the Nimbin community on the design of the proposed skate park.

Conclusion

Construction of a concrete skate park in Peace Park at Nimbin is clearly a priority for Council and the community. However, there are a number of problematic issues which at this point in time cannot be finalised with certainty and therefore the potential costs of the project cannot be quantified with certainty. On the assumption that Council does not have any additional funds to contribute to the project, the only way of dealing with these costs, should they arise, is to reduce the size of the skate park to be constructed.

The available funding under the RLCIP is considered the bare minimum required to construct a concrete skate facility of sufficient size and challenge to guarantee the project is a success. If any of the additional costs outlined in the report arise, particularly as a result of conditions of development consent, Council would have to either provide the additional funding from its own resources, or abandon the project. For the construction of a skate park to proceed at Nimbin, Council must commit to meeting any additional costs that may arise from conditions of development consent. The likely matters and costs have been outlined in the report.

The issues regarding NCCI should be able to be resolved, provided that Council is not committed to spending additional funds immediately to remove the old skate park and restore the area where it was built. However, these issues need to be resolved quickly as nominations close on November 15, 2009 and a delegation to the Mayor is necessary to allow resolution of these matters before lodging the application.

In the event that Council is not prepared to commit to additional expenditure that may arise, or the issues with NCCI cannot be resolved with NCCI prior to the deadline to lodge an application, Council

must either forego its allocation of \$449,000 or nominate an alternative project/s. It is considered that the alternatives outlined in the report are the only projects Council has in place which could be readily constructed in the timeframes available. Foregoing the funding is not considered to be an option.

Recommendation (IS68)

That:

1. Council confirm its nomination of the Nimbin Skate Park to be funded from its guaranteed \$449,000 allocation under the Regional and Community Infrastructure Program, subject to resolving issues with the Nimbin Community Centre Incorporated as outlined in the report.
2. Council note that the funding of \$449,000 available under the Regional and Community Infrastructure Program is considered sufficient to meet bare minimum costs for construction of such a facility and should additional costs arise as outlined in the report, Council will be liable to provide additional funding in the 2010/2011 budget process.
3. Council further note the projected ongoing operational costs of \$24,000/annum and \$6,000/ annum of Peace Park and the proposed skate park respectively which will require consideration of the 2010/11 budget process.
4. Negotiations continue with the Nimbin Community Centre Incorporated to resolve those issues outlined in the report and that the Mayor be the delegated authority to determine the Council's position.
5. In the event that those matters outlined in the report cannot be resolved with the Nimbin Community Centre Incorporated prior to the deadline of November 15, 2009 for nominations, Council nominate the following projects as alternatives:
 - Goonellabah Sports and Aquatic Centre – Solar Water Heating Expansion: \$ 55,000
 - Nesbitt Park (Walking Track, Carpark, Half Basketball Court): \$394,000

Report

Subject	Nimbin Caravan Park and Pool
File No.	EF09/198:ED09/17371
Prepared by	Manager - Assets
Reason	To advise Council of the outcome of investigations into the potential sale of the Nimbin Caravan Park.
Objective	To have Council reach a decision about the future of the Nimbin Caravan Park.
Strategic Plan Link	Best-Practice Corporate Governance
Management Plan Project	Properties

Overview of Report

This report covers issues investigated in response to a Council resolution to examine the potential sale of the Nimbin Caravan Park and/or pool.

Background

Following the sudden resignation of the former managers of the Nimbin Caravan Park in June 2008, Council conducted an expression of interest (EOI) process to find a new manager and to canvas opportunities for improving facilities in the park.

There was generally a poor response to the process with only four responses received. Three respondents made offers to manage the facility in a similar fashion to what had happened in the past and one respondent offered to purchase the facility, excluding the pool.

Council at its meeting on November 11, 2008 resolved inter alia, to proceed to selective tenders for appointment of a manager and to investigate further the option of selling the facility. Further, at the recently completed full budget review, Council again identified the disposal of the Nimbin Caravan Park as a matter for further investigation. After completion of the selective tender process, a new manager was appointed to the facility and commenced work earlier this year.

Council has owned and operated the Nimbin Caravan Park and pool over a long period of time. The caravan park has a number of long term residents and in addition to catering for tourists to the area, provides a low cost housing option for people that do not have other options available to them.

The pool is operated as a public facility and is not for the sole use of patrons of the caravan park. No entry fees are charged for the pool and it operates in a similar manner to the Lake Pool at South Lismore. The manager of the caravan park undertakes caretaker duties for the pool including operating the pool plant and dealing with maintenance of the facility such as grass cutting, cleaning of the amenities, plant maintenance, vandalism etc.

The park itself contains 23 caravan sites and a camping area. Eight of the caravan sites are occupied by long term permanent residents with the remainder and the grassed camping area available for short term tenants and tourists.

Council has in the past explored opportunities to further develop the park, engaging a consultant to

prepare a business plan and program of capital improvements. In essence the report identified that the park has considerable potential, but that capital improvements would be required in order to realise that potential. These included the installation of some permanent on-site cabins, construction of a covered camp kitchen and eating area and improvements to the amenities building. Council at the time did not have the funds to undertake these improvements and no further action has been taken.

Council Budget

Council's budgeted income and expenditure for the facility for the 2009/10 financial year is as follows:

Item	Income	Expenditure	Comment
Caravan Park			
Caravan Park Fees	\$110,000		
Other Revenue	\$2,700		
Caravan Park Management		\$75,400	Park manager's contract.
Caravan Park Operating Costs		\$46,100	Electricity, marketing, rates and charges, water usage, consumables (soap, toilet paper etc).
Caravan Park Maintenance		\$8,400	Maintenance.
Total	\$112,700	\$129,900	Nett cost to Council is \$17,200
Pool			
Pool Management		\$ 18,200	Manager's contract.
Pool Operating Costs		\$ 38,500	Electricity, rates and charges, water usage, chemical consumption, cleaning.
Pool Maintenance Costs		\$ 100	Notes this budget is inadequate and is always supplemented during the year depending on the level of vandalism, break downs etc. that occur.
Total	Nil	\$ 56,800	Nett cost to Council is \$56,800

(Note – These figures do not include internal ABC charges applicable to staff time spent supervising the facilities or depreciation on the asset.)

Actual figures for the 2008/09 year have not been provided as they are not representative of the normal operation of the park. Council incurred a significant additional expense in the running of the facility for 2008/09 due to the sudden resignation of the former managers and the subsequent need to employ temporary managers and additional security to manage the facility until a new manager was appointed.

Pool Condition and Audit

Nimbin Pool operates as an unsupervised facility for the general public. It is annexed to the caravan park with the park manager undertaking necessary maintenance, monitoring of pool equipment, chemical dosing, water quality testing, etc. A basic amenities facility is provided which consists of a single unisex toilet and shower. There is no life guard or other supervision of patrons whilst they are using the facility.

The pool plant consists of two pumps and the dosing equipment which are housed in a shed away from the pool itself. Both pumps need to be in operation to achieve the necessary water circulation and chlorination in the pool so that acceptable water quality is maintained. Sodium hypochlorite is used as the disinfectant for the pool. The storage facility for the pool chemicals doubles as the storage for sodium hypochlorite used at the Nimbin water treatment plant.

Following an audit of the pool and its facilities, a program of improvements has commenced to address some of the identified areas of concern. In particular, the areas of signage and administration have been addressed as a priority with a complete review of signage at the facility having been completed and new signage installed prior to opening of the pool for the summer season. Arrangements have also been made for the new manager of the caravan park to undertake the relevant Pool Superintendent's course to ensure he has the relevant qualifications required to operate the plant and equipment at the pool and monitor water quality. These issues have been relatively simple to address and were able to be implemented within existing budget allocations.

The matters of greater concern are those of the plant and equipment at the pool, water quality and in particular chemical handling and storage facilities. Whilst some of these issues are procedural, eg, obtaining and storing Material Safety Data Sheets, some cannot be addressed simply or within existing budget allocations, eg, bunding of liquid chemical storage area.

The two pump system in operation is required to operate constantly to meet the required workload of water circulation and chemical dosing to ensure adequate water quality in the pool. If one pump fails, water quality in the pool deteriorates. One pump failed during the 2008/09 summer season and had to be replaced. The second pump is quite old and also needs to be replaced at a cost of \$8,000-\$10,000.

In addition, the shed in which the current equipment is housed is not properly laid out to meet current OHS standards and it would be very difficult to allow the bunding issue to be properly addressed. In dealing with these issues, it would be necessary to completely reconfigure the shed, or alternatively build a new shed to meet current operational and OHS requirements. It is estimated that an amount of \$45,000 would be required to address these issues, in addition to the funds required for the new pump.

Options

There are essentially three options for Council to consider in moving forward with this issue. These are:

1. *Maintain the status quo.* Under this option Council retains ownership of the caravan park and pool. Council would in the short to medium term need to address the identified deficiencies with the pool plant shed and chemical storage area.
2. *Sell both the caravan park and pool.* Under this option Council would collect a lump sum for the sale and save around \$74,000 per annum. Council would need to make alternative arrangements for the storage of chemicals for the Nimbin water treatment plant. Clearly it could be expected that there would be considerable opposition from the public should Council choose to pursue this option. Undoubtedly any private owner of the pool would charge an entry fee and Council would have no control over the future use of the land, other than through normal development control processes.
3. *Sell the caravan park, but retain ownership of the pool.* Under this option Council would collect a lump sum for the sale and save around \$17,200 per annum. Some of the proceeds of the sale could be used to deal with the OHS and operational issues associated with operation of the pool plant and chemical storage areas. In addition, it would be necessary to upgrade the amenities to the facility and provide separate male, female and disabled facilities. These improvements would be expected to cost approximately \$150,000-\$200,000. There would be some title issues to be resolved as the amenities for the pool and the amenities for the caravan park, whilst being separate facilities, are housed in a single building. A subdivision of the property would also need to be undertaken to provide separate titles for the caravan park and pool.

Ongoing operational costs for the pool are also likely to increase as it may not be possible to continue using the manager of the caravan park to undertake the required duties at the pool. It is anticipated that these additional costs would be around \$5,000 per annum if a separate contract needed to be put in place to manage the pool only.

Under both Options Two and Three, the management contract needs to be considered. The current contract expires in April 2010 with Council maintaining absolute discretion over whether to extend it. Any potential purchaser may well retain the current managers, but should Council choose to sell the facility a settlement date would need to be after the expiry date of the current contract.

Comments

Financial Services

The financial performance of the Nimbin Caravan Park and Pool from 2003/04 to 2008/09 is provided below and the 2009/10 Budget has been provided earlier:

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Caravan Park						
Revenues	51,000	58,071	71,338	79,277	89,305	121,173
Expenses	(67,383)	(76,686)	(87,989)	(103,430)	(165,372)	(210,855)
Result (Deficit)	(16,363)	(18,615)	(16,651)	(24,153)	(76,067)	(89,682)
Pool						
Result (Deficit)	(40,783)	(45,478)	(40,782)	(30,514)	(33,305)	(72,832)
Total (Deficit)	(57,146)	(64,093)	(57,433)	(54,667)	(109,372)	(162,514)

While the deficit results for the pool are expected, the inability to generate a surplus for the caravan park at any time during this period and the review of all financial commitments begs the question as to whether Council really needs to provide a caravan park facility.

In regards to the options suggested:

1. *Status quo* – This is not supported as it is likely that Council's contribution to both the deficit result and future capital requirements will continue to increase and at this time would be unfunded.
2. *Sell both the caravan park and pool* – This is not supported as it is unlikely that a willing buyer could be found who would agree to the conditions of sale likely to be imposed by Council in regards to the pool.
3. *Sell the caravan park* – This is supported as it may result in sufficient funds being realised to fix the OH&S issues, replace the pump and provide the necessary amenities at the pool. It would also eliminate the annual operating contribution (2009/10 \$17,200), however it is noted that pool management costs may increase by \$5,000.

Other staff comments

Community Development Officer

Nimbin Profile

Nimbin is an area where significant disadvantage exists compared to the rest of the Lismore LGA and nationally. The median household income is 30% lower than for the rest of Lismore and 50% lower than the national median. Unemployment is double that of Lismore LGA and four times higher than national unemployment figures. One parent families are double the national figure.

Nimbin % **Blue** % **Lismore** **Australia**

			Knob			
Population	1370		191			
Indigenous	53	3.9%	6	3.1%	3.9%	
Unemployment	92	18.1%	19	23.2%	9.2%	5.2%
Median household income (\$ weekly)	507		462		760	1,027
One parent families	116	33.7%	14	31.8%	23.8%	15.8%

ABS Census 2006

Nimbin is further hampered by limited transport to attend the employment and educational opportunities available in Lismore. There are limited recreational opportunities for all age groups in Nimbin making it essential that existing recreational opportunities remain operational.

Service Users

Caravan Park

The majority of service users of the caravan park are short term tourists from within Australia. There are up to 15 permanent residents. Permanent caravan park residents chose this housing option based on affordability. Any significant increase in rent as a result of privatisation could cause extreme housing stress to these residents and could result in homelessness of up to 30 people.

Pool

The majority of pool users are children aged between 0–19 and their parents. Children in this age group represent 25% of the Nimbin population. The surrounding schools (Nimbin Central, Barkers Vale and Tuntable Falls), use the pool on a weekly basis in spring and summer. Due to the high level of disadvantage in the area a free pool plays an important part in improving the health and wellbeing of the community.

Recommendations

Given the above assumptions, the social impacts of the proposal are minimal. There may be some negative impacts on permanent caravan park residents if weekly tariffs increase as a result of the property being privatised. The sale of the pool is not supported due to its vital role in supporting an already disadvantaged community.

Public consultation

Not applicable.

Conclusion

The sale of the Nimbin Caravan Park and/or pool could achieve a significant income for Council. Clearly if Council chose to sell one or both of the facilities it could expect public opposition, particularly in regard to the pool. There are a number of OHS and operational issues associated with the current operation of the pool plant and Council will need to deal with these in the short to medium term. The sale of one or both facilities would either eliminate the problem, in the event of sale of the pool, or provide income, some of which could be used to address these issues should Council retain ownership of the pool.

It is considered that the public benefit of continuing to operate the Nimbin pool as a free facility outweighs the financial benefit of selling it. In regard to the caravan park, operating this type of facility is not considered to be core business for Council and therefore it is recommended that Council offer the property for sale. As such Option Three is recommended. This would allow some of the proceeds to be used for upgrading the pool plant and amenities. The anticipated cost of these works would be \$200,000-\$250,000.

Rather than offer the property for immediate sale, it is considered prudent for Council to run an expression of interest process, through an agent, to determine the level of interest and likely purchase price for the facility.

That:

1. The report be received and noted.
2. Council proceed with an expression of interest process, through a local real estate agent, for sale of the Nimbin Caravan Park facility.
3. Council retain ownership of the Nimbin pool facility and utilise part of the proceeds of any sale of the caravan park, to fund reconfiguration of the pool plant room to address operational and OH&S issues and construction of a new amenities block for pool patrons.

Report

Subject	Tender T2010-03 – Margaret Olley Arts Centre
File No.	T10/3 :ED09/17615
Prepared by	Manager - Assets
Reason	To advise Council of the outcome of a tender process to appoint an architect to prepare a design and development application for the Margaret Olley Arts Centre.
Objective	To have Council endorse the appointment of an Architectural firm for design of the Margaret Olley Arts Centre.
Strategic Plan Link	Develop and Support Art, Cultural, Sporting and Tourism Activities
Management Plan Project	Margaret Olley Arts Centre

Overview of Report

This report details the outcome of a tender process conducted to appoint an architect to develop a detailed design and prepare and lodge a development application and construction certificate for the Margaret Olley Arts Centre. The process conducted received a very good response and the report recommends that Council negotiate with a preferred tenderer to clarify some minor matters prior to entering a contract for the work.

Background

Council has in the current budget allocated funding for the development of a detailed design and subsequent preparation of a development application and construction certificate for the Margaret Olley Arts Centre. Tenders were called for this work recently and closed on September 28, 2009. A total of 14 responses were received.

A tender assessment panel was assembled and assessed each of the submissions against the selection criteria which were:

- Total Price
- Experience and Capability
- Quality and Safety
- Environment and Community
- Local Content.

The intention of this preliminary process was to shortlist a number of companies to provide the tender assessment panel with a presentation on their proposals. From the assessment undertaken, four companies were shortlisted to present to the tender assessment panel. These were:

- Thomson Adsett
- Riddel Architecture
- Conybeare Morrison
- Tonkin Zulaikha Greer.

Each of the four companies chosen was well qualified to undertake the work and as a group, were assessed as being clearly superior to the remainder of the tenders received.

Presentations were held on Thursday, October 22, 2009, following which the tender assessment panel provided an overall score for each of the presentations received. A summary of the results of the preliminary assessments is attached to Councillors' business papers. Council employed Mr Bud Brannigan as a consultant architect to assist in the assessment of the four shortlisted tenders. Mr Brannigan is a well qualified and experienced architect and was not involved or associated with any of the tenders received. Mr Brannigan was the architect for the Tweed Regional Gallery development and has worked on a number of similar projects in the past.

The highest ranked tenderer was Tonkin Zulaikha Greer (TZG). TZG was assessed in the preliminary assessment as having the best overall submission and this was confirmed during the presentations. TZG is a Sydney based architectural and design firm with substantial experience in the design of public buildings. Previous similar projects of note on which they have worked include:

- Hyde Park Barracks Museum, Paddington, NSW (2009)
- Casula Powerhouse Regional Arts Centre, Casula, NSW (2008)
- Port Macquarie Hastings Cultural Centre, Port Macquarie, NSW (2008)
- Anna Schwartz Gallery, Redfern, NSW (2008)
- Carriageworks Contemporary Performing Arts Centre, Redfern, NSW (2006)
- Museum of Australian Currency Notes and Foyer Upgrade, Reserve Bank, Sydney, NSW (2005)
- National Gallery of Australia Refurbishment, Canberra, ACT (2003)
- Sir Henry Parkes Memorial School of Arts, Tenterfield, NSW (2001).

TZG will also collaborate with and employ a range of consultants to assist in the project. All of the firms nominated have considerable experience in projects of this nature, and specifically with the construction and operation of art galleries and other similar spaces. A number of Far North Coast based firms have been included in the project team as follows:

- Ardill Payne & Partners, Ballina - Traffic and Civil Engineering
- Hochhauser Associates, Byron Bay – Landscape Architects
- Balanced Systems Planning Consultants, Bangalow – Town Planning
- BCA Check, Lennox Head – Building Code Compliance

The proposed contract has been divided into two separable portions. Separable Portion One allows for development of a detailed design and lodgement of a development application. Separable Portion Two allows for development of the more detailed documentation to lodge a construction certificate, upon approval of the development application. The contract has been structured in this way to allow Council the opportunity not to proceed with Separable Portion Two should it be unable to secure the necessary funding to support the construction stage of the project.

The submitted prices by TZG for the work are:

- Separable Portion One: \$180,560.00 + GST
- Separable Portion Two: \$295,955.00 + GST

These costs are within Council's budget for the project and were "mid-field" in comparison with all of the 14 tenders received for the project. These costs are also slightly below the average of the tender prices received.

There are some minor matters to be discussed with TZG and resolved prior to awarding the contract. In particular, the appointment of a local representative architect is considered important to reduce potential costs arising from Sydney based staff travelling regularly to Lismore. Whilst a number of visits have been allowed within the TZG bid, it is considered prudent to further clarify this issue and confirm the

appointment of a local representative architect. Some minor detail also needs to be agreed regarding the timelines and milestones for the process to develop the design including consultation with the Project Steering Committee.

A reference check has been conducted with TZG receiving a satisfactory rating or better from those parties contacted.

The proposal to appoint TZG to the project has also been considered by the Project Steering Committee and is recommended to Council.

Comments

Financial Services

The 2009/10 Budget provides \$739,000 to progress the development of the Margaret Olley Arts Centre project. It allows for the appointment of an architect to finalise the design and gain planning approvals to construct the facility.

The approach of separable portions to the contract is supported as Separable Portion Two will only proceed if Council is successful with receiving significant grant funding.

Other staff comments

Not applicable

Public consultation

Not Applicable

Conclusion

Council has conducted a tender process to appoint an architectural firm to progress the design, development application and construction certificate for the Margaret Olley Arts Centre. A strong response was received to the process and the tender assessment panel identified Tonkin Zulaikha Greer as having the best tender. It is recommended that Council negotiate with Tonkin Zulaikha Greer to clarify and confirm the minor details referred to in the report prior to entering a contract.

Appointment of the architect will allow the project to progress considerably over the next 4-6 months and meet Council's objective of having a suitable project to nominate for funding under the competitive component of the Regional and Local Community Infrastructure Program.

Recommendation (IS69)

That:

1. In accordance with Clause 178(1)(b) of the Local Government (General) Regulation, Council decline to accept any tenders for the design of the Margaret Olley Arts Centre.
2. In accordance with Clause 178(3)(e) of the Local Government (General) Regulation, Council resolve to enter into negotiations with Tonkin Zulaikha Greer to undertake the design of the Margaret Olley Arts Centre.

3. In accordance with Clause 178(4)(a) of the Local Government (General) Regulation, the reasons that Council declines to invite fresh tenders are that:
 - Council has already conducted a tender process and received a strong response,
 - The respondents to that process are capable of delivering the services that Council requires,
 - Council's process clearly identified a preferred tenderer but there are some minor matters that need to be resolved and clarified prior to awarding a contract,
 - Those matters are not of a nature that the content or requirements of the tender would alter,
 - A satisfactory outcome can be achieved through a negotiation process and there is no need to call fresh tenders.
5. The General Manager be authorised to enter negotiations and finalise a contract on behalf of Council.
6. The Mayor and General Manager be authorised to execute the Contracts, once finalised, on Council's behalf and attach the common seal.

Report

Subject	Proposed Addition to Large Lot Residential Zone in the Draft Local Environmental Plan – 275 Cameron Road, McLeans Ridges.
File No	EF09/821:ED09/17499
Prepared by	Strategic Planner and Acting Manager, Integrated Planning
Reason	Receipt of Rezoning Submissions and Preparation of the Draft Local Environmental Plan
Objective	Council endorsement to include the subject land in the Large Lot Residential Zone in the Draft LEP
Strategic Plan Link	Provide sustainable land use planning
Management Plan Project	Exhibit Draft LEP

Overview of Report

Council is in receipt of three (3) proposals to amend the current Lismore Local Environmental Plan (LEP) to allow the subject properties to be subdivided for rural residential development. The Department of Planning has advised that it is more appropriate to consider the proposals under the draft LEP and there is still the opportunity for this to occur prior to the Department issuing the exhibition certificate. This report outlines one (1) of the proposals at 275 Cameron Road, McLeans Ridges and recommends that Council include the subject in the R5 Large Lot Residential zone in the Draft Lismore LEP.

Background

At a Draft LEP workshop held August 25, 2009, staff outlined three (3) proposals to rezone land to allow rural residential subdivision, one (1) in McLeans Ridges, one (1) in Nimbin and one (1) in Tullera. The proposals were lodged under the current Lismore LEP 2000 to be processed as separate LEP amendments; however, the Department of Planning advised that it would not support any further amendments to the Lismore LEP 2000 as the preparation of the Draft LEP had commenced. Therefore, it is proposed that the submissions are considered for inclusion in the R5 Large Lot Residential zone in the Draft LEP.

Rezoning the sites to R5 Large Lot Residential would permit subdivision for rural residential development. The R5 Large Lot Residential zone is intended for development that provides for residential housing in a rural setting. The allocation of large lot rural residential land must be justified by a land release strategy. The sites are identified in Council's Rural Housing Strategy as potentially suitable for rural residential development. The number of lots created within the proposed rural residential subdivisions will be controlled through the application of a maximum lot yield for each development. This will be used in conjunction with a minimum lot size to restrict future subdivision potential.

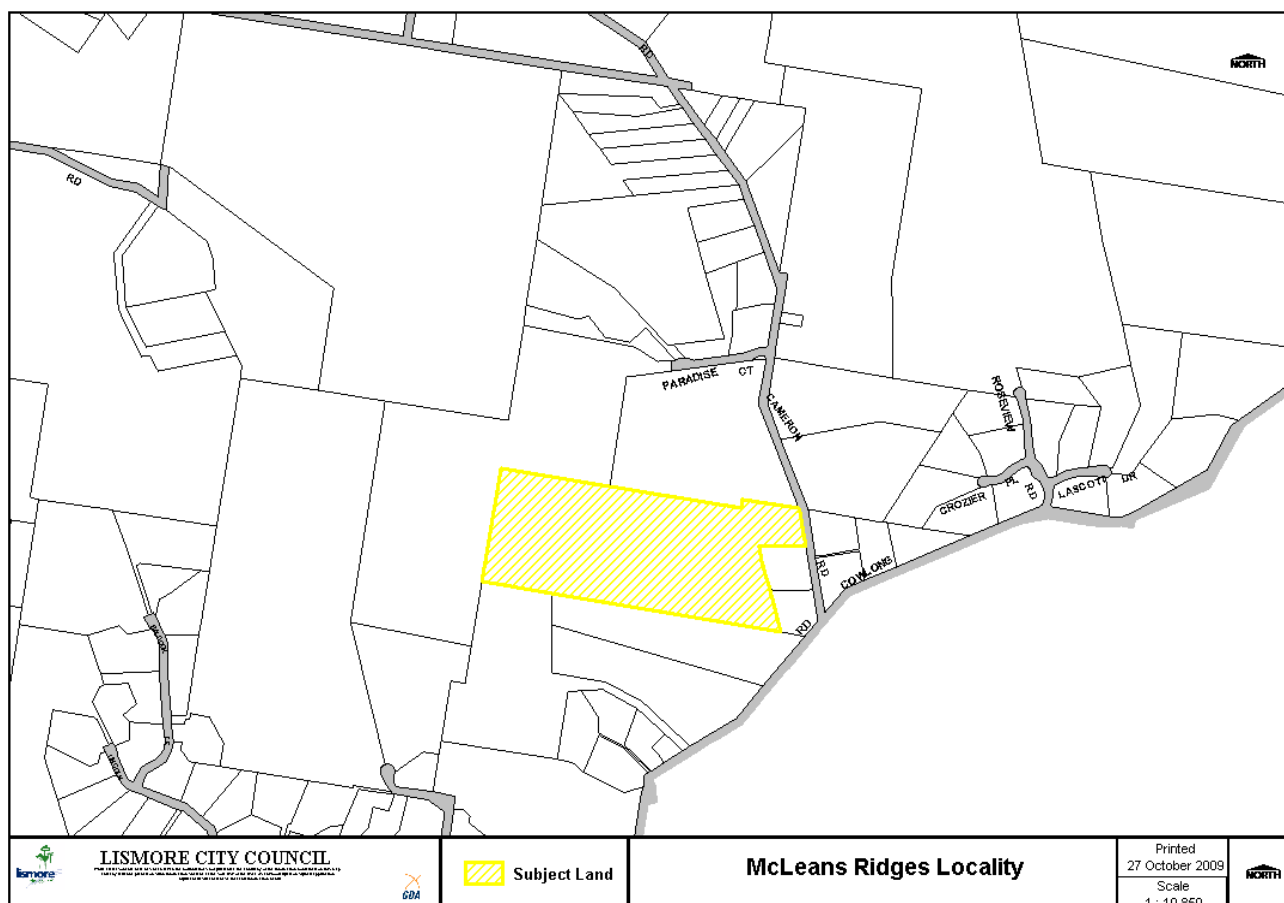
This report details one (1) of the three (3) rezoning submissions and provides an assessment against relevant state government and council planning policies.

Subject land	Lot 5 DP 827282 275 Cameron Road McLeans Ridges
Applicant	Newton Denny Chapelle
Owner	Mr A & Mrs N Bocchi
Proposal	Rezoning to R5 Large Lot Residential to allow rural residential subdivision for four (4) lots.

Description of the site

The subject property has a land area of 19.61ha. The property is currently occupied by a single rural dwelling, with access via Cameron Road. The property is zoned 1(a) General Rural. The property is surrounded by small rural allotments occupied with rural dwellings and larger agricultural holdings, used primarily for grazing and horticulture.

The topography of the site ranges from plateau level to steep ridgelines. A gully traverses the property in a north to south direction. The original vegetation on the site has been cleared and the property primarily consists of open pasture, with patches of re-growth forest. The western portion of the site supports rainforest re- growth and the most significant vegetation is located on the eastern bank of the waterway. The property contains two threatened species, namely Tinospora Vine and Fragrant Myrtle. The ROTAP (Rare or Threatened Australian Plants) listed Veiny Lace Flower is also located on the property.



Description of the proposal

The rezoning proposal was lodged with Council in September 2005. The subdivision layout would provide for four (4) rural residential lots, ranging in size from 4172m² to 5930m² and a rural residue lot with an area of 17.67ha. The existing dwelling would be sited on proposed Lot 1.

The proposed access is from Cameron Road by way of a 6m sealed common driveway, with an associated right of carriageway. The developer would be required to upgrade Cameron Road along the frontage of the property and provide monetary contributions toward the upgrade of Cowlong Road and Boatharbour Road.

Reticulated water and sewer are not available to the site. Water is to be provided via rainwater tanks for any future dwellings. The proposed allotments will also require on-site waste management systems to dispose of effluent. An assessment of the capability of the site to provide on-site waste management has been undertaken and the proposed allotments have a suitable area capable of supporting on-site waste management systems.

The proposal will provide for environmental enhancement, through weed control, exclusion fencing and native vegetation planting. The environmental enhancement works would be required to be carried out in accordance with the environmental rehabilitation plan submitted with the rezoning proposal.

A plan of the proposed lot layout is shown as Attachment 1.

Compliance with Lismore Rural Housing Strategy

The subject land is identified in the Rural Housing Strategy (RHS) as having potential for closer rural settlement. The rezoning submission is generally in accordance with the requirements outlined in the RHS. The proposal is within an area that has a number of rural residential and hobby farm subdivisions. A draft Planning Agreement will be prepared to ensure future subdivision is undertaken in accordance with the documentation submitted with the rezoning proposal. The Planning Agreement is discussed in more detail later in this report.

The identification of land in the Rural Housing Strategy means it is *eligible for consideration* for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Statutory Provisions

Threatened Species Conservation Act 1995

The property contains one species listed as 'vulnerable', and one species listed as 'endangered' under the *Threatened Species Conservation Act 1995*. The subdivision layout has been designed to ensure that there is no disturbance to the threatened species. An environmental rehabilitation plan has been prepared to address protection and conservation of the identified species.

North Coast Regional Environmental Plan (Deemed SEPP)

The relevant provisions of the NCREP applying to this Draft LEP Amendment are discussed below:

Clause 20 of the North Coast REP provides that Council is only able to prepare a draft local environmental plan permitting rural residential development where it has prepared a rural land release strategy for the whole of its area, and the draft plan is generally consistent with that strategy. The *Lismore Rural Housing Strategy 2002* is the relevant adopted and approved rural land release strategy and the proposal is consistent with that strategy.

Clause 45 of the North Coast REP provides that Council may only prepare a draft local environmental plan on land subject to bushfire hazard if an assessment of the hazard has been undertaken. A bushfire assessment report was submitted with the rezoning. The report demonstrates that the development can satisfy *Planning for Bushfire Protection 2006*.

Clause 14 of the North Coast REP applies to land containing rivers, streams, wetlands or fisheries habitats. The objectives of this clause are to enhance fishery habitats and associated catchments and to promote the sustainable use of natural resources. The proposed subdivision design provides sufficient setback of the lots from the watercourse located on the property. Rehabilitation within the riparian area is proposed in accordance with the vegetation management plan submitted with the proposal.

S117 Directions

The relevant 117 directions applying to this Draft LEP Amendment are discussed below

- **1.2 Rural Zones** – This direction restricts rezoning of land for rural residential purposes. Inconsistency with this direction is justified by the fact that the proposal is identified in the Lismore Rural Housing Strategy.
- **1.5 Rural Lands** – This direction requires that development in a rural zone must be consistent with the rural planning principles and the rural subdivision principles in State Environmental Policy (Rural Lands). The proposal is consistent with this direction.
- **4.4 Planning for Bushfire Protection** – The site is bushfire prone. A bushfire report has been provided with the rezoning submission and demonstrates compliance with *Planning for Bushfire Protection 2006*. The proposal is consistent with this direction
- **5.3 Farmland of State and Regional Significance on the NSW Far North Coast** – A small portion of the property is identified as state significant farmland. Inconsistency with this direction is justified by the fact that the proposal is justified by the Lismore Rural Housing Strategy.

State Environmental Planning Policies (SEPPs)

SEPP44 (Koala Habitat) – An assessment of the property was undertaken in accordance with SEPP44 requirements. The site does not contain core Koala habitat.

SEPP55 (Remediation of Land) – A Preliminary Contaminated Land Assessment was carried out on the site in accordance with SEPP 55 requirements and submitted with the rezoning proposal. The assessment determined that no further investigations were required at this stage as no potentially contaminating activities were identified as occurring on the site.

SEPP (Rural Lands) –The proposed rezoning is consistent with the rural planning principles as it provides opportunities for rural settlement in close proximity to existing rural residential development, the development can be adequately serviced and the development is in accordance with the Lismore Rural Housing Strategy. The proposal satisfies the rural subdivision principles. The development is not likely to increase the potential for rural land use conflict and the proposal is consistent with the surrounding small rural holdings. The proposal has been designed in accordance with the physical constraints of the land.

Development Control Plans (DCP) and Council Policies

DCP Part A: Chapter 11 - Buffers

The subject site contains a watercourse which will require buffers to comply with DCP Part A Chapter 11. The proposed layout for the site has been designed to ensure consistency with the provisions in Chapter 11.

DCP Part A: Chapter 6 Rural Subdivision

The proposal has been designed to ensure consistency with the provisions in Chapter 6 relating to rural subdivision.

On-Site Sewerage and Wastewater Management Strategy 2003 (Amended 2007)

The proposal was lodged in 2005 prior to an amendment to the On-Site Sewerage and Wastewater Management Strategy in 2007. The proposal was assessed under the previous strategy and was considered to satisfy the requirements of the strategy. The amendment to the strategy in 2007 increased the standards required for on-site waste management systems, which included the requirement for low-technology gravity fed systems.

The proposal has been subject to further assessment, and although it was given support under the previous strategy, it is recommended that on-site sewage management for each lot must endeavour to use only low technology gravity systems. If approved, this matter can be addressed at development application stage.

Preliminary Flora and Fauna Assessment and Environmental Management Plan Guidelines (2006)

The Flora and Fauna Assessment undertaken for the site identified two threatened species and several patches of rainforest re-growth on the western portion of the property. The vegetation management plan addresses weed control, fencing, riparian rehabilitation and buffers. The vegetation management plan is consistent with the requirements of the Rural Housing Strategy and the *Threatened Species Conservation Act 1995*.

Planning Agreement

If Council approves the proposal for inclusion in the draft LEP, a planning agreement will be drafted to ensure that:

- Any future development application for subdivision is generally in accordance with the plans that form part of the rezoning submission.
- Vegetation rehabilitation works are carried out in accordance with the vegetation management plan prepared by PLACE Environmental, including a bond of 130% of the total cost for the works, which is to be released upon the satisfactory completion and establishment of the works.
- Cameron Road is upgraded along the frontage of the property. The works are required prior to the release of any lot. Works shall be bonded to an amount of 130% and the bond shall be released upon the satisfactory completion of the works.
- There is only one (1) vehicular access to the subdivision in accordance with the proposal plan above.
- Consistent with the Planning Agreement that applies to LEP20 in Cameron Road, the following monetary contributions are made:
 - \$10,820 per lot towards the upgrade of Cowlong Road; and
 - \$2,366 towards the upgrade of Boatharbour Road; and
 - \$632 per lot towards the upgrade of McLeans Ridges Hall.

If approved for inclusion in the draft LEP, a draft Planning Agreement will be prepared prior to exhibition of the draft LEP. If the draft Planning Agreement is not signed by the land owner the land will not be included in the draft LEP.

Contributions towards Community Lot

If approved, the proposed subdivision will be subject to the local section 94 Contributions Plan currently being prepared to ensure the costs of the community lot in Cameron Road (LEP20) and the embellishments are distributed equitably across future rural residential development in the McLeans Ridges strategy area.

Comments

Financial Services

The application of LEP20 planning agreement conditions relating to monetary contributions and Community Lot S94 Contributions Plan to this proposal are supported.

Other staff comments

Council's Environmental Health section, Development Engineer and Lismore Water and Sewer have had input into the assessment of the proposals.

Public consultation

It is proposed that the rezoning submissions outlined in this report be included in the R5 Large Lot Residential zone in the Draft LEP. Consequently, the opportunity for public consultation on the rezoning proposals will occur in accordance with public consultation strategy for the Draft LEP. Prior to public consultation the rezoning proposals will be forwarded to the relevant government agencies and public authorities for comment.

Conclusion

The rezoning submission outlined in this report generally accords with the Lismore Rural Housing Strategy, North Coast Regional Environmental Plan, Section 117 Directions and the relevant Council DCPs and policies. The Planning Agreement for the proposed development will require any future subdivision and environmental rehabilitation works to be in accordance with the documents submitted with the rezoning documents. The Agreement will also require monetary contributions for the upgrade of Cowlong and Boatharbour Roads and the McLeans Ridges Hall. Community consultation on the draft proposal and draft planning agreement will occur at the same time as the consultation for the draft LEP. It is recommended that the subject site is included in the R5 Large Lot Residential Zone in the draft LEP.

While this report recommends that Council approve the rezoning of the land, it is also acknowledged that the identification of land in the Rural Housing Strategy means it is *eligible for consideration* for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Recommendation

That Council:

1. resolve to include the land at 275 Cameron Road, McLeans Ridges in the R5 Large Lot Residential Zone in the new comprehensive Local Environmental Plan consistent with the standard instrument, subject to the land owner signing a draft Planning Agreement that includes the matters detailed in this report.



<p>Client : A & N BOCCHI CAMERONS ROAD McLEANS RIDGES</p>	<p>NDC Newton Denny Chapelle Consulting Surveyors & Planners Email: office@newtondennychapelle.com.au</p>	<p>Lismore First Floor Molesworth House 186 Molesworth St. Lismore 2480 T: 66 221011 F: 66 224088 Casino 100 Barker St. Casino 2470 T & F: 66 625000</p>	<p>Amendments :</p> <table border="1"> <thead> <tr> <th>Date</th> <th>Changes</th> </tr> </thead> <tbody> <tr> <td>R 22.05.08</td> <td>LOTS 5 & 6 MERGED & DRIVEWAY ADDED</td> </tr> <tr> <td>S 13.11.08</td> <td>BOUNDARY BETWEEN LOTS 4 & 5 MOVED WEST</td> </tr> </tbody> </table>	Date	Changes	R 22.05.08	LOTS 5 & 6 MERGED & DRIVEWAY ADDED	S 13.11.08	BOUNDARY BETWEEN LOTS 4 & 5 MOVED WEST	<p>Project : PLAN OF PROPOSED BUILDING ENVELOPES, EFFLUENT DISPOSAL AREAS, SLOPES & BUFFER ZONES LOT 5 DP 827282</p>	<p>Scale 1:500 AT A1 Date: 13.11.08 Ref No. 04/5978</p>
Date	Changes										
R 22.05.08	LOTS 5 & 6 MERGED & DRIVEWAY ADDED										
S 13.11.08	BOUNDARY BETWEEN LOTS 4 & 5 MOVED WEST										

Report

Subject	Additional Inclusion in the Rural Residential Zone – 13 High Street, Nimbin
File No	EF09/821:ED09/17529
Prepared by	Strategic Planner
Reason	Receipt of rezoning submission and preparation of the Draft LEP.
Objective	Council's endorsement to include the rezoning proposal in the Draft LEP
Strategic Plan Link	Provide sustainable land use planning
Management Plan Project	Exhibit Draft LEP/LES

Overview of Report

Council is in receipt of three (3) proposals to amend the current Lismore Local Environmental Plan (LEP) to allow the subject properties to be subdivided for rural residential development. The Department of Planning has advised that it is more appropriate to consider the proposals under the draft LEP and there is still the opportunity for this to occur prior to the Department issuing the exhibition certificate. This report outlines one (1) of the proposals at 13 High Street, Nimbin and recommends that Council include the subject in the R5 Large Lot Residential zone in the Draft Lismore LEP.

Background

At a Draft LEP workshop held August 25, 2009, staff outlined three (3) proposals to rezone land to allow rural residential subdivision, one (1) in Nimbin, one (1) in Tullera, and one (1) in McLeans Ridges. The proposals were lodged under the current Lismore LEP 2000 to be processed as separate LEP amendments; however, the Department of Planning advised that it would not support any further amendments to the Lismore LEP 2000 as the preparation of the Draft LEP had commenced. Therefore, it is proposed that the submissions are considered for inclusion in the R5 Large Lot Residential zone in the Draft LEP.

Rezoning the sites to R5 Large Lot Residential would permit subdivision for rural residential development. The R5 Large Lot Residential zone is intended for development that provides for residential housing in a rural setting. The allocation of large lot rural residential land must be justified by a land release strategy. The sites are identified in Council's Rural Housing Strategy as potentially suitable for rural residential development. The number of lots created within the proposed rural residential subdivisions will be controlled through the application of a maximum lot yield for each development. This will be used in conjunction with a minimum lot size to restrict future subdivision potential.

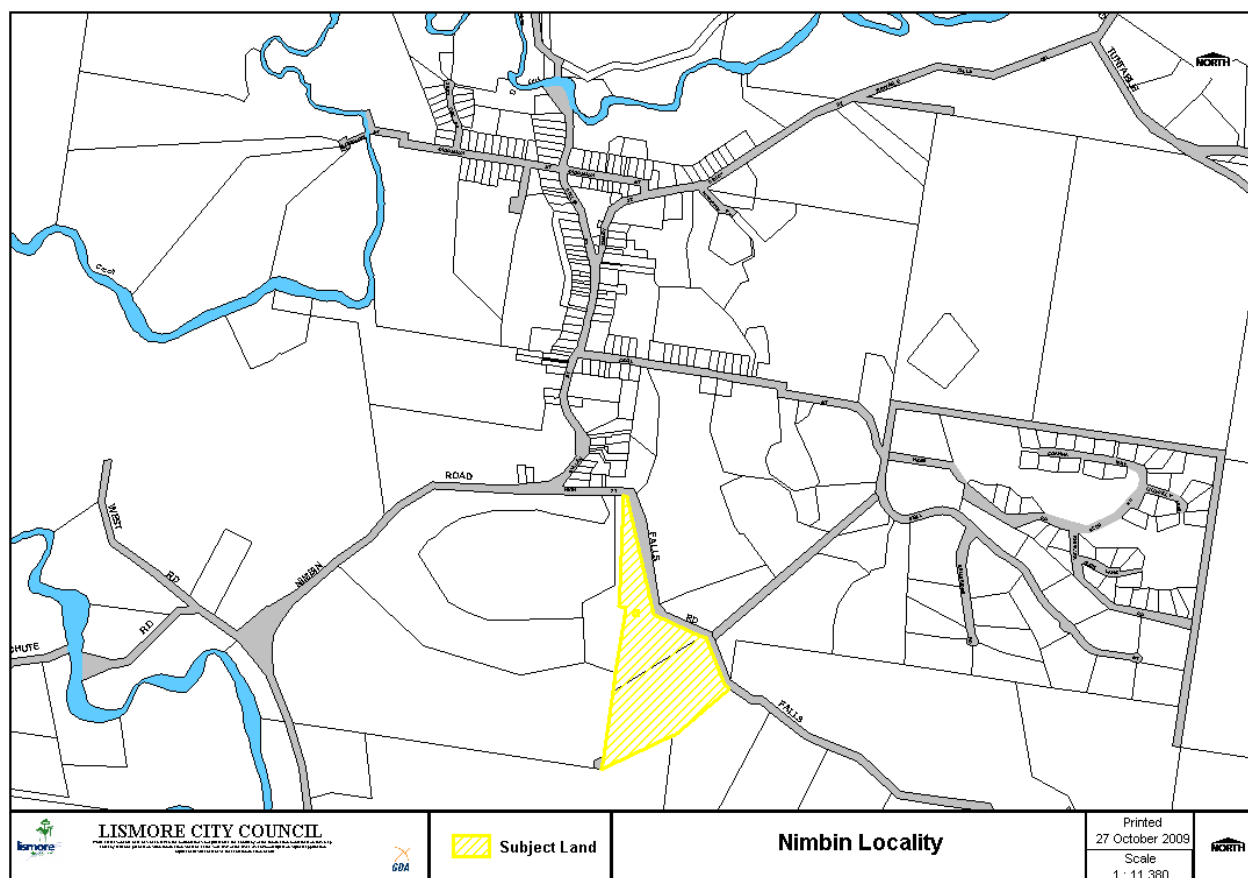
This report details one (1) of the three (3) rezoning submissions and provides an assessment against relevant state government and council planning policies.

Subject land	Lot 1 DP107523 and Lot 3 DP708400 13 High Street Nimbin
Applicant	Riordans Consulting Surveyors & Stephen Fletcher & Associates Pty Ltd/
Owner	Mr B W and Mrs S E Agnew
Proposal	R5 Large Lot Residential rezoning to allow subdivision to create four (4) rural residential lots.

Description of the site

The subject site comprises two (2) lots, with a total area of 4.293ha. Lot 1 DP107523 has an area of 148m² and contains an existing dwelling. Lot 1 is wholly contained within Lot 3 DP708400, which is vacant and has an area of 4.278ha. The site is located on High Street on the southern fringe of Nimbin village. High Street becomes Falls Road, an unsealed rural road, at the eastern boundary of the subject property. The land is zoned 1(a) General Rural zone. Surrounding land uses consist of village development, small rural holdings and limited agricultural activities. A multiple occupancy with 12 approved dwelling sites is situated on Lot 1 DP 227248 at the eastern end of Falls Road.

The topography of the site comprises undulating ridgelines and gullies. The site contains two watercourses, one located along the north-western property boundary and the other located in the southern portion of the property. Vegetation on the site is dominated by Camphor Laurel with an understory of dispersed native species. The vegetation is degraded and considered to be of low conservation value. No significant vegetation communities or threatened species were identified on the property.



Description of the proposal

The rezoning proposal was lodged with Council in January 2008. The proposal is to rezone land from Lismore City Council Meeting held 10 November 2009 - Inclusion in the Rural Residential Zone

1(a) General Rural to R5 Large Lot Residential in the Draft LEP. The proposed rezoning would allow subdivision to create four (4) rural residential lots, ranging in size from 3740m² to 1.77ha. Access to each lot would be from Falls Road, with access to proposed Lot 4 via a right of carriage way on lot 3. Falls Road would be required to be upgraded and sealed in accordance with Council standards.

Reticulated water and sewer are not available to the site. Therefore on-site waste management systems would be required. An on-site wastewater report was submitted with the proposal and the land is capable of supporting on-site waste management systems in accordance with Council policy. Water is to be provided via rainwater tanks for each future dwelling. However, due to the close proximity of the land to the Nimbin water reservoir potential may exist, with possible upgrading of the water supply system, to extend water supply to the proposed development. Alternatively, water tanks can be used to service the dwellings. These matters can be addressed at the development assessment stage.

The proposal includes environmental enhancement works as part of the development. The vegetation management plan submitted with the proposal provides for rainforest regeneration, weed eradication and monitoring within three (3) designated areas on the site totalling just under 1ha.

A plan showing the proposed lot layout is shown as Attachment 1.

Compliance with Lismore Rural Housing Strategy

The subject land is identified in the Rural Housing Strategy as having potential for closer rural settlement as it is in an area that will not constrain future expansion of Nimbin Village and is of lower agricultural value. The site is within cycling distance of Nimbin and is an area that is already substantially developed with rural residential, community title and hobby farm settlement forms. The rezoning submission is generally in accordance with the requirements outlined in the RHS, including the provision of environmental benefits through the proposed environmental enhancement works. A draft Planning Agreement will be prepared to ensure future subdivision is undertaken in accordance with the documentation submitted with the rezoning proposal. The Planning Agreement is discussed in later in this report.

The identification of land in the Rural Housing Strategy means it is *eligible for consideration* for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Statutory Provisions

Threatened Species Conservation Act, 1995

The Threatened Species Conservation Act outlines requirements for the protection of threatened species, populations and ecological communities in New South Wales. No threatened species were found on the property.

North Coast Regional Environmental Plan (Deemed SEPP)

The relevant provisions of the NCREP applying to this Draft LEP Amendment are discussed below:

Clause 20 of the North Coast REP provides that Council is only able to prepare a draft local environmental plan permitting rural residential development where it has prepared a rural land release strategy for the whole of its area, and the draft plan is generally consistent with that strategy. The Lismore Rural Housing Strategy 2002 is the relevant adopted and approved rural land release strategy and the proposal is consistent with that strategy.

Clause 45 of the North Coast REP provides that Council may only prepare a draft local environmental plan on land subject to bushfire hazard if an assessment of the hazard has been undertaken. A bushfire assessment report was submitted with the rezoning. The report demonstrates that the development can satisfy *Planning for Bushfire Protection 2006*.

Clause 14 of the North Coast REP applies to land containing rivers, streams, wetlands or fisheries habitats. The objectives of this clause are to enhance fishery habitats and associated catchments and to promote the sustainable use of natural resources. The proposed subdivision design provides sufficient setback of the building envelopes and effluent disposal areas from the two watercourses located on the property. Rehabilitation within the riparian areas is proposed in accordance with the vegetation management plan submitted with the proposal.

S117 Directions

The relevant section 117 directions applying to the proposal are discussed below:

- **1.2 Rural Zones** – This direction restricts rezoning of land for rural residential purposes. Inconsistency with this direction is justified by the fact that the land is identified in the Lismore Rural Housing Strategy.
- **1.5 Rural Lands** – This direction requires that development in a rural zone must be consistent with the rural planning principles and the rural subdivision principles in State Environmental Policy (Rural Lands). The proposal is consistent with this direction.
- **4.4 Planning for Bushfire Protection** – The site is bushfire prone. A bushfire report has been provided with the rezoning submission and demonstrates compliance with *Planning for Bushfire Protection 2006*. The proposal is consistent with this direction.
- **5.3 Farmland of State and Regional Significance on the NSW Far North Coast** does not apply to any land within or adjoining the proposal.

State Environmental Planning Policies (SEPPs)

SEPP44 (Koala Habitat) aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. An assessment of the site was undertaken in accordance with SEPP 44 requirements. The site does not contain core Koala habitat.

SEPP55 (Remediation of Land) requires consideration to be given to whether land is contaminated and if so, whether it is able to be used for the purpose proposed in a rezoning application. A Preliminary Contaminated Land Assessment was prepared for the site in accordance with SEPP 55 requirements. This assessment determined that no further investigations were required at this stage as no potentially contaminating activities were identified as occurring on the site.

SEPP (Rural Lands) requires development on rural land to satisfy the rural planning principles and the rural subdivision principles. The proposed rezoning is consistent with the rural planning principles as it provides opportunities for rural settlement that will contribute to the social and economic welfare of Nimbin. The development can be adequately serviced and the proposed development is in accordance with the Lismore Rural Housing Strategy. The proposal also satisfies the rural subdivision principles as the development is not likely to increase the potential for rural land use conflict. The proposal is consistent with the surrounding settlement pattern and has been designed in accordance with the physical constraints of the land.

Development Control Plans (DCP) and Council Policies

DCP Part A: Chapter 11 - Buffers

The subject site contains two watercourses which require buffers to comply with DCP Part A Chapter 11. The proposed layout for the site has been designed to ensure consistency with the provisions in DCP Part A Chapter 11.

DCP Part A: Chapter 4 and 6 Subdivision

The proposal has been designed to ensure consistency with the provisions in Chapter 4 and Chapter 6

relating to rural subdivision.

On-site Sewerage and Wastewater Management Strategy (2003)

The On-Site Wastewater Assessment prepared by Ecotechnology Australia, demonstrates that the site is capable of providing on-site sewage systems in accordance with Council's On-Site Sewerage and Wastewater Management Strategy. The proposed allotments can be serviced by sustainable on-site sewage management systems.

Council's Compliance (Environmental Health) section is satisfied that the relevant issues have been addressed for on-site effluent disposal.

Preliminary Flora and Fauna Assessment and Environmental Management Plan Guidelines (2006)

The Flora and Fauna Assessment undertaken on the property did not identify any threatened species or significant vegetation communities. The majority of the site has been previously cleared and mature vegetation present is dominated by Camphor Laurel.

The vegetation management plan addresses for weed control, buffers and revegetation on the site. The vegetation management plan is in accordance with the requirements of the Rural Housing Strategy.

Planning Agreement

A planning agreement will be required for the proposed development. The terms of the proposed Planning Agreement will be:

- Any future development application for subdivision to be generally in accordance with the plans that form part of the rezoning submission.
- A requirement that the vegetation rehabilitation works are to be carried out in accordance with the vegetation management plan prepared by Greenloaning Biostudies Pty Ltd, including a bond of 130% of the total cost for the works, which is to be released upon the satisfactory completion and establishment of the works.
- A requirement for the upgrade of Falls Road along the frontage of the property. The road works are required prior to the release of any lot. Works shall be bonded to an amount of 130%. The bond shall be released upon satisfactory completion of the works.

If approved for inclusion in the draft LEP, a draft Planning Agreement will be prepared prior to exhibition of the draft LEP. If the draft Planning Agreement is not signed by the land owner the land will not be included in the draft LEP.

Comments

Financial Services

As all required road upgrading works are to be funded by the developers through the proposed Planning Agreement there are no financial implications for Council.

Other staff comments

Council's Environmental Health and Building section, Development Engineer and Lismore Water and Sewer have had input into the assessment of the proposal.

Public consultation

It is proposed that the rezoning submission outlined in this report be included in the R5 Large Lot Residential zone in the Draft LEP. Consequently, the opportunity for public consultation on the rezoning proposal will occur in accordance with public consultation strategy for the Draft LEP. However, prior to public consultation, the rezoning proposal will be forwarded to the relevant government agencies and public authorities for comment.

Conclusion

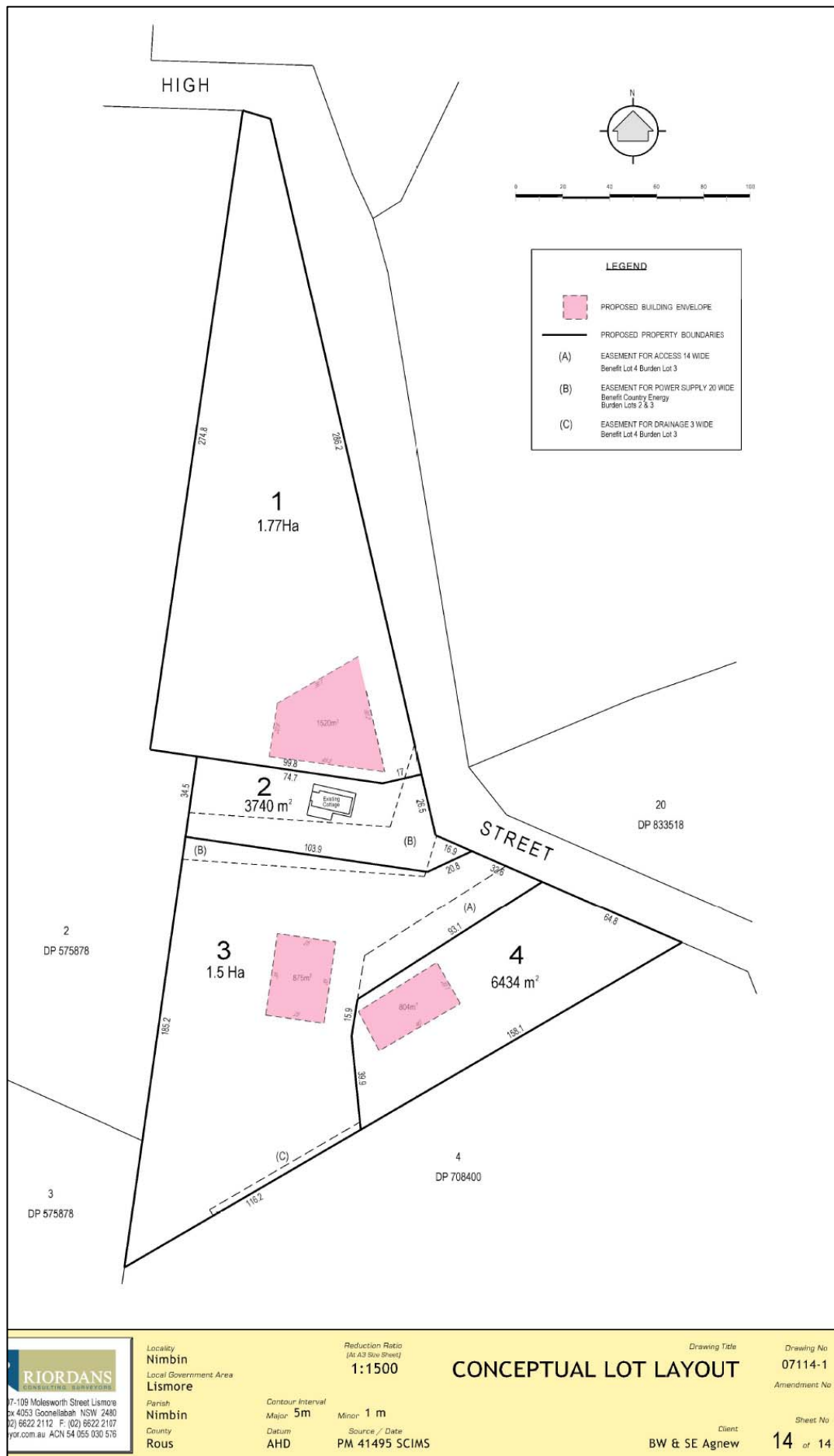
The rezoning proposal is in accordance with the Rural Housing Strategy, North Coast Regional Environmental Plan, Section 117 Directions and Council plans and policies. The draft Planning Agreement will require any future subdivision and environmental rehabilitation works to be generally in accordance with the documents submitted with the rezoning proposal. The draft Planning Agreement will also require road upgrading works to be undertaken as part of the development. Therefore, it is recommended that Council resolve to include the rezoning proposal in the Draft LEP.

While this report recommends that Council approve the rezoning of the land, it is also acknowledged that the identification of land in the Rural Housing Strategy means it is eligible for consideration for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Recommendation

That Council:

1. resolve to include the land at 13 High Street, Nimbin in the R5 Large Lot Residential zone in the new comprehensive Local Environmental Plan consistent with the Standard Instrument, subject to the land owner signing a draft Planning Agreement that includes the matters detailed in this report.



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Locality: **Nimbin**
 Local Government Area: **Lismore**
 Parish: **Nimbin**
 County: **Rous**

Reduction Ratio (As A3 Size Sheet): **1:1500**

Contour Interval: Major **5m**, Minor **1 m**
 Datum: **AHD**, Source / Date: **PM 41495 SCIMS**

Drawing Title: **CONCEPTUAL LOT LAYOUT**

Drawing No: **07114-1**
 Amendment No:

Client: **BW & SE Agnew**

Sheet No: **14** of 14

Report

Subject	Proposed Addition to Large Lot Residential Zone in the Draft Local Environmental Plan – 357 Dunoon Road, Tullera
File No	EF09/821:ED09/17531
Prepared by	Strategic Planner and Acting Manager, Integrated Planning
Reason	Receipt of Rezoning Submission and Preparation of the Draft Local Environmental Plan
Objective	Council endorsement to include the subject land in the Large Lot Residential Zone in the Draft LEP
Strategic Plan Link	Provide sustainable land use planning
Management Plan Project	Exhibit Draft LEP

Overview of Report

Council is in receipt of three (3) proposals to amend the current Lismore Local Environmental Plan (LEP) to allow the subject properties to be subdivided for rural residential development. The Department of Planning has advised that it is more appropriate to consider the proposals under the draft LEP and there is still the opportunity for this to occur prior to the Department issuing the exhibition certificate. This report outlines one (1) of the proposals at 357 Dunoon Road, Tullera and recommends that Council include the subject in the R5 Large Lot Residential zone in the Draft Lismore LEP.

Background

At a Draft LEP workshop held August 25, 2009, staff outlined three (3) proposals to rezone land to allow rural residential subdivision, one (1) in Tullera, one (1) in Nimbin, and one (1) in McLeans Ridges. The proposals were lodged under the current Lismore LEP 2000 to be processed as separate LEP amendments; however, the Department of Planning advised that it would not support any further amendments to the Lismore LEP 2000 as the preparation of the Draft LEP had commenced. Therefore, it is proposed that the submissions are considered for inclusion in the R5 Large Lot Residential zone in the Draft LEP.

Rezoning the sites to R5 Large Lot Residential would permit subdivision for rural residential development. The R5 Large Lot Residential zone is intended for development that provides for residential housing in a rural setting. The allocation of large lot rural residential land must be justified by a land release strategy. The sites are identified in Council's Rural Housing Strategy as potentially suitable for rural residential development. The number of lots created within the proposed rural residential subdivisions will be controlled through the application of a maximum lot yield for each development. This will be used in conjunction with a minimum lot size to restrict future subdivision potential.

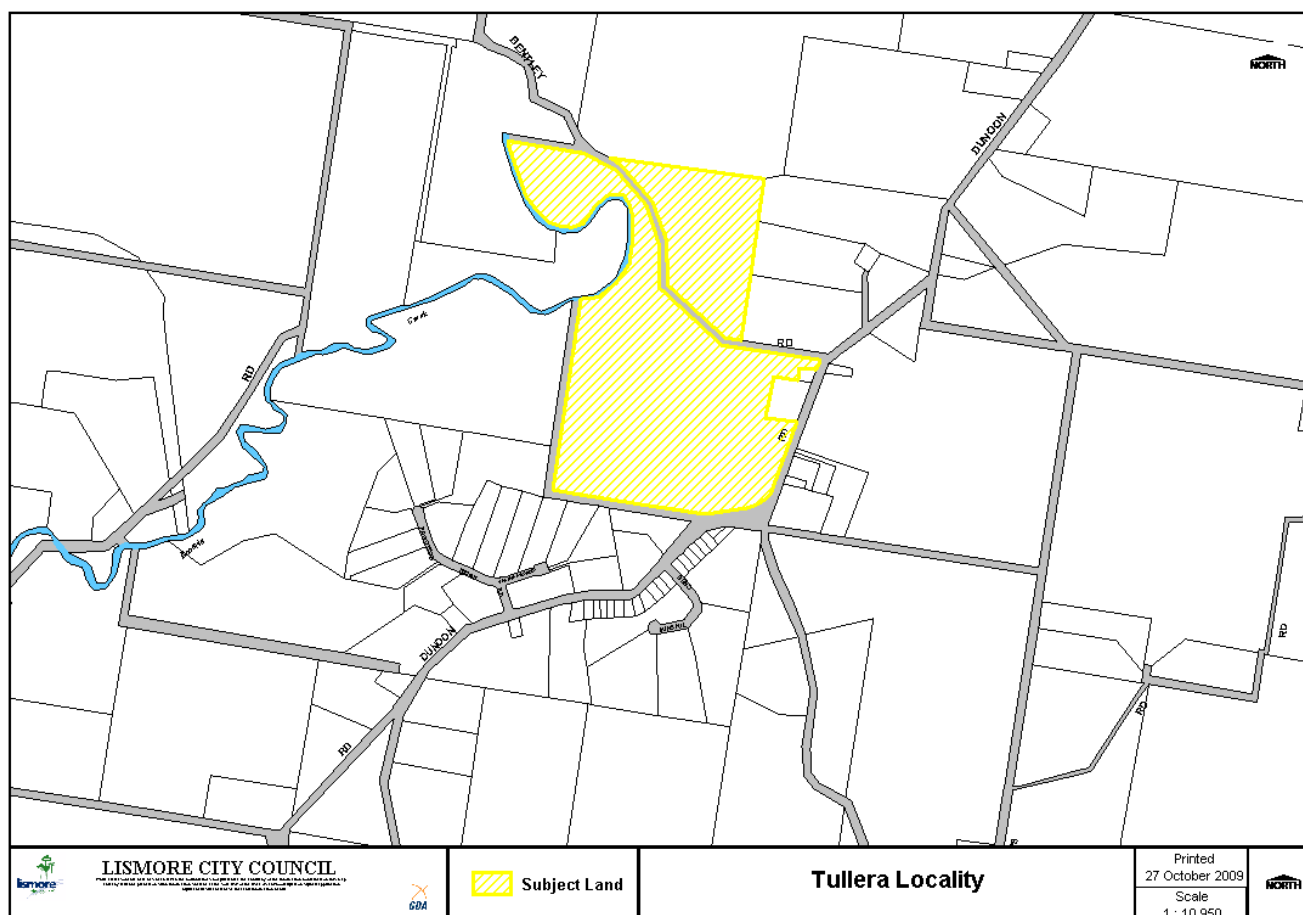
This report details one (1) of the three (3) rezoning submissions and provides an assessment against relevant state government and council planning policies.

Subject land	Lot 21 DP 1031582 357 Dunoon Road Tullera
Applicant	Newton Denny Chapelle
Owner	Mr G Troy
Proposal	Rezoning to R5 Large Lot Residential to allow rural residential subdivision for five (5) lots.

Description of the site

The subject property has a land area of 35.06ha. The property is bordered by Dunoon Road to the east and Bently Road to the north. An unnamed road reserve borders the property to the south and west. The property contains an existing dwelling and associated farm buildings. The property is zoned 1(a) General Rural and 1(b) Agricultural zone. The settlement of Tullera is located directly to the south of the site. The property is surrounded by rural residential development, small rural holdings and larger rural properties used primarily for grazing purposes.

The topography of the site consists of a ridgeline on the eastern boundary, which slopes away steeply to the west. The site has been cleared of its original vegetation and consists primarily of pasture land with scattered re-growth vegetation. The vulnerable species *Tinospora* vine and endangered species Thorny Pea, listed under the *Threatened Species Conservation Act 1995* were recorded on the site. A highly disturbed endangered ecological community (EEC) was also located on the property.



Description of the proposal

The rezoning proposal was lodged with Council in November 2007. The subdivision layout would provide for five (5) rural residential lots ranging in size 4,885m² to 9275m² and a rural residue lot with an area of 33.48ha. The existing dwelling will be sited on proposed Lot 4. The unnamed road reserve on the southern and western property boundary will be required to be closed as part of the development. This is required as the subject property adjoins an existing rural residential development, and it is not considered appropriate, or good planning practice, to allow an unformed road reserve to separate the two developments. The proponent would be required to close the road and acquire the land for inclusion in the proposed development.

The subdivision design submitted with the proposal provides for five (5) rural residential lots configured along the frontage of Dunoon Road. The proposed lots would have direct vehicular access to Dunoon Road. The Rural Housing Strategy does not permit direct vehicular access to a State, Regional or Main road. Dunoon Road is a main road; and therefore, the development is not consistent with this provision in the strategy. An exception to this requirement may be justified on the basis that Dunoon Road is reduced to a 50km/h speed limit through Tullera and the development site is located within the 50km/h urban speed limit.

The proposed allotments would require on-site waste management systems as sewer is not available to the site. An assessment of the suitability of the site for on-site waste management systems has been undertaken, and submitted with the proposal, which demonstrates that the site can support on-site waste management systems. Water is to be provided by rainwater tanks for any future dwellings.

The proposal will provide for environmental enhancement, through the implementation of three (3) management zones. Two of the management zones will provide protection for the threatened species on the property through exclusion fencing. The third management zone will provide riparian rehabilitation works in three (3) designated areas. The environmental enhancement works would be required to be carried out in accordance with the environmental rehabilitation plan.

A plan of the proposed lot layout is shown as Attachment 1.

Compliance with Lismore Rural Housing Strategy

The subject land is identified in the Rural Housing Strategy (RHS) as having potential for closer rural settlement. The rezoning submission is generally in accordance with the requirements outlined in the RHS. The proposal is within an area that contains established rural residential development and is located adjacent to existing rural residential allotments and hobby farm settlement forms. A draft Planning Agreement will be prepared to ensure future subdivision is undertaken in accordance with the documentation submitted with the rezoning proposal. The Planning Agreement is discussed in more detail later in this report.

The identification of land in the Rural Housing Strategy means it is *eligible for consideration* for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Statutory Provisions

Threatened Species Conservation Act 1995

The vulnerable Tinospora vine and endangered Thorny Pea, listed under the *Threatened Species Conservation Act 1995* were recorded on the property. An endangered ecological community (EEC) "Lowland Subtropical Rainforest in NSW North Coast and Sydney Bioregions" was identified on the property. The area proposed for development is located on clear pasture land and the subdivision layout has been designed to ensure that there is no disturbance to threatened species or EEC. An environmental management plan has been prepared for the development to address protection and conservation of the threatened species and rehabilitation of the EEC.

North Coast Regional Environmental Plan (Deemed SEPP)

The relevant provisions of the NCREP applying to this Draft LEP Amendment are discussed below:

Clause 20 of the North Coast REP provides that Council is only able to prepare a draft local environmental plan permitting rural residential development where it has prepared a rural land release strategy for the whole of its area, and the draft plan is generally consistent with that strategy. The *Lismore Rural Housing Strategy 2002* is the relevant adopted and approved rural land release strategy and the proposal is consistent with that strategy.

Clause 45 of the North Coast REP provides that Council may only prepare a draft local environmental plan on land subject to bushfire hazard if an assessment of the hazard has been undertaken. A bushfire assessment report was submitted with the rezoning. The report demonstrates that the development can satisfy *Planning for Bushfire Protection 2006*.

Clause 14 of the North Coast REP applies to land containing rivers, streams, wetlands or fisheries habitats. The objectives of this clause are to enhance fishery habitats and associated catchments and to promote the sustainable use of natural resources. The proposed subdivision design provides sufficient setback of the lots from the watercourse located on the property. Environmental rehabilitation is proposed within three (3) management zones on the property in accordance with the vegetation management plan submitted with the proposal.

S117 Directions

The relevant 117 directions applying to this Draft LEP Amendment are discussed below

- **1.2 Rural Zones** – This direction restricts rezoning of land for rural residential purposes. Inconsistency with this direction is justified by the fact that the proposal is identified in the Lismore Rural Housing Strategy.
- **1.5 Rural Lands** – This direction requires that development in a rural zone must be consistent with the rural planning principles and the rural subdivision principles in State Environmental Policy (Rural Lands). The proposal is consistent with this direction.
- **4.4 Planning for Bushfire Protection** – The site is bushfire prone. A bushfire report has been provided with the rezoning submission and demonstrates compliance with *Planning for Bushfire Protection 2006*. The proposal is consistent with this direction
- **5.3 Farmland of State and Regional Significance on the NSW Far North Coast** – A small portion of the property is identified as state significant farmland. Inconsistency with this direction is justified by the fact that the proposal is justified by the Lismore Rural Housing Strategy.

State Environmental Planning Policies (SEPPs)

SEPP44 (Koala Habitat) – An assessment of the property was undertaken in accordance with SEPP44 requirements. The site does not contain core Koala habitat.

SEPP55 (Remediation of Land) – A Preliminary Contaminated Land Assessment was carried out on the site in accordance with SEPP 55 requirements and submitted with the rezoning proposal. The assessment determined that no further investigations were required at this stage as no potentially contaminating activities were identified as occurring on the site.

SEPP (Rural Lands) –The proposed rezoning is consistent with the rural planning principles as it provides opportunities for rural settlement in close proximity to existing rural residential development, the development can be adequately serviced and the development is in accordance with the Lismore Rural Housing Strategy. The proposal satisfies the rural subdivision principles. The development is not likely to increase the potential for rural land use conflict and the proposal is consistent with the surrounding small rural holdings. The proposal has been designed in accordance with the physical constraints of the land.

Development Control Plans (DCP) and Council Policies

DCP Part A: Chapter 11 - Buffers

The subject site contains a watercourse which will require buffers to comply with DCP Part A Chapter 11.

The proposed layout for the site has been designed to ensure consistency with the provisions in Chapter 11.

DCP Part A: Chapter 6 Rural Subdivision

The proposal has been designed to ensure consistency with the provisions in Chapter 6 relating to rural subdivision.

On-Site Sewerage and Wastewater Management Strategy 2003 (Amended 2007)

Council's On-Site Sewerage and Wastewater Management Strategy requires on-site wastewater systems be low technology gravity fed. An assessment of the suitability of the site for on-site wastewater systems was undertaken and submitted with the proposal. The site is considered to be capable of supporting on-site waste management systems in accordance with Council policy.

Council's Environmental Health section is satisfied that the relevant issues have been addressed for on-site effluent disposal.

Preliminary Flora and Fauna Assessment and Environmental Management Plan Guidelines (2006)

The Flora and Fauna Assessment undertaken for the site identified two threatened species and several patches of scattered rainforest re-growth on the property. The vegetation management plan addresses weed control, exclusion fencing for threatened species, riparian rehabilitation and buffers. The vegetation management plan is consistent with the requirements of the Rural Housing Strategy and the *Threatened Species Conservation Act 1995*.

Planning Agreement

A planning agreement will be required to ensure that:

- Any future development application for subdivision is generally in accordance with the plans that form part of the rezoning submission.
- Vegetation rehabilitation works are carried out in accordance with the vegetation management plan prepared by PLACE Environmental, including a bond of 130% of the total cost for the works, which is to be released upon the satisfactory completion and establishment of the works.

If approved for inclusion in the draft LEP, a draft Planning Agreement will be prepared prior to exhibition of the draft LEP. If the draft Planning Agreement is not signed by the land owner the land will not be included in the draft LEP.

Comments

Financial Services

Not required.

Other staff comments

Council's Environmental Health and Building section, Development Engineer and Lismore Water and Sewer have had input into the assessment of the proposals.

Public consultation

It is proposed that the rezoning submissions outlined in this report be included in the R5 Large Lot Residential zone in the Draft LEP. Consequently, the opportunity for public consultation on the rezoning proposals will occur in accordance with public consultation strategy for the Draft LEP. However, prior to public consultation the rezoning proposals will be forwarded to the relevant government agencies and public authorities for comment.

Conclusion

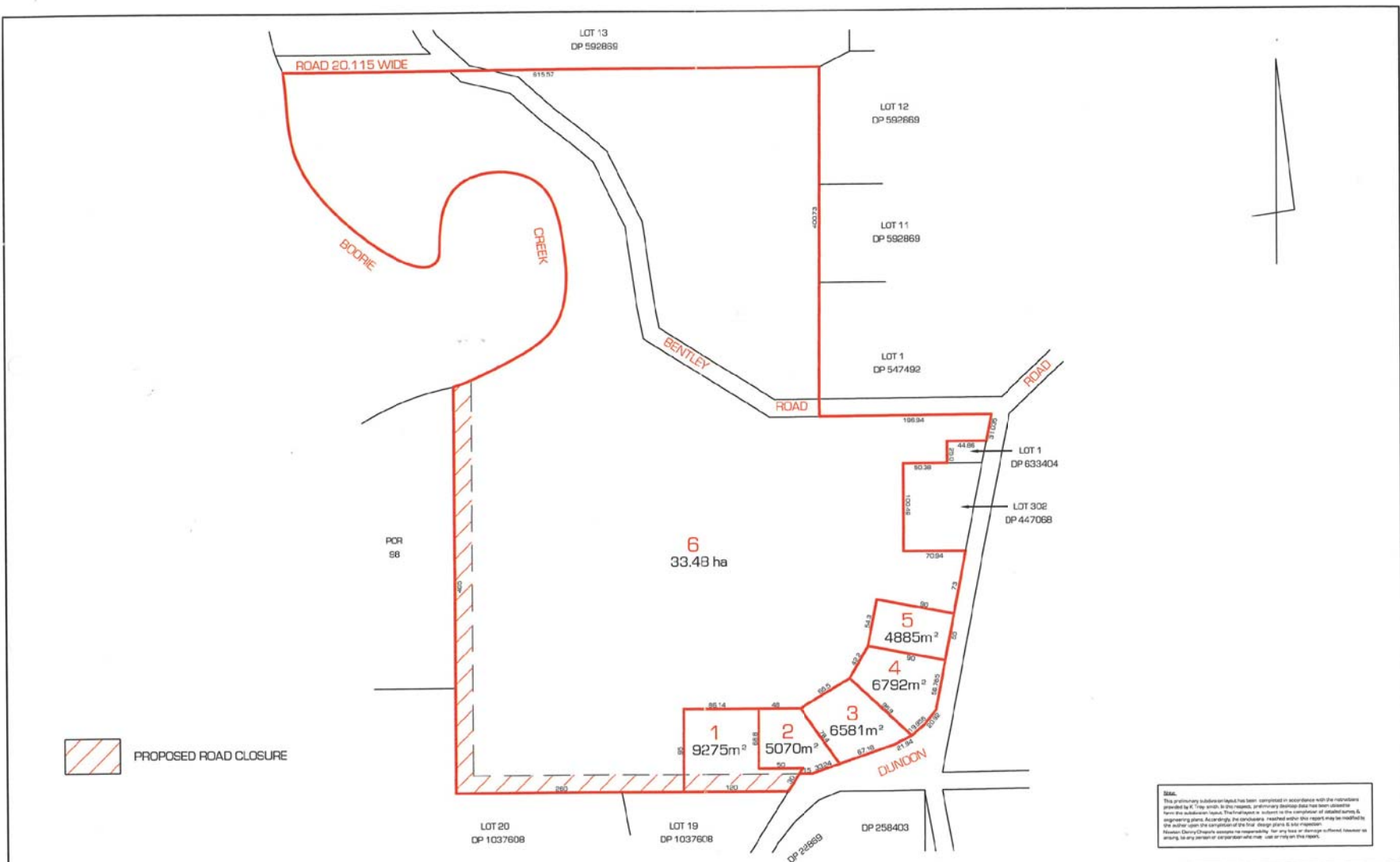
The rezoning proposal is in accordance with the Rural Housing Strategy, North Coast Regional Environmental Plan, Section 117 Directions and Council plans and policies. The draft Planning Agreement will require any future subdivision and environmental rehabilitation works to be generally in accordance with the documents submitted with the rezoning proposal. The draft Planning Agreement will also require road upgrading works to be undertaken as part of the development. Therefore, it is recommended that Council resolve to include the rezoning proposal in the Draft LEP.

While this report recommends that Council approve the rezoning of the land, it is also acknowledged that the identification of land in the Rural Housing Strategy means it is *eligible for consideration* for rezoning and subsequent development. Therefore, while the subject site satisfies the requirements of the Strategy, its approval for rezoning is still at the discretion of Council.

Recommendation

That Council:

1. resolve to include the land at 357 Dunoon Road, Tullera in the R5 Large Lot Residential zone in the new comprehensive Local Environmental Plan consistent with the Standard Instrument, subject to the land owner signing a draft Planning Agreement that includes the matters detailed in this report.



Client:
K TROY-SMITH & GT TROY
 DUNOON ROAD
 TULLERA

NDG
Newton Denny Chapelle
 Consulting Surveyors & Planners
 Email: office@newtondennychapelle.com.au

Lismore
 First Floor Molesworth House
 186 Molesworth St. Lismore 2480
 T: 66 2210111 F: 66 2240888
 Casino
 100 Barker St. Casino 2470
 T & F : 66 625000

Amendments :	
Date	Changes
G 26.03.08	HANDLE ADDED TO LOT 1
H 13.11.08	ROAD PROPOSED TO BE CLOSED
	ADDED

Project :
PLAN 3.2
SUBDIVISION LAYOUT
LOT 21 DP 1031582
DUNOON ROAD TULLERA

Date: 13.11.08
 Scale 1:4000
 Ref No. 05/030H

Report

Subject	Comprehensive State of the Environment Report (SoE) 2008-2009
File No	EF09/1707:ED09/17239
Prepared by	Acting Coordinator, Environmental Strategies and Acting Manager, Integrated Planning
Reason	Presentation of Council's comprehensive State of the Environment (SoE) Report 2008-2009
Objective	To present the comprehensive SoE Report 2008-2009 for Council to note to satisfy the Department of Local Government's reporting requirements
Strategic Plan Link	Protect, Conserve and Enhance the Environment and Biodiversity
Management Plan Project	Natural Resource Management

Overview of Report

The *Local Government Act 1993* requires Council to prepare a comprehensive State of the Environment Report (SoE) every five (5) years and a Supplementary Report every other year. The Lismore SoE 2008-2009 is a comprehensive report. An SoE is considered to meet legislative requirements when Council has considered relevant guidelines and directions issued by the Director General, consulted the community (including environmental groups) and produced a report readily understandable by the community. These requirements have been met and the comprehensive SoE 2008-2009 is presented to Council for noting prior to submission to the Department of Local Government. A copy of the Executive Summary of the comprehensive SoE 2008-2009 is attached to this report. A disc containing a full copy of the SoE Report has been provided to Councillors separately.

Background

In accordance with annual reporting requirements under the *Local Government Act 1993* (the Act), Council has produced its annual State of the Environment (SoE) Reports since 1996. Under the *Local Government (General) Regulation 2005* (the Regulation), the first SoE report of a council for the year after each local government election must be a comprehensive state of the environment report. This means that a comprehensive SoE Report is required every five years, with the last one prepared by Council in 2004. It is therefore time to prepare the five yearly comprehensive report. The Department of Local Government requires the report to be submitted by November 30, 2009.

The Act includes principles to guide Councils in carrying out their functions, including the proper management, development, protection, restoration, enhancement and conservation of the environment in a manner consistent with the principles of ecologically sustainable development. These principles are closely linked to the requirements under the Act for Councils to prepare SoE Reports that:

- assess changes in the condition (or state) of the natural environment over time and the human pressures placed upon it; and
- assess Council's response to those pressures by enacting Council's legislative responsibilities and implementing various projects and initiatives with the community and with other partners.

Pursuant to Clause 222 of the Regulation, a comprehensive SoE report meets the requirements of the clause if it:

- (a) provides, as a basis for comparison in subsequent reports, a statement outlining the condition (as at the date of the report) of each environmental sector,
- (b) makes the relevant comparison with the equivalent statement contained in the last report,
- (c) includes (or refers to) all relevant background information,
- (d) specifies the relevant environmental indicators,
- (e) reports on all major environmental impacts and related activities,
- (f) identifies any gaps in relevant information and indicates the way in which the missing information is to be obtained (or, if it cannot be obtained, why it cannot be obtained).

Council's comprehensive SoE Report 2008-2009, a copy of which has been provided to Councillors on disc, satisfies the above requirements. The Executive Summary is attached to this report. The SoE report is presented to Council for noting prior to submitting it to the Department of Local Government.

Public Consultation

Clause 220 of the Regulation requires the council, in preparing the SoE report, to:

- (a) consult the community (including environmental groups),
- (b) involve the community (including environmental groups) in monitoring changes to the environment over time, and
- (c) produce the report in a form that is readily understandable by the general community.

In preparing the comprehensive SoE 2008-2009 community consultation was undertaken through:

- an advertisement in the Northern Rivers Echo inviting the community to complete an on-line survey and/or make a written submission;
- a letter to community groups that had made submissions on previous SoE reports; and
- liaising with members of the Sustainable Environment Policy Advisory Group (SEPAG) to obtain their input and comments.

Three online survey responses were received by individuals and two written submission were received by Friends of the Koala and WIRES Northern Rivers.

Summary of issues raised (full submissions attached)

On-line Survey

Whilst the survey facilitated an easy method of community input to the SoE the low number of responses received did not allow for a meaningful summary of the responses.

Friends of the Koala (FoK)

- Need for data on location of koala populations, trends in populations and impacts of threats
- Need for a Comprehensive Koala Plan of Management.

WIRES Northern Rivers

- Lismore City Council (LCC) employ a Biodiversity Officer
- LCC undertake an Local Government Area (LGA) wide native fauna study and map known threatened species locations
- Include more detail on native fauna in the Draft Strategic Companion Animals Management Plan
- Update and toughen enforcement and education system to include attacks on native wildlife
- LCC to liaise with WIRES and other wildlife groups to ascertain location of known wildlife blackspots on regional roads
- Erect Wildlife road signs at known regional wildlife blackspots
- Continue regeneration of Currie Park
- Erect flying-fox interpretive signage at Rotary Park
- Include enforcement issues in duties of a new Biodiversity Officer

- Enhance existing regional and state corridors and link to neighbouring Shires corridors.
- Extend LCC's Tree Preservation Order (TPO) to include all wildlife corridors
- LCC to liaise with WIRES and the other wildlife groups to map known locations of threatened species within the Local Government Area (LGA)
- LCC to produce a series of promotional/educational brochures identifying the threatened species of the LGA. This material should also encourage habitat protection
- All new subdivisions to include a wildlife corridor. These corridors would ideally be sited around drainage lines such as gullies or watercourses and or follow existing wildlife corridors. Latest research indicates that to be effective a corridor needs to be a minimum of 50m wide
- Habitat trees need to be identified and retained in all new subdivisions
- Council to promote and encourage the topping and lopping of trees in existing subdivisions rather than the complete removal of trees
- Ensure a Threatened Species Impact Statement (SIS) is submitted with appropriate Development Applications
- Amend the SoE to include the importance of all threatened species within the LGA
- Update the LCC website on Native Fauna to include lists of the threatened species and the native wildlife that may be encountered within the LGA.

Response to issues raised

- Some of the issues raised by FoK and WIRES have been, or will be addressed through the recent changes to the Council's organisation structure, in particular the creation of the Integrated Planning section, which includes an Ecologist's position. The duties of this position are yet to be finalised but it is anticipated that the Ecologist will pursue the mapping of native flora and fauna (including Koalas and subject to appropriate funding) and, subsequent to that, the preparation of a Biodiversity Conservation Strategy that will include a comprehensive Koala Plan of Management
- Where appropriate, habitat trees are identified and retained in new subdivisions
- Species Impact Statements are currently submitted where required
- Wildlife corridors are proposed as an overlay map in the draft LEP. Extending the current TPO to rural land may conflict with the *Native Vegetation Act 2003* but this issue needs further consideration.
- The SoE includes a full list of threatened species within the LGA
- Recommendations received from Friends of the Koala regarding koala management have been included in the SoE report.
- Recommendations received from WIRES, including suggestions for signage, additional detail on native fauna in the Draft Strategic Companion Animals Management Plan, will be given further consideration through the restructure and 4-year Delivery Plan. Some matters have budget implications.

Conclusion

The comprehensive State of the Environment Report 2008-2009 assesses the changes in the condition of the natural environment for the previous five years and registers the responses to those changes. During the preparation of the report consultation occurred with SEPAG, community groups and the broader community. The report is presented for Council to note and to comply with annual reporting requirements under the *Local Government Act 1993*.

Recommendation

That Council:

1. Note the comprehensive State of the Environment Report 2008-2009 and its distribution to the Department of Local Government.
2. Thank in writing the Friends of the Koalas and WIRES Northern Rivers for their valued input into the State of the Environment Report 2008/2009.

Executive Summary – Comprehensive State of the Environment Report 2008-2009

This report is the first comprehensive State of the Environment (SoE) report for Lismore City Council (LCC) since 2004. All local governments in NSW are required to produce a comprehensive SoE each year after a new council is elected. This report is based on the pressure-state-response model and uses a range of indicators to monitor trends in the environment since 2004. Future SoE reporting will be streamlined in accordance with NSW Planning and Reporting Reforms.

Council, in cooperation with other agencies and the community, has made significant progress in some areas of environmental management since 2004. Major areas include management of acid sulphate soils and contaminated lands, the restoration of Council bushland reserves, the management and treatment of wastewater, reduction in per capita water demand, actions to mitigate climate change and the amount of waste recycled.

These improvements, however, are offset by increasing fundamental pressures of population growth and human settlement, which means that the increasing demand for natural resources, the removal of natural habitat and production of waste, will continue to degrade the environment. As resources such as land, water and fossil fuels become further limited, pressures on the environment will continue to grow, requiring more intensive and intelligent management. The global impacts of greenhouse gas emissions add a new and urgent dimension to environmental management. The growing awareness of our carbon 'footprint' has brought new understanding to the adage of 'Think Global – Act Local'.

The large range of initiatives described in this report shows that Lismore City Council is a highly active environmental manager. These responsibilities have grown from traditional areas such as waste and water treatment into catchment and vegetation management, community education and actions to mitigate climate change. An assessment against the 73 recommendations from the 2004 SoE shows that 60% of recommendations were adequately addressed, 30% were partially addressed and only 10% were not addressed. These actions have resulted in significant improvements in some trends since 2004.

The following table represents a synopsis of Lismore's environment in 2009. It is based on a summary of indicators used in this report to monitor pressures on the environment. 'Status' refers to the current overall condition of the natural resources or assets, while 'trend' refers to the change in impact on natural resources or asset condition since 2004 and likely change into the future.

Theme / Issue	Status	Trend	Comment
LAND			
Population Growth	Avg	↓	Fundamental Pressure - Current population growth is lower than coastal areas but the region is predicted to have high future growth, placing further pressures on the environment.
Human Settlement	Avg	↓	Fundamental pressure – Trends towards less people per house means more housing will be needed. Lismore's steep topography provides limited areas.
Land contamination	Avg	↑	Council has good information on location of sites and they are gradually being remediated.
Acid Sulphate Soils (ASS)	Of Concern	↑	Greater awareness amongst landholders of how to manage ASS and improved practices such as drain shallowing and tidal flushing.
Soil erosion	unknown	↔	Extent of issue unknown, however high rainfall is a cause and high turbidity of our rivers is an indicator of the problem.
BIODIVERSITY			

Extent of native vegetation	Of Concern	↑	Native vegetation still highly fragmented but extent of has increased to over 30% of LGA over last decade or more.
Introduced animals	Of Concern	↓	Recent arrival of Cane Toads and Indian Mynas a significant threat to biodiversity. Control methods inadequate and under resourced.
Weeds	Of concern	↓	Number of weeds has increased. Climate and soils favourable for invasive plants. Nursery industry controls remain inadequate.
No. of threatened species and communities.	Of concern	↔	While more species are listed as threatened there is less clearing than historically and natural regeneration is improving. Greater connectivity needed and condition improved.
WATER			
Demand for water	Avg	↔	Total volumes used have remained steady and per capita demand has reduced. Future demand will increase with future population growth.
Water Quality	Of concern	↔	Current water quality remains poor for nutrient and sediment levels. Widespread improvements in land management practices and riparian vegetation are needed to improve water quality, but not likely to get worse.
On-site sewage management	Avg	↑	Present failure rates lower than historical levels and treatment systems are improving.
Sewerage treatment	Good	↑	99% compliance with EPA discharge standards at Council's three treatment plants. Treatment systems are improving.
Stormwater Quality & Management	Of concern	↔	Increased pressures through urban development will be offset by identification and remediation of hotspots.
ATMOSPHERE			
Greenhouse Gas Emissions	Of concern	↓	Lismore's per capita emissions consistent with rest of Australia, being amongst the highest in the world. Emissions rose over 5 years.
Smoke & Dust	Good	↔	Number of complaints constant. Smoke levels will reduce with greater whole cane harvesting but dust levels may increase with drier conditions.
Noise	Avg	unknown	Noise complaints rose in 2008/09 in the urban area. Increase in urban development will be offset by better data collection on noise to identify sources and address issues.
WASTE			
Total Waste Volumes	Of concern	↓	Although per capita levels have recently dipped, total volumes of waste are likely to increase with population and growth.
Percentage of waste diverted from landfill.	Good	↑	Percentage of waste diverted from landfill to be recovered and recycled has risen from 30 to 45% since 2004. This trend should continue.
HERITAGE			

Loss or degradation of natural heritage	Avg	↔	Some increases to the conservation estate have occurred in recent years. Ten percent of LGA in reserve system, including some world heritage.
Loss or degradation of Aboriginal heritage	Of concern	↓	Aboriginal heritage places are not well understood and are under-valued. Protection is complicated by cultural differences and a lack of working relationships and formal arrangements.
Loss or degradation of non-Aboriginal heritage	Good	↔	Council maintains a register of Non-Aboriginal heritage sites and places and continues to facilitate maintenance of sites and items.

Trend direction: ↑ Likely improvement, ↔ Steady: ↓ Likely deterioration.

The future direction of Council's environmental management is encompassed within the Community Strategic Plan, which has a strong focus on sustainable development and the protection of the environment. The four (4) year Delivery Plan will provide specific activities to achieve the Community Strategic Plan. Further, Council's organisational restructure in 2009 reflects a desire to increase our capacity in environmental management and improve integration of environmental, social and economic issues in our strategic thinking and planning.

The recommendations below have been or should be considered in future Delivery and Management Plans.

2009 Recommendations

Land

- Formally recognise population growth and human settlement as the fundamental pressure on the environment, and continue to consider ways it can be addressed
- Continue to facilitate more environmentally sustainable housing
- Facilitate a more environmentally sustainable public and personal transport system
- Encourage agricultural and other rural-based enterprises to adopt industry codes of practice that emphasise duty of care to the environment
- Educate residents in the LGA about their duty of care in relation to natural resources
- Improve information on likely levels of erosion occurring within the LGA
- Investigate ways to improve compliance with sediment and erosion controls in urban developments
- Investigate ways to improve uptake of best land management practices in the rural zone.

Biodiversity

- Develop up to date, local scale flora and fauna mapping, to enable Council to identify, conserve and protect locally significant habitats and high conservation value areas
- Develop a biodiversity strategy describing threats to, and actions for the long-term conservation and improvement of our flora and fauna
- Reduce the impact of weeds on biodiversity by identifying and eradicating weed hot spots on Council owned or Council managed land and educating the community
- Ensure the conservation of locally significant habitats and high conservation value areas when assessing Development Applications and undertaking strategic land use planning
- Adopt planning controls and assist landholders to improve connectivity between existing native vegetation remnants
- Improve the condition of locally significant habitats and high conservation value areas through restoration projects and educating the community
- Ensure ongoing community consultation/education on biodiversity conservation
- Improve koala management by identifying LGA-wide koala populations, monitoring trends in populations and assessing impacts of threats
- Develop a Comprehensive Koala Plan of Management
- Liaise with WIRES Northern Rivers to address issues raised through their submission to the 2009 SoE
- Investigate methods to collect data and report on LGA-wide revegetation activities

- Improve vegetation along Council's road reserves and unformed roads.

Water

- Ensure ongoing community consultation/education on water use reduction initiatives
- Assess the condition and extent of riparian vegetation across the LGA to identify 'hotspot' areas
- Increase activities to protect, restore and actively manage the riparian zone on both Council and private land
- Identify and remediate stormwater drainage 'hotspots' to improve stormwater quality and limit the degradation of natural waterways
- Form partnerships and develop strategies to improve land management practices in rural areas that pose a threat to water quality
- Continue the review and removal of fish barriers
- Reduce the movement of sediment from gravel roads into waterways through best practice in road design, construction and maintenance
- Continue development of Council's Integrated Water Cycle Management Strategy
- Continue development and implementation of water sensitive urban design (WSUD) policy
- Continue investigation of opportunities for rainwater collection and use on Council buildings
- Work with other Councils/agencies to facilitate development of a regional water quality monitoring program
- Improve reporting and response to water quality pollution incidents.

Atmosphere

- Mitigate and adapt to climate change at a local level through development of a climate change mitigation and adaptation strategy
- Continue to monitor Council's and the community's emissions and review against previously measured levels
- Review Chapter 11 – Buffers of the Lismore DCP to ensure it is aligned with the policy direction in the DPI 'Handbook for Managing Land Use Conflict'.

Waste

- Finalise new waste management plan and commence implementation
- Reduce carbon emissions to the environment from landfill and site operations
- Increase the rate of commercial recycling
- Increase access to public place recycling
- Ensure ongoing community consultation/education on waste management initiatives
- Council continues investigations into regional waste management and actively pursues initiatives.

Heritage

- Continue the Heritage Assistance Fund local grants
- Improve information and guidance for the community in relation to heritage and improve documentation of advice given in relation to development applications relating to heritage items and conservation areas
- Continue the implementation of recommendations in the Lismore City Council Heritage Strategy 2008-2011
- Continue to liaise with local aboriginal groups undertaking mapping of aboriginal heritage sites
- Develop protocols and establish contacts for consultation with Aboriginal groups
- Continue to promote Lismore's natural and cultural heritage values, including the heritage trail, heritage week and other commercial ventures.

Report

Subject	Tender T2010-02 – Mowing of Parks & Recreation Areas
Record No.	T10/2:ED09/15900
Prepared by	Manager Works
Reason	To inform Council of tenders received for the provision of mowing related works for all rural parks and a number of urban recreation areas for a period of 1-year with the potential for two, 1-year extensions.
Objective	To obtain Council approval to award the Contract.
Strategic Plan Link	Improve Passive and Active Recreational Facilities
Management Plan Project	Parks and Recreation

Overview of Report

This report details the evaluation of tenders received in relation to the provision of mowing related works and the recommendation to award the tender.

Background

Council's initial Contract for Mowing of Various Urban and Rural Areas was awarded to Gaudron Mowing in 2005. This contractor sold-on the contract to a second contractor who recently relinquished all sites to move to Sydney. Council's outdoor staff have since been tending to all sites in the winter period until a new contract was awarded. Coming into peak growing season, the winning Tenderer/s will be requested to start as soon as possible following Council approval.

Council received 12 submissions by the close of tenders on 2.00pm, August 27, 2009. The list of Tenderers included:

Location	Rural Price (\$)	Urban Price (\$)
Newtrain	483,540.91	524,845.45
Multitask	264,720.00	
Open Space Mowing	220,385.00	140,575.00
North Coast Mowing Services	171,044.00	138,420.00
Raymond Eric Patch	117,800.00	
Brett Daly	102,730.00	
Recession Mowing	98,347.00	67,267.00
David & Sharon McBain	94,366.80	64,100.00
Ruckers Farm Management	82,050.00	
Grounds & Gardens	68,161.07	37,667.84
MicMac Pruning Services	54,972.00	
Growing Things – Dave Annetts	4,970.00 (Clunes only)	

The tender included 102 individual sites in various rural and urban areas with the tender advising that Council would consider one or more than one contractor (depending on the assessment results). A sum of approximately \$100,000 was estimated using previous contract prices together with CPI increases.

The tender was assessed by a panel of three members being the Manager – Works, Parks Supervisor and the Contracts Administration Officer.

Completion and Signing of Schedules

Condition B4(i) of the Conditions of Tender states that Tenderers must complete the Form of Tender and all other schedules to be a conforming tender. The following Tenderers did not fulfil this requirement:

- × Open Space Mowing – *did not sign Schedules 7 & 9*
- × Recession Mowing – *did not sign Schedule 10*
- × Raymond Eric Patch – *did not sign Schedule 9*
- × North Coast Mowing Services – *did not sign Schedules 2 to 8*
- × Growing Things - Dave Annetts – *did not attach Schedule 10.*

All Tenderers however, were assessed throughout the remainder of the tender for comparison purposes.

Rural and Urban Pricing

The contract documentation allowed for each Tenderer to choose either the rural sites, the urban sites, or all sites and that Council may choose none, one or more than one Tenderer. Two Tenderers were removed from the Price Evaluation process due to significantly large variances, these being Growing Things - Dave Annetts who chose to only mow the Clunes sites and Newtrain who had a figure exceeding \$1 million, well above the average tender price and Council's budget allocation.

The best performers on price were MicMac (\$54,972.00 pa ex GST) for the rural sites and Grounds & Gardens (\$37,667.84 pa ex GST) for the urban sites. Grounds & Gardens were also second cheapest for the rural sites and the cheapest of those tenders applying for both rural and urban (\$105,828.91). MicMac did not submit prices for the urban mowing areas and did not perform well within the other set criteria.

Non-Conformance Considerations

Three Tenderers made minor alterations to the tender specification by completing Schedule 3 – Statement of Conformance. All three Tenderers' changes were of a minor nature and did not affect the outcome of the tender assessment. These non-conformance items included additional prices for initial clean-up of selected sites and the increase of mowing cuts to one particular site.

Tender Assessment

The tender clearly stated the assessment criteria and the weighting of each criteria as follows:

- Total Cost – 50%
- Capability and Experience – 25%
- OH&S, Risk Management and Quality – 10%
- Environment and Community – 5%
- Local Content – 10%

Attachment A enclosed is a summary of the tender assessment results.

One or More Than One Contractor?

In consideration of the assessment results, Grounds & Gardens has performed best in both the Rural and Urban areas based on the fact that it had the highest Total Score for both areas. Grounds & Gardens scored 79.0 out of a possible 100 for rural areas, and 79.5 out of a possible 100 for urban areas. In comparison with the second highest scorers, Brett Daly scored a close score of 78.5 in the Rural areas and D&S McBain scored 71.7 for the Urban areas.

Also comparing Council's estimates and funding, the amount tendered by Grounds & Gardens is favourable. Should the Tenderer in close second position for the rural area, Brett Daly, be awarded the rural contract, an additional \$34,568.93 will be required.

Reference Checking

The following questions were asked of the referees:

1. How long have they had the contract for?
2. What works do they perform?
3. Have they had any written warnings for their work performance or similar?
4. Provide a score out of 10 for their overall performance, 1 being poor and 10 being excellent?

Referees for Grounds & Gardens were contacted on September 24, 2009. Of the three referees contacted, no issues were raised that were of a negative nature. The contractor had worked for all referees for a period of no less than five years with one referee saying the company had recently lost their specific contract due to an internal management decision to restructure staffing arrangements. All works performed related to grounds and grass maintenance, with no written warnings regarding work performance or OH&S issues. Scores out of 10 ranged from 7 (a higher score may have been achieved if funding allowed), to 9.

Comments

Financial Services

There are sufficient funds allocated to Parks and Recreation in the 2009/10 Budget for these contracted works.

Manager - Works

Grounds & Gardens is based on the Gold Coast with many large contracts in South East Queensland including Sanctuary Cove Resort, Laguna Keys and Coomera Waters Resort, and specialises in landscape maintenance such as grass mowing. The company is proposing to employ a local person for the implementation of the contract and locally source all plant, machinery and products from Lismore dealerships at the start of the contract. The company sent a representative to Lismore to visit each site on the specification list to determine appropriate estimates. Grounds & Gardens is a professional organisation providing a professional tender and has accreditation to ISO AS/NZS 9001:2008 Australian Standards.

Accordingly, the selection of Grounds & Gardens to undertake this work is supported.

Public consultation

Not required.

That:

1. The Contract for Mowing – Parks and Recreation Areas (T2010-02) is awarded to Grounds & Gardens for the amount of \$105,828.91 per annum (excluding GST).
2. The Mayor and General Manager be authorised to execute the Contracts on Council's behalf and attach the common seal.

Report

Subject	Tender 2010-17 Gravel Roads Flood Restoration Works
File No.	T10/17:ED09/17388
Prepared by	Rural Works Engineer
Reason	To inform Council of tenders received for the provision of a gravel maintenance grading crew for flood restoration works.
Objective	To obtain Council approval to award the contract.
Strategic Plan Link	Improve Roads, Cycle Ways and Footpaths
Management Plan Project	Roads

Overview of Report

This report details the evaluation of tenders received in relation to the provision of a gravel maintenance grading crew and a recommendation to award the tender.

Background

Tenders were advertised for the provision of a gravel maintenance grading crew to carry out flood restoration works on Council's gravel road network. The gravel maintenance grading crew comprising of a maintenance grader, grid roller, water cart and operators will carry out flood restoration works for a period of three (3) months with the option of up to a further three (3) months. The budget amount for the initial works is \$172,500.00.

The request for tender was advertised in the '*Weekend Star*', the '*Courier Mail*' and the '*Sydney Morning Herald*', as well as "TenderLink" through Lismore City Council's web page.

Tender documents were received from six (6) companies by the close of tender on 2.00pm, Thursday, October 15, 2009.

Tenderers

Coster Constructions
 JR Morgan
 McKrob Holdings
 Smith Plant
 Civil Team
 Forest Enterprises

Tender Examination

An evaluation committee comprising the Contracts Administration Officer, Rural Works Engineer and Rural Works Supervisor undertook the assessment of tenders.

Tenders were invited on a Schedule of Rates basis for the supply of a gravel maintenance grading crew. Rates for the crew were based on a five (5) day (Mon–Fri) week and a nine (9) hour day.

The tender documents (Clause B7), defined five (5) areas by which each tender would be assessed:

1. Total Cost

A price comparison was completed on each tenderer for the provision of a maintenance crew. The total cost for each crew per week are listed as follows:

Coster Constructions	\$13,409.00
McKrob Holdings	\$13,570.00
Smith Plant	\$14,354.00
Forest Enterprises	\$19,800.00
JR Morgan	\$22,635.00
Civil Team	\$29,982.84

Coster Constructions submitted the best overall price with prices being McKrob Holdings 1.2%, Smith Plant 7%, Forest Enterprises 47.6%, JR Morgan 68.8% and Civil Team 123.6% more expensive.

2. Capability & Experience

All tenderers have a demonstrated ability to carry out construction works, however only two (2) have demonstrated any real experience in carrying out gravel road maintenance, these being McKrob Holdings and Smith Plant. Additionally, Forest Enterprises have completed works on access tracks in a forestry environment.

McKrob Holdings recently completed a 12-month gravel roads maintenance contract with Richmond Valley Council whilst Smith Plant has carried out gravel road maintenance for Richmond Valley, Kyogle and Lismore Councils and National Parks over a number of years.

3. Quality & Safety

All tenderers have demonstrated a high level of OH&S systems within their work practices, however Smith Plant, Civil Team and Forest Enterprises also demonstrated good quality systems with Civil Team and Forest Enterprises both receiving ISO accreditation.

4. Environment & Community

Not all tenderers demonstrated an adequate level of awareness in regards to environmental issues and sustainability. Smith Plant, Civil Team and Forest Enterprises did however show a good level of awareness.

5. Local Content

Coster Constructions, JR Morgan, McKrob Holdings and Smith Plant are all locally based. Civil Team and Forest Enterprises have indicated that they would purchase fuel and would possibly employ locally if successful.

The rates tendered by Coster Constructions resulted in the lowest costs for a gravel maintenance crew. However, considering the remaining evaluation criteria specified in the tender (Capability & Experience, Quality & Safety, Environment & Community and Local Content), Smith Plant is the highest ranked tenderer, refer Attachment B enclosed separately.

Referee Check

Smith Plant has previously completed gravel maintenance works for Lismore City Council. Works were completed in a safe, efficient manner whilst achieving a high standard.

Smith Plant has also received excellent references from operational staff of other councils.

Comments

Financial Services

The Gravel Roads Maintenance Crew will be predominately funded from flood restoration works funding received from the RTA.

Other staff comments

Manager - Works

Smith Plant has previously carried out gravel maintenance works for Lismore City Council and has demonstrated a high level of capability and experience whilst completing these works. Smith Plant is locally based and has a good understanding of the local conditions.

I endorse the recommendation.

Public consultation

Nil

Conclusion

Smith Plant has ranked first in the evaluation criteria based on the criteria set out in this tender. Smith Plant's tender is 7% more expensive than the cheapest tender. However, this additional costing will be offset by the use of more efficient machinery which will give a better return based on a kilometre rate.

In addition, Smith Plant has demonstrated through previous and current works with Lismore and other councils a high level of capability and experience in being able to undertake gravel maintenance works.

Recommendation (IS64)

That:

1. The contract for the provision of a Gravel Roads Maintenance Crew for flood restoration works be awarded to Smith Plant with a scheduled rate of \$14,354.00 per week (inclusive of GST), for an initial period of three (3) months with the option of an extension of a further three months (3) subject to available funds.
2. The General Manager and Mayor be authorised to sign and affix the Council Seal to contracts or any other documents deemed necessary to complete this resolution.

Report

Subject	Tender 2010-6 – Various Materials Supply
File No.	T10/6:ED09/17511
Prepared by	Rural Works Engineer
Reason	To inform Council of tenders received for the supply of various materials for the period to August 2010.
Objective	To obtain Council approval to adopt the recommendations for the supply of various materials and services.
Strategic Plan Link	Best-Practice Corporate Governance
Management Plan Project	Contracts and Private Works

Overview of Report

This report details the evaluation of tenders received in relation to the provision of various materials and services for the period to August 2010, including a recommendation to award the tender.

Background

Tenders were advertised for the provision of various materials and services to enable Council to compile a list of “Approved Suppliers” offering specific materials and services at a fixed price for a stated period. The materials and services included in the tender document are:

- Supply of Soil, Sand and Metal Dust,
- Supply of Ready Mixed Concrete,
- Supply of Traffic Control Personnel and Traffic Management Solutions,
- Material Testing,
- Vegetation Services,
- Supply of Turf,
- Kerb & Gutter Extrusion,
- Banner Erection and Dismantling, and
- Supply of Chemicals.

The request for tender was advertised in the ‘*Weekend Star*’, the ‘*Courier Mail*’ and the ‘*Sydney Morning Herald*’, as well as “TenderLink” through Lismore City Council’s web page.

Tender Examination

Due to the varying nature of the materials and services included in this tender, a number of Council staff from different sections were included in the various committees during the evaluation process. In its entirety, the committees comprised the Contracts Administration Officer, Rural Works Engineer, Parks Coordinator, Rural Works Supervisor, Urban Works Supervisor and Water & Wastewater Treatment Plant Supervisor who were all involved in the assessment of tenders.

Tenders were invited and assessed on a schedule of rates basis. The tender documents (Clause B7), defined five (5) areas by which each tender would be assessed as outlined below for the provision of materials and services:

1. Total Cost
2. Capability & Experience
3. Quality & Safety
4. Environment & Community
5. Local Content

The supply of each individual material and service was assessed and is detailed below.

Tender Item 1 – Supply of Soil, Sand and Metal Dust

Tender documents were received from a total of four (4) companies by the close of tender, these companies were:

- Rhodes Landscaping Supplies
- Clovass Quarry
- Richmond Sand & Gravel
- S & L Sand & Gravel.

The rates tendered by S & L Sand & Gravel and Clovass Quarry resulted in the lowest costs for the supply of soil, sand and metal dust respectively. However, considering the remaining evaluation criteria specified in the tender, Richmond Sand & Gravel was the highest ranked tenderer.

It is therefore recommended that the following priority order be followed for the supply of soil, sand and metal dust:

1. Richmond Sand and Gravel
2. Rhodes Landscaping Supplies
3. Clovass Quarry
4. S & L Sand & Gravel.

(Note. The supply of metal dust will only be required if Blakebrook Quarry does not have the required quantities.)

Tender Item 2 – Supply of Ready Mixed Concrete

Tender documents were received from a total of two (2) companies by the close of tender, these companies were:

- Cemex
- Hanson.

Due to the varying quantities of concrete used and separate locations of work sites, a comparison of the rates received was made for two typical projects and costs evaluated.

The rates tendered by Hanson resulted in the lowest cost for the supply of ready mixed concrete. Furthermore, Hanson scored highest on the evaluation criteria. It is therefore recommended that the following priority order be followed for the supply of ready mixed concrete:

1. Hanson
2. Cemex.

Tender Item 3 – Supply of Traffic Control Personnel and Traffic Management

Solutions

Tender documents were received from a total of two (2) companies by the close of tender, these companies were:

- JHA Recruitment & Staff @ Work
- Workforce International.

To enable a comparison of the rates received, two typical projects for Council were selected and costs calculated on tendered rates.

The rates tendered by both companies were very similar. However, JHA Recruitment & Staff @ Work were slightly cheaper. Following the evaluation criteria assessment however, Workforce International scored highest.

It is therefore recommended that the following priority order be followed for the supply of traffic control personnel and traffic management solutions:

1. Workforce International
2. JHA Recruitment & Staff @ Work.

Tender Item 4 – Material Testing

Tender documents were received from one (1) company by the close of tender, this company was:

- Coffey Information Pty Ltd.

Material testing is a specialised field therefore only a limited number of companies are capable of carrying out the works. Coffey Information Pty Ltd is the only local company that has the capability, experience and appropriate accreditation to complete the works.

Council has been utilising Coffey Information Pty Ltd for all of its material testing for a number of years. This service has always been undertaken with a high level of competence and expertise. It is therefore recommended that Council continues to engage Coffey Information Pty Ltd for this service.

Tender Item 5 – Vegetation Services

Tender documents were received from a total of three (3) companies by the close of tender, these companies were:

- East Coast Lopping
- Byron Bay Tree Services
- Lismore Tree Services.

Due to the varying nature of works on trees and vegetation in the urban and rural environment including trimming, felling, mulching and grinding, a comparison of the rates received was made for a typical Council project with associated costs evaluated.

The rates tendered by East Coast Lopping resulted in the lowest cost for the supply of vegetation services. Following the evaluation criteria assessment however, Lismore Tree Services scored highest.

It is therefore recommended that the following priority order be followed for the supply of vegetation services:

1. Lismore Tree Services
2. East Coast Lopping
3. Byron Bay Tree Services.

Tender Item 6 – Supply of Turf

Tender documents were received from a total of two (2) companies by the close of tender, these companies were:

- River Oak Turf
- Richmond Sand & Gravel and Landscaping.

Due to the varying quantities of turf used by different sections of Council, a comparison of the rates received was made for a typical Council project with associated costs evaluated.

The rates tendered by Richmond Sand & Gravel and Landscaping resulted in the lowest cost for the supply of turf. Furthermore, Richmond Sand & Gravel and Landscaping scored highest on the evaluation criteria.

It is therefore recommended that the following priority order be followed for the supply of turf:

1. Richmond Sand & Gravel and Landscaping
2. River Oak Turf.

Tender Item 7 – Kerb & Gutter Extrusion

Tender documents were received from one (1) company by the close of tender, this company being:

- Tweed Summerland Kerbing.

Council has utilised Tweed Summerland Kerbing for all of its kerb & gutter extrusion for the past seven (7) years. There are no other companies locally with the correct machinery to carry out these works.

Tweed Summerland Kerbing has always carried out the works in a very professional manner and to a high standard. It is therefore recommended that Council continue the use of their services for the provision of kerb & gutter extrusion.

Tender Item 8 – Banner Erection and Dismantling

No tender documents were received for this service.

Tender Item 9 – Supply of Chemicals

Tender documents were received from a total of three (3) companies by the close of tender, these companies were:

- Redox Pty Ltd
- Omega Chemicals
- Elite Chemicals.

Council requires the delivery of various chemicals to its treatment plants located around the Local Government Area. Due to the specialised nature of this service, not all of the companies who submitted tender documents are able to supply all of the chemicals required by Council.

For the supply of Caustic Soda 50%, all companies listed above are able to supply Council. The rate tendered by Omega Chemicals resulted in the lowest cost for the supply of Caustic Soda 50%. Furthermore, it also ranked highest in the evaluation criteria.

For the supply of Liquid Aluminium Sulphate TIF (Filtration Grade), Omega Chemicals was the only company to provide Council rates for its supply. Omega Chemicals currently supply Council with this product and has always provided a prompt, reliable service.

For the supply of Sodium Hypochlorite 13%, Elite Chemicals was the only company to provide Council rates for its supply. Elite Chemicals currently supply Council with this product and has also always provided a prompt, reliable service.

It is therefore recommended that for the supply of various chemicals the following priority order be followed:

Liquid Caustic Soda 50%

1. Omega Chemicals
2. Elite Chemicals
3. Redox Pty Ltd

Liquid Aluminium Sulphate TIF (Filtration Grade)

1. Omega Chemicals

Sodium Hypochlorite 13%

1. Elite Chemicals.

Referee Checks

Council has previously received materials and services from a large number of companies listed within this report. All have provided Council with a reliable, cost effective service.

The remaining companies that have not been utilised by Council have received good references.

Comments

Financial Services

The tender process undertaken for the nominate materials and services will result in the best overall supply arrangements for Council. As such, the recommendation is supported.

Other staff comments

Manager - Works

The use of a priority listing system provides Council with a great deal of flexibility when procuring materials and services for the various sections of Council.

I endorse the recommendations.

Public consultation

Nil

Conclusion

The supply of various materials and services has been assessed and ranked according to the evaluation criteria as set out in the tender document. As a result, this document enables Council to use a contractor from the priority list based on availability to supply the material or service.

Recommendation (IS67)

That Council adopts the order of priority for the provision of various materials as per the recommendations in the body of this report.

Report

Subject	Council Meetings and Public Forums for 2010
File No	EF09/632:ED09/17552
Prepared by	Corporate Compliance Coordinator
Reason	Council Policy
Objective	Determine Schedule and Meeting Locations
Strategic Plan Link	Engage with the Community
Management Plan Project	Corporate Management

Overview of Report

To determine the schedule of meetings and public forums for 2010 as required under Policy 1.2.7.

Background

Council Meeting Schedule

Council has resolved that ordinary meetings will be held at 6:00pm on the second Tuesday of each month. No change to this scheduling is proposed. On this basis, the first ordinary meeting of the year will be held on 9 February 2010.

Rural Contact Forums

At its November 2006 meeting Council resolved to replace the concept of two Ordinary Council meetings being held in rural areas, with two additional Contact Forums, one of which to be held in Nimbin. The view was that Contact Forums provided a better venue for the public to raise issues with Councillors. As a result, three Rural Contact Forums are held plus the Annual Nimbin Community Meeting.

Accordingly, it is proposed that Rural Contact forums be held at:

Coffee Camp Public Hall	15 March 2010
Eltham Public Hall	21 June 2010
Rosebank Public Hall	16 August 2010

With the Nimbin Community Meeting at:

Nimbin School of Arts	15 November 2010
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The Rural Halls are selected so as to give a reasonable spread through the Local Government area and taking into account how long it has been since Council has been to the hall. In this regard it will be seven years since Council last met in any of the above halls.

City Contact Forums

Two of these are held each year and it is suggested that these be held at the following locations:

Goonellabah Workers Sports Club 19 April 2010

Lismore City Hall 19 July 2010

Comments

Financial Services

Not requested.

Other staff comments

Not requested.

Public consultation

The contact forums continue to provide the public with an opportunity to raise issues with a group of Councillors.

Recommendation

1. That the first ordinary meeting of Council be held on 9 February 2010.

2. That the Rural Contact Forums be held at:

Coffee Camp Public Hall 15 March 2010

Eltham Public Hall 21 June 2010

Rosebank Public Hall 16 August 2010

With the Nimbin Community Meeting at:

Nimbin School of Arts 15 November 2010

3. That the City Contact Forums be held at:

Goonellabah Workers Sports Club 19 April 2010

Lismore City Hall 19 July 2010

Report

Subject	Executive Council Responsibilities – Richmond Tweed Regional Library
File No	EF09/2497:ED09/17570
Prepared by	Manager – Finance / RTRL Executive Member
Reason	Advise of Lismore City Council's responsibilities as the 'Executive Council' for Richmond Tweed Regional Library
Objective	Provide clarity as to these responsibilities
Strategic Plan Link	Best Practice Corporate Governance
Management Plan Project	Community Services

Overview of Report

Lismore City Council is the 'Executive Council' for the Richmond Tweed Regional Library. In response to legal advice received in regards to the responsibilities of the Executive Council, changes are required in current practices to meet the obligation of the agreements between member Councils and compliance with the Local Government Act 1993.

Background

Richmond Tweed Regional Library (RTRL) commenced operations in the early 1970's. By the late 1970's, all current member Councils (Lismore City Council, Ballina Shire Council, Tweed Shire Council and Byron Shire Council) had signed agreements to participate in the regional library service.

The agreements creating RTRL are between Lismore City Council (LCC) and Ballina Shire Council (BaSC), and LCC and Tweed Shire Council (TWS), and LCC and Byron Shire Council (BySC). These separate agreements are still considered legally binding on all parties in the absence of alternative agreements.

In accordance with the agreements, the RTRL is to be managed by the RTRL Committee with two members appointed by each Council with LCC's Town Clerk (General Manager) appointed as the Executive Member. LCC is also the Executive Council and is responsible for implementing the decisions of the Library Committee and undertaking the day to day management of the Library.

Current Situation

RTRL has evolved to operate successfully with a high degree of autonomy to the point where LCC does not provide the day to day management of the Library. For example, RTRL employ and pay all staff, prepare the annual budget, prepare strategic planning documents, maintain bank and investment accounts, pay all creditors, issue tax invoices, remit and claim taxes, prepare the annual report and annual financial reports.

From a legal perspective, it can be considered an unincorporated body established by LCC in accordance with its obligations under the agreements. As such, it cannot hold real property in its name resulting in the RTRL Headquarters in Goonellabah being held in the name of the Executive Council (LCC). Furthermore, the employees are legally employed by LCC although current practices make this invisible.

Legal Status

The need to update the agreements or change the organisation's legal structure has been on the RTRL's agenda for more than 15 years. A comprehensive assessment of the alternatives by RTRL was undertaken in the late 1990's and did not proceed due to legislative limitations.

In 2008, LCC requested legal advice on the responsibilities of the Executive Council. The need for this advice came about as there was uncertainty as to how certain situations and requests from LCC to RTRL and visa versa should be treated. While the legal advice received provided the information requested and is reported below, the most significant consequence for RTRL is that it cannot continue to operate with the current level of autonomy.

The RTRL is currently investigating changes to achieve compliance including the creation of a county council or a one council service delivery model and while this is progressing, it is likely that it will take some time to eventuate. When a proposal is sufficiently developed, a detailed report will be provided to Council on these options. It is due to the fact it may take some time for a change to eventuate that Lismore City Council as the Executive Council cannot allow the status quo to continue.

Executive Council Responsibilities

The advice received from Lindsay Taylor Lawyers is extensive and highlights the need for Council to take action in both meeting its obligations in accordance with the agreements with other member councils and legislative compliance. The following is a summary of the advice:-

1. Lismore City Council, as the Executive Council, is responsible for implementing the decisions of the Library Committee and undertaking the day to day management of the Library
2. The terms of delegation given to the RTRL Committee by LCC, BaSC, TSC and BySC contravene s377 (1) and do not cater for the requirements of s380 of the Local Government Act 1993. These delegations should be revoked and replaced with complying delegations.
3. The delegation provision of the agreements must also be amended so that the amended delegations by the participating Councils can occur without contravening the agreement.
4. Many practices are not consistent with the intention of the agreements and in some cases do not comply with requirements of the LGA. In particular, RTRL monies must be accounted for and audited in accordance with the LGA as part of LCC's funds by inclusion in LCC's Management Plan, Budget Quarterly Reviews and Investment reporting processes and Financial Reports. It is noted that the Budget Quarterly Reviews, Investments and Financial Reports are reported to the RTRL Committee and the Financial Reports are independent audited, however that does not meet the requirements of the LGA and accordingly LCC is in breach of its governance responsibilities.
5. Where RTRL wishes to invite tenders, the tendering process must be undertaken by Lismore City Council on its behalf in accordance with the applicable provisions of the LGA.
6. Delegation from the General Manager to the Library Director is required to give effect to some of functions purported to be undertaken by Library staff.

Implementation of Responsibilities

It is emphasised that the RTRL provides a very efficient and effective regional library service. This is

factually supported by the both the State Library's annual statistics and the Department of Local Government's comparative financial reporting.

The RTRL and the General Managers from all member Council's have acknowledged that the status quo cannot be maintained and a process is in place to determine and implement a new agreements or change the organisation's legal structure. As this process is likely to take some time, it is unreasonable for Lismore City Council's in its capacity as 'Executive Council' to not take steps immediately to meet the requirements of the existing agreement and comply with the LGA.

In accordance with the legal advice, it is proposed to:-

- Advise member Councils requesting their approval to amend the current agreements to ensure they comply with s377 (1) and cater for s380 of the Local Government Act 1993.
- Advise member Councils suggesting they revoke their existing delegations to RTRL and request they replace them with complying delegations.
- Advise RTRL that in accordance with the agreements and LGA requirements, Lismore City Council as the Executive Council will work with the Library Director to implement changes in current practices such as for delegations and financial management to achieve best compliance.

In regards to achieving best compliance, this will require changes in current RTRL work practices.

Comments

Financial Services

Not required

Other staff comments

Not required

Public consultation

No required

Conclusion

Lismore City Council in its capacity as 'Executive Council' for Richmond Tweed Regional Library is aware that it is not fully meeting its obligations in accordance with the current, albeit out dated agreements and the Local Government Act 1993.

Council has been working with Richmond Tweed Regional Library to implement either new agreements or change the organisation's legal structure to address these issues. While this process has commenced, it is unlikely to be resolved quickly. This being the case, Council must act to meet its obligations.

In accordance with legal advice received, it is proposed to undertake a number of actions. These will result in greater compliance, but at the same time result in a change in current work practices for Richmond Tweed Regional Library staff.

Recommendation

That Council

1. Write to member Councils requesting their approval to amend the current agreements to ensure they comply with s377 (1) and cater for s380 of the Local Government Act 1993.
2. Request member Councils to revoke their existing delegations to RTRL and agree to replace them with complying delegations.
3. Write to Richmond Tweed Regional Library advising that in accordance with the agreements and LGA requirements, Lismore City Council as the Executive Council is required to implement changes in current work practices such as for delegations and financial management to achieve best compliance.

Report

Subject	September 2009 Quarterly Management Plan Review
File No	EF09/1726:ED09/17554
Prepared by	Manager Corporate Services
Reason	Requirement of Local Government Act S.407(1)
Objective	Information for Councillors
Strategic Plan Link	Whole of Council Corporate Planning
Management Plan Project	This is a report on the progress of the 2009/2010 Management Plan

Overview of Report

This report relates to the performance of programs and activities highlighted in the 2009/2010 Management Plan during the quarter ended September 2009.

Background

The General Manager is required under Section 407(1) of the Local Government Act, 1993 to periodically report on the performance targets outlined in the Management Plan.

This report reflects the current management plan that sets out the major projects the Council will complete and what standards it intends to achieve.

Recommendation

That the report be received and noted.

Report

Subject	September 2009 Quarterly Budget Review Statement
File No	EF09/2198:ED09/17662
Prepared by	Principal Accountant
Reason	Clause 7, Local Government (Financial Management) Regulations 1993
Objective	To gain Council's approval to amend the 2009/10 Budget to reflect actual or anticipated results
Strategic Plan Link	Best Practice Corporate Governance
Management Plan Project	Various

Overview of Report

The 2009/10 Budget has moved from an opening surplus of \$14,700 to a deficit of (\$283,800). The operating deficit for the September 2009 quarter being (\$298,500).

Major budget variations over the September Quarter:

- Insurance rebates received in relation to Risk Management and Property Insurance - \$28,100
- OHS incentive payments received - \$40,000
- Additional rates revenue - \$63,200
- Insurance premiums greater than estimated - (\$32,100)
- GSAC construction and Tucki Tucki Creek project cost overrun (Refer Note 1) - (\$86,300)
- Financial Assistance Grant – General Purpose reduction due to actual increase lower than anticipated - (\$131,800)
- Festival of Cricket net operating deficit (refer to Note 2) - (\$168,800)

The September review also includes alignment of budgets as a result of more accurate information being received subsequent to the preparation of the original budget and reinstatement of budgets for works carried forward from previous years. In regards to the reinstatement of budgets for works from previous years, this is required because at the time the 2009/10 Budget was being prepared, exact amounts could not be confirmed.

The resulting increases in expenses (including capital) have been funded from additional revenues, unexpended grants and reserves.

Background

The Local Government Act 1993 (LGA) requires the annual budget to be reviewed on a quarterly basis and any significant variances to be reported to Council. This report satisfies the LGA's requirements. The objective of the September review is to realign budgets based on more accurate information being received subsequent to the preparation of the original budget, or to reinstate budgets for works carried forward from previous years or adjust budgets based on information that will impact on the operating result in future periods. Included in the reinstatement of budgets for works carried forward are works funded from unexpended grants and from reserves held at June 30, 2009.

At the time of the preparing this report the restructure of the Development and Governance Directorate was still being finalised. The impacts of the restructure have not been reflected within this report and will

be included in future reports when quantified.

General Fund

The 2009/10 Budget provided for a surplus of \$14,700. This review details a deficit of (\$298,500) for the September quarter, with the annual accumulated deficit at September 30, 2009 being (\$283,800). A summary of this movement follows:

Budget Movements for Quarter	Amount \$
Adopted 2009/10 Surplus	14,700
Add – Contribution received from Living Library Grant for administration costs	500
Add - HIH distribution from liquidator	8,500
Add – Insurance rebates received in relation to Risk Management and Property Insurance greater than anticipated	28,100
Add – OHS incentive payments received	40,000
Add – Additional Rates revenue	63,200
Less – RSO officer costs of administration revised to reflect Council matching contribution to grants	(6,800)
Less – Insurance Costs Flood Levee not previously advised	(7,200)
Less – Valuer Generals land valuation fees	(13,000)
Less – Advised actual insurance premiums greater than estimated	(24,900)
Less – Revised costs associated with GSAC construction and Tucki Tucki Creek project. (Refer Note 1)	(86,300)
Less – Federal Assistance Grant – General Purpose. Original budget based on 2008/09 receipts plus an estimated increase due to CPI. Actual increase lower than anticipated due to lower CPI and receipts 2008/09 not being reflective of recurring base.	(131,800)
Less – Festival of Cricket net operating deficit (refer to Note 2)	(168,800)
Closing Deficit Balance at September 30, 2009	(283,800)

Note 1: Goonellabah Sports and Aquatic Centre and Tucki Tucki Creek Rehabilitation (Stage 1) Construction Project

The above project was completed in 2009 with GSAC commencing operations in April and Tucki Tucki Creek works finishing in July. The total project cost including land purchase was \$18.515 million. The project has had a slight budget overrun of \$86,200 due to variations in the construction costs for the building (approximately \$25,000), Tucki Tucki Creek (approximately \$17,000) and road works (approximately \$30,000).

Note 2: Festival of Cricket

In accordance with a Council resolution a separate report is being prepared for the December 2009 Council meeting.

The following comments have been provided by the Events Co-ordinator in relation to the deficit reported:

The loss on this event can be directly attributed to poor attendance / low ticket sales (both presales and "walk ins").

Issues identified as contributing to poor attendance are

- *dust storms on 2 days*
- *clash with Lismore Cup*
- *clash with Lismore Masters Games AND*
- *clash with SCU study week and HSC exams*

Some expenses exceeded that originally anticipated (ie additional lighting), but the real problem lay in the fact that attendance was down significantly (approx 1,000 per day) from that originally projected

Program Summary

For Council's information, information on each program with significant variances of \$10,000 or greater is provided below other than those impacting the operating result reported in the summary above. Please refer to the Individual Programs attachment for a summary of all budget movements.

Finance

The first instalment of the 2010 Financial Assistance Grant – General Purpose was received in June 2009 and was transferred to internally restricted funds (Reserves) as part of the 2008/09 Financial Reports. This review includes a transfer from reserves of \$1,115,700 and a corresponding reduction in operating revenue to reflect the correct source of funds. There is no impact on the operating result.

Operating revenues have been increased to reflect insurance refunds received of \$221,600 in relation to storm damage. A corresponding increase has been made to the operating expenses for the following programs: Miscellaneous Properties \$56,800; Parks and Gardens \$13,000; Property and Community Facilities \$3,800 and Public Libraries \$148,000 with there being no impact on the operating result.

Corporate Management

Operating expenses have been increased by \$12,800 being the finalisation of the Planning Review commenced in 2008/09. The increased costs have been funded from reserves with no impact on the operating result.

Caravan Parks and Nimbin Pool

Capital expenditure of \$85,100 in relation to the replacement of the Caretakers residence at the Nimbin Caravan Park has been included with funding from reserves. There being no impact on the operating result.

Commercial Property

There has been a transfer from reserves of \$57,300 to partially fund the increased construction vote for GSAC. This transfer represents profit on sale of assets. There being no impact on the operating result.

Waste Services

Unexpended grant funding carried forward from 2008/09 of \$24,000 has been included for the following projects: Illegal Dumping Trial \$10,000, and Collection and Administration of Waste and Environmental Levy \$14,000.

Miscellaneous Properties

Operating expenses were increased by \$56,800 for costs of repairs associated with storm damage for the Basketball Stadium \$17,100 and Old School Site at Clunes \$39,700. Operating revenue has been increased in the Finance program to reflect insurance refunds received in relation to works undertaken, with no impact on the operating result.

Bridges

Capital expenditure in relation to the Timber Bridge Replacement Programme has been increased by \$34,600 to reflect the actual works proposed in 2009/10. This has been from the RTA Regional Roads block grant for 2009/10. There is no impact on the operating result.

Emergency Services

Operating expenses were increased by \$15,600 in relation to Council's share towards the Lismore Flood Levee works with funding from unexpended loan funds. There is no impact on the operating result.

Parks and Recreation

Operating expenses were increased by \$13,000 for costs of repairs associated with storm damage with funding from insurance refunds recognised in the Finance program. Capital expenditure of \$322,000 associated with the Nesbit Park Development has been included with funding from new grants \$20,000; reserves \$112,900 and unexpended grants \$189,100. The budget for the Sun Protection Strategy \$17,700 has been transferred to the Goonellabah Youth Plaza construction. There is no impact on the operating result.

Traffic and City Safe

Unexpended grants revenue of \$124,400 has been included and has been offset by a corresponding increase in capital expenses. These works were carried forward from 2008/09. There was no impact on the operating result.

The works include:

Bus interchange – Hindmarsh Street	\$ 45,000
Taxi rank – Brewster Street	\$ 79,400

Roads - Urban

Capital Grants and Contributions funding was reduced by \$1,375,000 offset by an increase in Unexpended Grants \$1,375,000. This is to reflect the receipt of the Federal Government Infrastructure grant funding in 2008/09 for the Woodlark Street Revitalisation project which was earlier than anticipated.

In addition, unexpended grant funding of \$55,100 was brought to account with a corresponding increase in operating expenses for the Pedestrian Access Mobility Plan \$18,200 and capital expenditure for cycle ways \$26,900.

There is no impact on the operating result from changes in this program.

Roads - Rural

The first instalment of the 2010 Financial Assistance Grant - Road Component was received in June 2009 and was transferred to internally restricted funds (Reserves) as part of the 2008/09 Financial Reports. This review includes a transfer from reserves of \$403,700 and a corresponding reduction in operating revenue to reflect the correct source of funds.

In addition, the 2010 Financial Assistance Grant - Road Component to be received will be less than the original budget by \$10,500. To offset the lower than anticipated revenue there was a corresponding reduction in capital expenditure.

There is no impact on the operating result from changes in this program.

Roads – RTA

Operating expenses have been increased by \$327,800 and funding from RTA ordered works carried forward from 2008/09 \$362,400. \$34,600 has been transferred from the RTA Regional Roads Block Grant to the Bridges program to part fund Council's share of the RTA Timber Bridges Replacement Program.

There is no impact on the operating result from changes in this program.

Asset Management

Operating expenses have increased by \$110,000 relating to various road safety projects programmed for 2009/10. In addition capital expenditure has increased by \$146,000 being Fair Value of Roads and Drains \$136,000 and Margaret Olley Art Centre investigation \$10,000. These increases have been funded from a combination of unexpended grants, new grants, reserves and additional revenues.

There is no impact on the operating result from changes in this program.

Lismore Regional Airport

There was a transfer to reserves of \$40,000 being for Heightened Security not anticipated to be required in 2009. This is offset by a corresponding decrease in operating costs. There is no impact on the operating result.

Art Gallery

Operating costs have been increased by \$50,400 being for the Gordon Darling \$12,300; Splendour in the Grass \$24,100 and Arts Fund \$14,000 projects. These increases have been funded from unexpended grants with no impact on the operating result.

Community Services

Operating costs have been increased by \$85,400 with the major items being Living Library \$46,000, Shearman Park \$28,800 and youth programs associated with the GSAC Youth Plaza \$15,600. These increases have been funded from unexpended grants and reserves with no impact on the operating result.

Economic Development

Operating expenses have been increased by \$83,400 with the major items being for Wilsons River Experience Walk \$72,200 and the Strategic Tourism Plan \$9,700. Funding has come from unexpended grants and reserves and there is no impact on the operating result. There has been a transfer from the reserves of \$33,600 being economic incentive for investments with these funds being applied to offset the Festival of Cricket event operating deficit.

Environmental Services and Building Control

Additional operating expenses of \$64,000 have been recognised with the major items being Future Proofing Communities grant project \$50,000 and Climate Change officer \$17,000. These projects were funded from unexpended grants and reserves respectively. In addition, there was a reduction in expenses relating to professional development of \$15,000 and this has been offset by a reduction in revenues from conducting fire safety seminars.

There was no impact on the operating result.

Goonellabah Sports and Aquatic Centre

Capital expenditure has increased by \$801,300 being the Goonellabah Youth Plaza \$657,700 and for the GSAC construction and Tucki Tucki Creek Rehabilitation (Stage 1) project \$143,600 with funding from unexpended grants, transfer from Commercial Property Reserves \$57,300; the allocation of the Sun Protection Strategy \$17,700 from Parks. The unfunded amount of \$86,300 is part of the operating deficit.

There is no additional impact on the operating result other than previously reported.

Change in Net Assets

The 2009/10 Management Plan showed an Operating result from Continuing Operations of \$4,925,000. The September review reduced this by \$3,935,100 to \$989,900.

The change in net asset is based on the original adopted budget and does not include the anticipated impact from increased depreciation costs associated with assets that are to be brought to fair value on June 30, 2010. This information is being assessed and will be advised to Council through future budget reviews. Council should note that depreciation is a non cash item and therefore does not affect the reported operating surplus.

At the same time, Council will need to consider how it manages the assets under its control including adequately funding maintenance and renewal costs. This will be addressed as asset management plans are developed and factored into future management plans.

It should be noted that the "Change in Net Assets" amount reflects the estimated increase in net assets held under the Council's control for this year. It does not reflect in any way the Council's cash or liquidity position.

Comments

Financial Services

The reporting of such a significant deficit at this early stage of the financial year is a concern. To bring this situation under control, future expenditure savings or extra revenues generated shall be applied to the operating deficit.

It is proposed that as part of the December 2009 Quarterly Budget Review Statement report recommendations to return the 2009/10 Budget to an acceptable result will be prepared.

Other staff comments

Not required

Public consultation

Not required

Conclusion

The 2009/10 Budget has moved from an opening surplus of \$14,700 to a deficit of (\$283,800) with the operating deficit for the September 2009 quarter being (\$298,500).

The objective of the September review is to realign budgets as a result of more accurate information being received subsequent to the preparation of the original budget, reinstatement of budgets for works carried forward from previous years and reporting issues that will impact on the operating result in future periods.

There have been no other major variations to the adopted 2009/10 Budget identified during the September review, however reinstatement of budgets for works carried forward from previous years will be required as part of the December review.

Recommendation

1. Council adopt the September 2009 Quarterly Budget Review Statement for General, Water and Sewerage Funds.
2. This report be forwarded to Council's Auditor for information.

2009/10 Estimates of Income and Expenditure To June 2010			
BUDGET ITEMS	Original 2009/10	September	Total
		30-Sep-09 Quarter	Budget
OPERATING REVENUES			
General Manager	27,511	(862)	26,648
Infrastructure	46,587	(361)	46,226
Development & Governance	6,343	(70)	6,273
TOTAL OPERATING REVENUES	80,441	(1,294)	79,148
OPERATING EXPENSES			
General Manager	4,159	54	4,213
Infrastructure	52,232	593	52,826
Development & Governance	14,023	539	14,562
TOTAL OPERATING EXPENSES	70,414	1,187	71,600
OPERATING RESULT BEFORE DEPRECIATION	10,028	(2,480)	7,547
<u>Less</u>			
DEPRECIATION	16,248	0	16,248
OPERATING RESULT BEFORE CAPITAL AMOUNTS	(6,220)	(2,480)	(8,700)
Add: Capital Grants and Contributions			
Non-cash Developer Contributions	750	0	750
Capital Grants and Contributions	8,543	(1,455)	7,088
Section 94 Contributions (incl. interest)	1,717	0	1,717
Gain / (Loss) on Disposal of Assets	135	0	135
Operating result from continuing operations	4,925	(3,935)	990
AVAILABLE FUNDS RECONCILIATION			
Add Expenses Not Involving a Flow of Funds			
Depreciation	16,248	0	16,248
Subtract Income Not Involving a Flow of Funds			
Non-cash Developer Contributions	(750)	0	(750)
Add Non-operating Funds Employed			
Loan Funds Used	11,322	16	11,338
Unexpended Specific Purpose Grants Used	150	3,180	3,330
Developer Contributions (Section 94) Used	20	(0)	20
Repayments by Deferred Debtors	43	0	43
Subtract Funds Deployed for Non-operating Purposes			
Acquisition of Assets	(32,005)	(1,531)	(33,536)
Repayment of Principal on Loans	(2,092)	0	(2,092)
Subtract Unexpended Grants and Contributions Received During Year			
Developer Contributions Net Movement	(754)	0	(754)
Cash Surplus / (Deficit)	(2,893)	(2,271)	(5,163)
Equity Movements			
Reserve Funds - Increase / (Decrease)	(2,908)	(1,972)	(4,880)
Reserve Funds - Operating Surplus Reserve	0	0	0
Working Capital - Increase / (Decrease)	15	(299)	(284)

2009/10 Estimates of Income and Expenditure for Quarter Ended September 2009 - Individual Programs

30-Sep-09

Group and Program	Operating Revenue	Operating Expense	Capital Grants and Contributions	Developer Contributions	Loan Funds Used	Capital Purchases	Unexpended Developer Contributions	Transfers from Reserves	Transfers to Reserves	Unexpended Grants	Net Change
General Managers /Chief Executive											
Administrative Services	-	26,500	-	-	-	-	-	-	-	-	26,500
Financial Services	902,200	14,800	-	(100)	-	-	200	(1,120,700)	-	-	(203,600)
Corporate Management	-	12,800	-	-	-	-	-	(12,800)	-	-	-
Organisational Development	(40,000)	-	-	-	-	-	-	-	-	-	(40,000)
Total General Managers Chief Executive	862,200	54,100	-	(100)	-	-	200	(1,133,500)	47,400	-	(169,700)
Infrastructure											
Caravan Parks and Nimbin Pool	-	-	-	-	-	85,100	-	(85,100)	-	-	-
Property Services - Commercial	-	-	-	-	-	-	-	(57,300)	-	-	(57,300)
Waste Services	-	24,000	-	-	-	-	-	-	-	(24,000)	-
Miscellaneous Properties	-	56,800	-	-	-	-	-	-	-	-	56,800
Properties & Facilities	-	8,800	-	-	-	-	-	-	-	(5,000)	3,800
Bridges	-	-	-	-	-	34,600	-	-	-	-	34,600
Emergency Services	-	22,800	-	-	(15,600)	-	-	-	(9,300)	-	(2,100)
Parks and Recreation	-	16,000	(20,000)	-	-	304,300	-	(115,900)	-	(189,100)	(4,700)
Traffic & CitySafe	-	-	-	-	-	124,400	-	-	-	(124,400)	-
Roads - Urban	-	18,200	1,375,000	-	-	26,900	-	-	-	(1,420,100)	-
Roads - Rural	414,200	-	-	-	-	(3,500)	-	(404,700)	-	-	6,000
RTA Works	-	327,800	-	-	-	-	-	-	-	(362,400)	(34,600)
Asset Management	(52,800)	117,800	100,000	-	-	146,000	-	(143,000)	-	(171,500)	(3,500)
Total Infrastructure	361,400	592,200	1,455,000	-	(15,600)	717,800	-	(806,000)	(9,300)	(2,296,500)	(1,000)
Development & Governance											
Lismore Regional Airport	-	(40,000)	-	-	-	-	-	40,000	-	-	-
Art Galleries	(8,300)	47,800	-	-	-	11,400	-	(10,400)	8,300	(50,400)	(1,600)
Swimming Pools	(7,000)	7,000	-	-	-	-	-	-	-	-	-
Community Services	(4,200)	85,400	-	-	-	-	-	(13,100)	-	(48,000)	20,100
Information Services	-	7,000	-	-	-	-	-	-	8,000	-	15,000
Public Libraries	2,400	145,600	-	-	-	-	-	-	-	-	148,000
Economic Development	67,200	214,700	-	-	-	-	-	(33,600)	(43,500)	(83,400)	121,400
Planning Services	-	7,600	-	-	-	-	-	-	-	(2,600)	5,000
Environmental Health & Building Control	20,000	64,000	-	-	-	-	-	(25,200)	-	(58,800)	-
Goonellabah Sports and Recreation Centre	-	-	-	-	-	801,300	-	-	-	(640,000)	161,300
Total Corporate and Community Services Group	70,100	539,100	-	-	-	812,700	-	(42,300)	(27,200)	(883,200)	469,200
Council Total	1,293,700	1,186,500	1,455,000	(100)	(15,600)	1,530,500	200	(1,982,900)	10,900	(3,179,700)	298,500

Report

Subject	Investments – October 2009
File No	EF09/2209:ED/17567
Prepared by	Management Accountant
Reason	Required by Local Government Act 1993, Local Government (General) Regulations 2008 and Council's Investment Policy
Objective	To report on Council Investments
Strategic Plan Link	Best-Practice Corporate Governance
Management Plan Project	Financial Services

Overview of Report

Council investments as at 31 October 2009 are estimated to be \$28,862,048 subject to final market valuations typically provided after month end.

The interest rate reported for October 2009 is estimated to be 3.10% and is below the Bank Bill Swap Rate for the same period of 3.66%. The final interest return may vary due to actual returns achieved on investments advised after month end.

Background

The Local Government Act 1993 (Section 625), Local Government (General) Regulations 2005 (Regulation 212) and Council's Investment policy requires a monthly report be provided to Council on investments. The report is to include the source and amount of funds invested, terms of performance of the investment portfolio over the preceding period and a statement of compliance in relation to the requirements of the Local Government Act 1993.

Report on Investments

- | | |
|--|--------------|
| • <i>Confirmation of Investments – at Market Value – 30 September 2009</i> | \$31,007,290 |
| • <i>Estimated Investments – at Market Value – 31 October 2009</i> | \$28,862,048 |

The current rate of return on investments for October 2009 is estimated to be 3.10% and is below the Bank Bill Swap Rate for the same period of 3.66%. The rate of return reported has been calculated using actual returns where available and estimates based on the previous period balance and interest rates. The methodology used to calculate estimates appears reasonable in light of discussion with the portfolio advisor.

The return on investment is lower than the Bank Bill swap rate due to a number of investments not paying coupons. These include investments in Blackrock Care & Maintenance, ASPRIT III Trust, Longreach – Series 25 and five Lehman Brothers related investments that are terminating. These investments are shown on the 'Estimated Interest' attachment with an estimated interest rate and weighted interest for the period of zero.

In regards to the Blackrock Care & Maintenance Fund, as this fund is being independently managed with a view to its ultimate termination, the payment of a coupon is dependent on funds available net of costs.

While payments for the investment capital are being received, coupon payments will only be recognised as return on investment in the month they are actually received.

Terminating Investments

As reported previously, Council has five (Beryl Esperance 2, Beryl Global Bank Note, Zircon Merimbula, Zircon Coolangatta and Zircon Miami) investments directly affected by the Lehman Brothers bankruptcy. Successful legal action taken in the High Court of England and Wales resulted in expectations that part of the invested funds would be returned to investors including Council.

On appeal, further hearings will take place after October 1, 2009 and as such it is not possible to quantify the likely invested funds return, if any, and when.

CPG Research & Advisory have made contact in recent weeks with the Bank of New York Mellon in the UK requesting updated information, but have not received a reply at this time.

Attachments

The following attachments have been included for Council's information:

- Capital Value Movements including name of institution, lodgement date and maturity date.
- Estimated Interest showing interest rate and estimated interest earned for the period.
- Total Investment Portfolio held by month with last year comparison - graphical
- Investment by Type - graphical
- Weighted Average Interest Rate with bank bill swap rate and last year comparison – graphical
- Investment by Institution as percentage of total portfolio – graphical

Comments

Financial Services

The information reported is noted and recommendation supported.

Other staff comments

Not required

Public consultation

Not required

Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. For October 31, 2009, investments total \$28,862,048 and the annualised rate of return was 3.10%.

The investments held by Council with various financial institutions, have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's investment policy.

Recommendation

That the report be received and noted.

**Capital Value Movements
Summary of Investments held as at
31 October, 2009**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Base Capital Value	Estimated Current Market Value (Note 4)	
Cash Based Returns									
Blackrock Care & Maintenance Fund	Managed Fund	A	High	15/10/2008	N/A	22/10/2009	\$ 2,666,835	\$ 2,666,835	Note 3
CBA Business On Line Banking A/c	Cash Management Account	Cash	High	N/A	N/A	22/10/2009	\$ 2,941,000	\$ 2,941,000	Note 1
Macquarie Cash Management Trust	Cash Management Account	Not Rated (Note 7)	High	1/9/2006	N/A	22/10/2009	\$ 247,986	\$ 247,986	Note 1
ANZ High Yield Cash Account	Cash Management Account	AA	High	N/A	N/A	22/10/2009	\$ 925,096	\$ 925,096	Note 1
IMB Banking & Financial Services	Term Deposit	A2	High	3/9/2009	2/11/2009	3/09/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Newcastle Permanent	Term Deposit	A2	High	3/9/2009	2/11/2009	3/09/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Westpac Banking Corporation	Term Deposit	AA	High	3/9/2009	2/11/2009	3/09/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Bank of Queensland	Term Deposit	A2	High	6/10/2009	5/11/2009	6/10/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	9/9/2009	9/11/2009	9/09/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Suncorp	Term Deposit	A-1	High	21/10/2009	21/12/109	21/10/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	21/10/2009	21/12/2009	21/10/2009	\$ 2,000,000	\$ 2,000,000	Note 1
Summerland Credit Union	Term Deposit	Not Rated (Note 7)	High	19/10/2009	17/1/2009	17/10/2009	\$ 1,000,000	\$ 1,000,000	Note 1
Merrill Q A/A FRN / CBA	Floating Rate Note	A+	High	22/3/2005	8/6/2010	30/09/2009	\$ 1,000,000	\$ 990,680	Note 1
Bishopsgate (Wentworth)	Floating Rate CDO	AA	High	1/9/2006	20/9/2010	30/06/2009	\$ 500,000	\$ 435,100	Note 1.5
Herald Limited (Quartz)	Floating Rate CDO	B+	Low	1/9/2006	20/12/2010	30/06/2009	\$ 30,000	\$ 13,572	Note 1.5
Cypress (Lawson)	Floating Rate CDO	BBB+	Low	1/9/2006	30/12/2010	30/06/2009	\$ 500,000	\$ 379,500	Note 1.5
Deutsche Bank CG Yield Curve Note	Euro Bond	Not Rated (Note 7)	High	1/9/2006	18/10/2011	30/06/2009	\$ 250,000	\$ 247,500	Note 1.5
BELO (Kalgoorlie)	Commodity Backed Security	AA+	High	1/9/2006	27/2/2012	30/06/2009	\$ 700,000	\$ 580,440	Note 1.5
Magnolia (Flinders)	Floating Rate CDO	BB+	Low	1/9/2006	20/3/2012	30/06/2009	\$ 300,000	\$ 210,000	Note 1.5
Omega (Henley)	Floating Rate CDO	CCC	Low	1/9/2006	22/6/2012	30/06/2009	\$ 400,000	\$ 126,200	Note 1.5
Beryl (Esperance 2)	Floating Rate CDO	BB+	Low	1/9/2006	20/3/2013	30/06/2009	\$ 400,000	\$ -	Note 1.5
Corsair (Torquay)	Floating Rate CDO	CCC-	Low	1/9/2006	20/6/2013	30/06/2009	\$ 500,000	\$ 59,400	Note 1.5
Zircon (Merimbula)	Floating Rate Note	C	Low	1/9/2006	20/6/2013	30/06/2009	\$ 300,000	\$ -	Note 1.5
ASPRIT III Trust	Equity Linked Investment	AA	High	13/7/2007	13/7/2013	31/03/2009	\$ 2,000,000	\$ 1,742,000	Note 1.2
Corsair (Kakadu)	Floating Rate CDO	CCC	Low	1/9/2006	20/3/2014	30/06/2009	\$ 500,000	\$ 124,550	Note 1.5
Longreach - Series 25	Equity Linked Investment	AA-	High	2/4/2007	4/4/2014	30/06/2009	\$ 1,000,000	\$ 666,140	Note 1.2
Helium (Scarborough)	Floating Rate CDO	CCC-	Low	1/9/2006	23/6/2014	30/06/2009	\$ 200,000	\$ 2,200	Note 1.5
Beryl (Global Bank Note)	Floating Rate Note	C	Low	1/9/2006	20/9/2014	30/06/2009	\$ 150,000	\$ -	Note 1.5
Zircon (Coolangatta)	Floating Rate CDO	C	Low	1/9/2006	20/9/2014	30/06/2009	\$ 500,000	\$ -	Note 1.5
Aphex (Glenelg)	Floating Rate CDO	CCC+	Low	1/9/2006	22/12/2014	30/06/2009	\$ 500,000	\$ 60,900	Note 1.5
Bendigo Bank FR Sub Debt	Subordinate Debt	Not Rated (Note 7)	Medium	1/9/2006	14/12/2015	30/09/2009	\$ 500,000	\$ 481,450	Note 1.5
Elders Rural Bank Sub Debt	Subordinate Debt	Not Rated (Note 7)	Medium	1/9/2006	16/3/2016	30/09/2009	\$ 1,000,000	\$ 961,500	Note 1.5
Zircon (Miami)	Floating Rate CDO	C	Low	1/9/2006	20/3/2017	30/06/2009	\$ 50,000	\$ -	Note 1.5
Investment on Hand							\$ 33,060,916	\$ 28,862,048	

Investments Redeemed during period (Note 6)

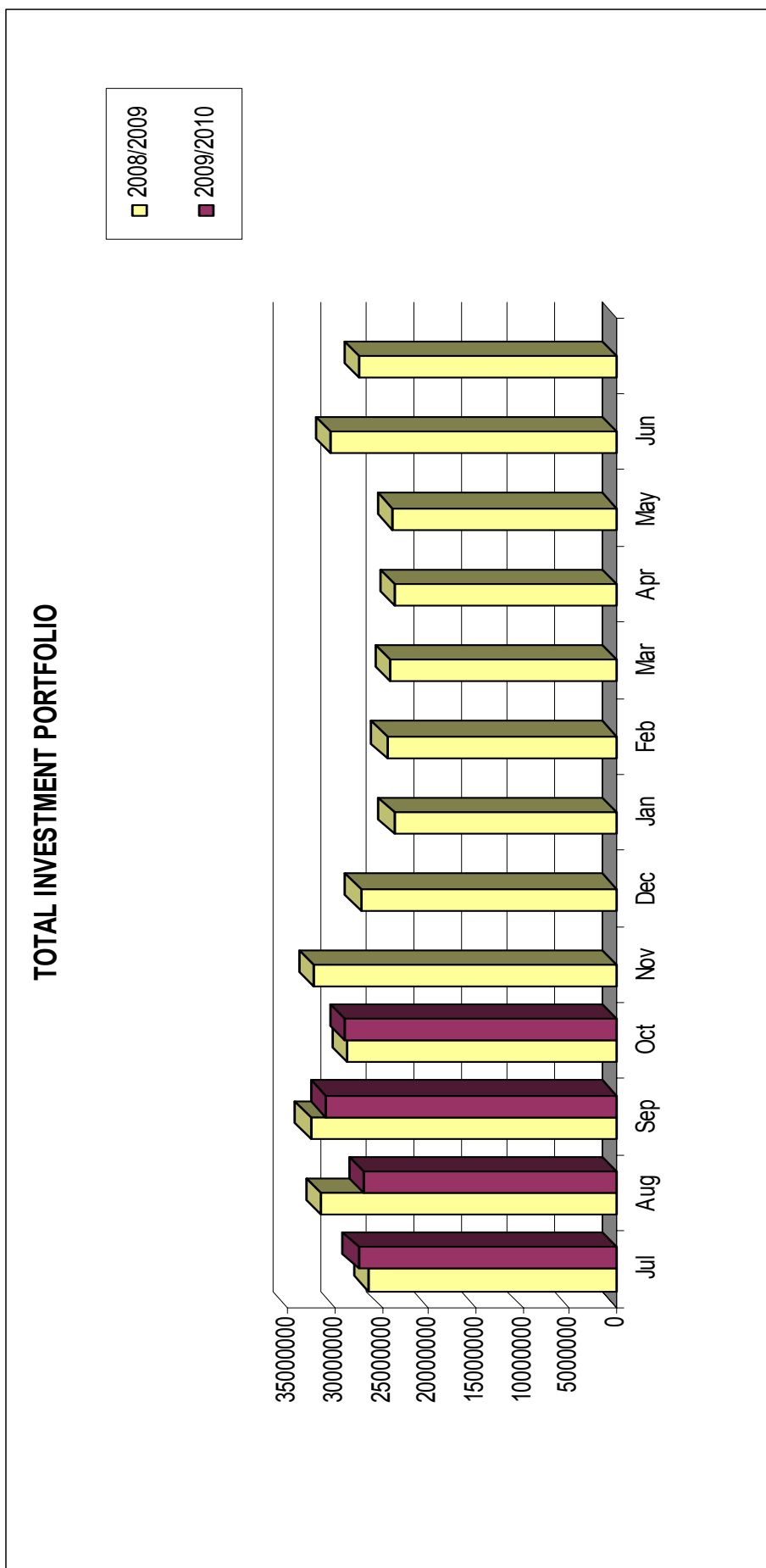
ANZ High Yield Cash Account	Cash Management Account	AA	High	N/A	N/A	N/A	\$ 1,250,000	\$ 1,250,000
Blackrock Care & Maintenance Fund	Managed Fund	A	High	15/10/2008	N/A	22/10/2009	\$ 150,526	\$ 150,526
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	22/9/2009	21/10/2009	22/09/2009	\$ 2,000,000	\$ 2,000,000
Summerland Credit Union	Term Deposit	Not Rated (Note 7)	High	21/7/2009	19/10/2009	21/07/2009	\$ 1,000,000	\$ 1,000,000
Bank of Queensland	Term Deposit	A2	High	3/9/2009	6/10/2009	3/09/2009	\$ 2,000,000	\$ 2,000,000
Suncorp	Term Deposit	A-1	High	21/9/2009	21/10/2009	21/09/2009	\$ 2,000,000	\$ 2,000,000

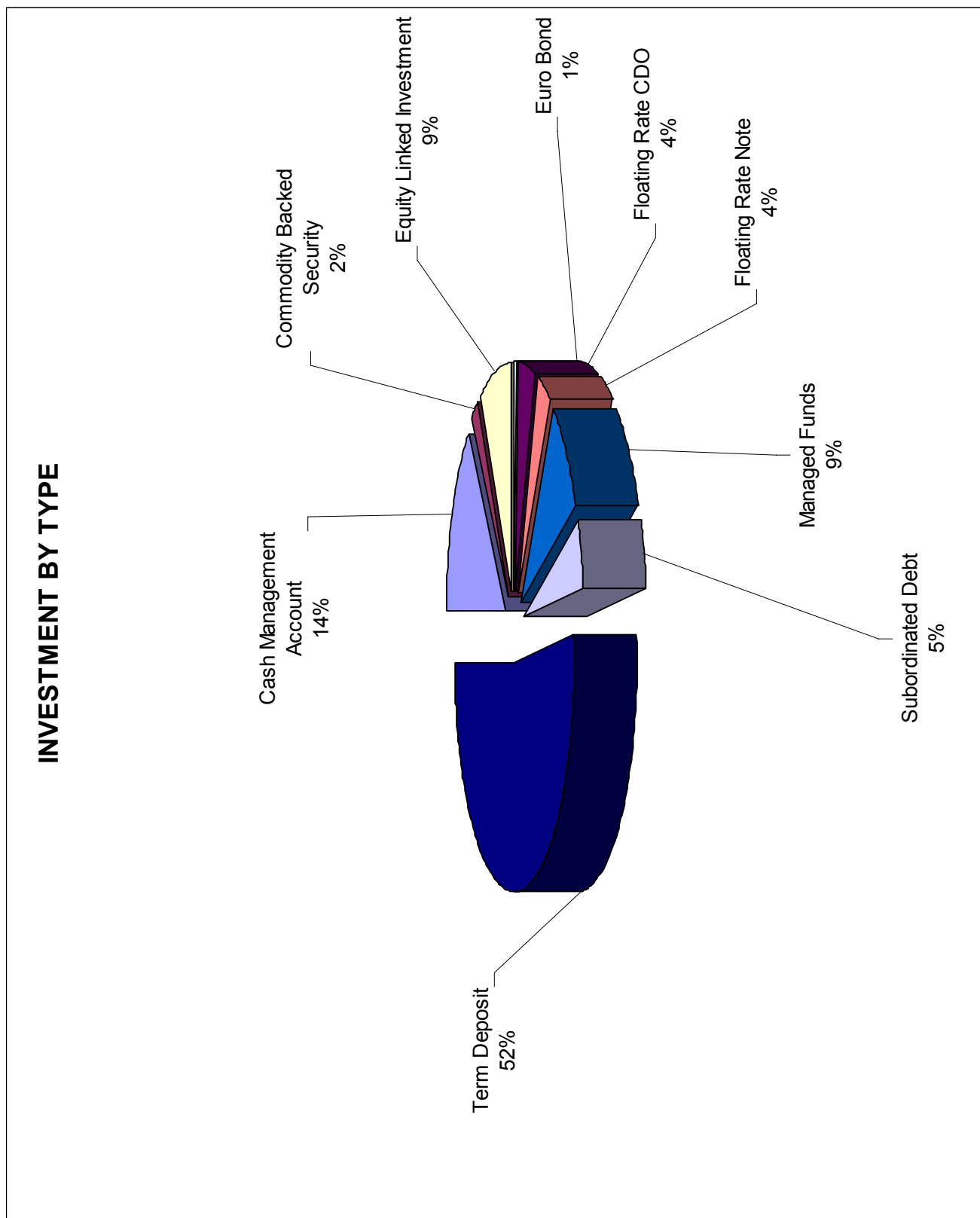
\$ 41,461,442 \$ 37,262,574

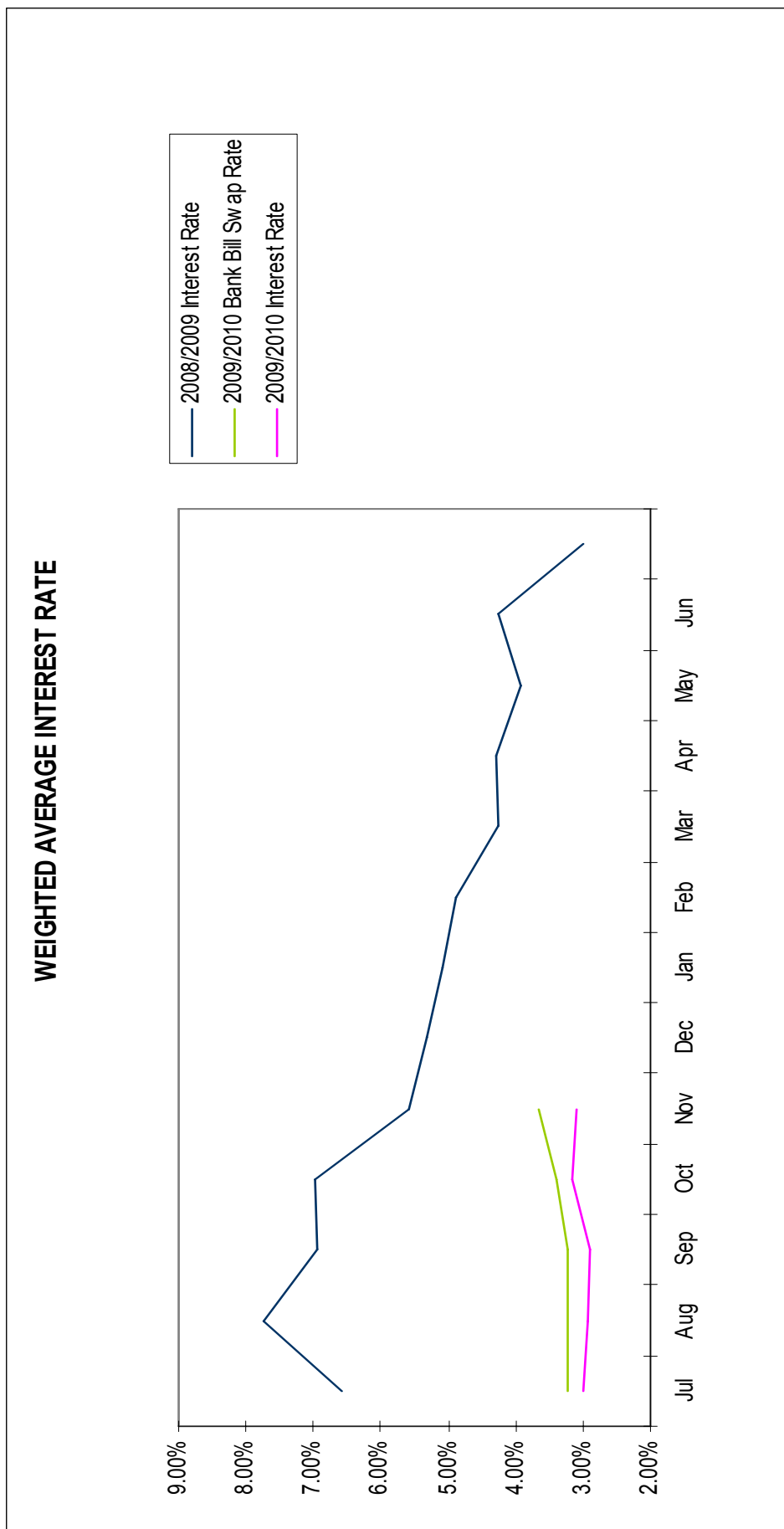
Note 1: Base Capital Value is the face value of the investment
 Note 2: Capital Guaranteed note if held to maturity
 Note 3: The Base Capital Value is the Market Value as at 30/6/09 plus additions less redemptions during the year.
 Note 4: Latest estimates based on information provided by investment managers and prior period performance.
 Note 5: Market Value is the Capital Value of the Investment and any accrual of income.
 Note 6: These investments were redeemed during the period and impact on the interest return for the period. They are not part of the Balance of Investments Held.
 Note 7: These Counterparties & Products are authorised under the Minister Order and require no minimum Credit Rating.

"Indicative" Source of Funds

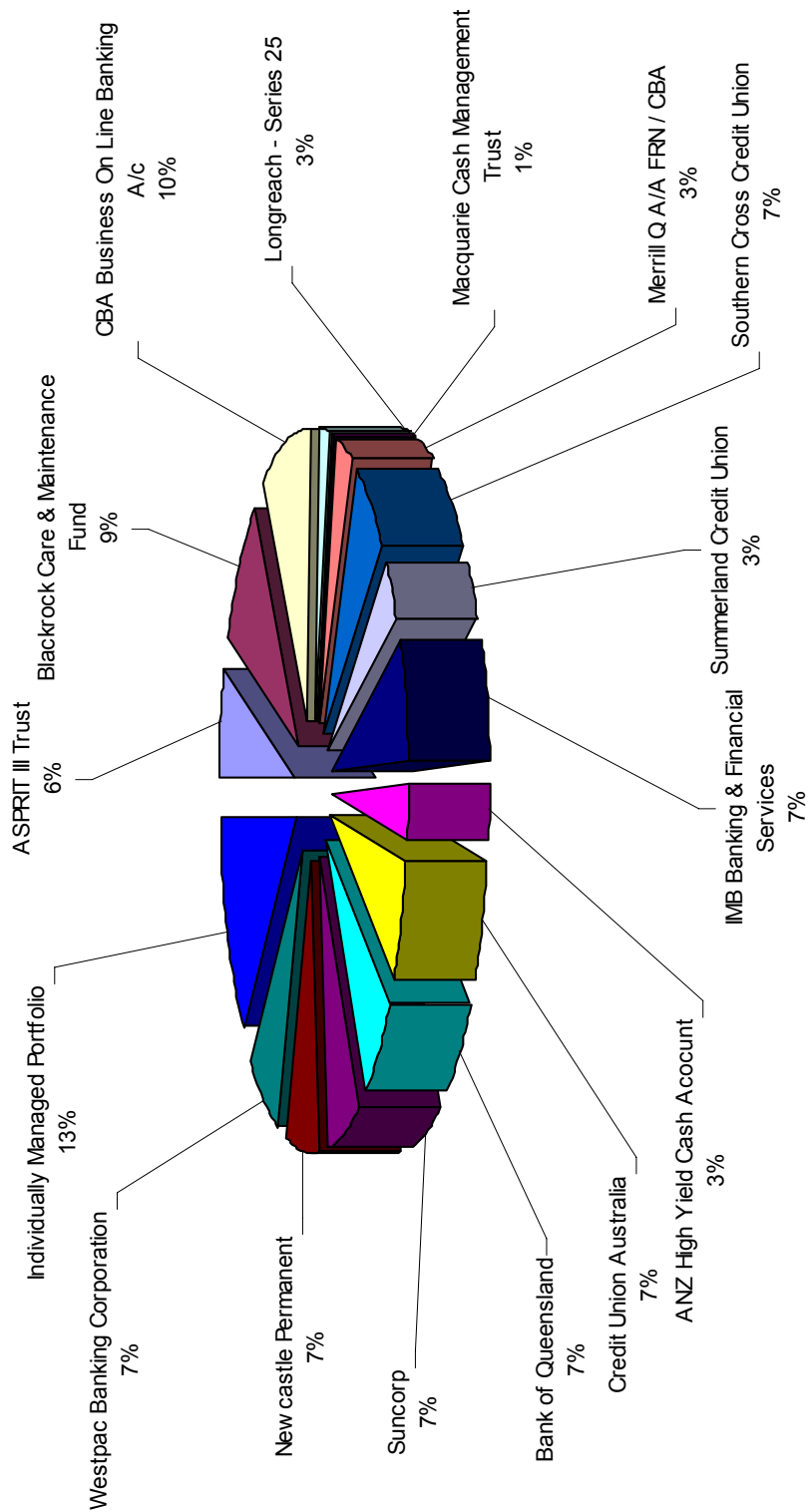
Externally Restricted	22,855,856
Internally Restricted	6,006,192
	<u>\$ 28,862,048</u>







Investment by Institution



Financial Assistance - Section 356

a) **City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)**

Budget Approved: \$15,200 Spent to Date: \$14,598.10

Volunteering Northern Rivers, auspiced by the Lismore Neighbourhood Centre Inc. is requesting Council waive the hire charges (\$572) for the 3rd Annual Volunteers Expo 2009 held on 14 May 2009. An entrance fee is not to be charged (CI09/19450).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

\$143.00

The Northern Rivers Prostrate Cancer Awareness Committee is requesting Council discount the hire charges (\$220) for the hire of the Fountain Room and Kitchen on 19 September 2009 to hold a forum. An entrance fee is not to be charged (CI09/19448).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

\$55.00

Arts Northern Rivers is requesting Council contribute to the hire charges (\$311) for the hire of the Fountain Room on 24 November and 1 December for the Northern Rivers region Youth Arts Network Forum and Northern Rivers region ArtStart Showcase. An entrance fee is not to be charged (CI09/20028).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

\$77.75

In accordance with policy.

a) **Banners – Policy 1.4.14 (GL390.50.15)**

Budget: \$700 Spent to date: \$0

Westpac Life Saver Rescue Helicopter is requesting the cost of the hire fee to display their banner on Uralba Street, between 24-30 August 2009.

\$165.00

In accordance with policy.

b) **Council Contributions to Charitable Organisations****Waste Facility – Policy 5.6.1 (GL390.965.15)**

Budget: \$11,000 Spent to date: \$4,945.86

Animal Rights & Rescue \$0.00

Challenge Foundation \$162.36

Five Loaves \$101.82

Friends of the Koala \$24.36

Section 356 Donations

LifeLine \$280.00

Salvation Army \$41.64

Westpac Life Saver Rescue Helicopter \$27.27

Lismore Soup Kitchen \$25.45

St Vincent De Paul \$5.09

Soup Kitchen \$840.00 (March - June 2009)

Total

\$1,507.99

1st Lismore Scout Group is requesting Council provide assistance with waste disposal costs at the Wyrallah Road Waste Facility. Proof of charity registration has been provided (CI09/12044).

Recommendation: In accordance with the policy, assistance with waste disposal to the value of two (2) tonne per month be applied to the 1st Lismore Scout Group.

In accordance with policy.

c) Mayor's Discretionary Fund (GL390.485.15)

Budget: \$2,700

Spent to date: \$750

Madison Fiedler a student of Modanville Primary School is seeking financial assistance with travel expenses to compete in the State Athletics in Sydney (CI09/19344).

\$50

Wilson Park Public is seeking a donation from the Tourism Office to be used as prizes for their Trivia night which will be held as a fundraising event to benefit children with intellectual and physical disabilities (CI09/19078).

\$50 (Prize Donation)

Kelly Wilson of Modanville Primary School will be competing in the national Senior Tournament of the Minds in Brisbane and is seeking assistance with travel expenses (CI09/20820).

\$50

Recommendation

In accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

Documents for Signing & 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 the Council:

Plan of Subdivision and Section 88B Instrument – 50 Oliver Avenue, Goonellabah (P30259)

A plan of subdivision has been prepared for Lot 73 DP1137726 creating three lots and a Section 88B Instrument creating and releasing easements.

The subdivision of the land incorporates one lot for the Goonellabah Sports and Aquatic Centre (6(a) Recreation zone), one lot is intended to be sold (3(a) Business zone), and one lot is intended for the purpose of a joint venture between Rekindling the Spirit and Council (6(a) Recreation zone).

Prior to the sale/transfer of the subdivided lots a further report will be presented to Council.

Plan of Subdivision and Section 88B Instrument – 18/40 Three Chain Road, South Lismore - (Lismore Airport purchase from Aspect North (P25804/7)

A plan of subdivision is to be prepared for Lot 201 DP1076367 creating three lots and a Section 88B Instrument creating and releasing easements.

The subdivision of the land incorporates two lots for proposed sale and one lot to be retained by Council for access.

Prior to the sale of any of the subdivided lots a further report will be presented to Council. (Council's purchase of this land is expected to settle on November 19, 2009.)

Lease to Lismore Workers Club Inc – 180 High Street, Lismore Heights

Renewal of existing lease to the Lismore Workers Club Inc for car parking spaces located on the road reserve to be used in conjunction with the operation of the Lismore Heights Workers Bowling Club for a term of five (5) years.

(EF09/1921:ED09/17725).

Confidential Matters–Closed Council Meeting

A Council may close to the public only so much of its meeting as comprises the receipt or discussion of any of the following:

Section 10A(2) – Local Government Act 1993:

- a) personnel matters concerning particular individuals;
- b) the personal hardship of any resident or ratepayer;
- c) information that would, if disclosed, confer a commercial advantage of a person with whom the Council is conducting (or proposes to conduct) business;
- d) commercial information of a confidential nature that would, if disclosed:
 - i) prejudice the commercial position of the person who supplied it, or
 - ii) confer a commercial advantage on a competitor of the Council, or
 - iii) reveal a trade secret;
- e) information that would, if disclosed, prejudice the maintenance of law;
- f) matters affecting security of the Council, Councillors, Council staff or Council property;
- g) advice concerning litigation, or advice, that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
- h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Clause 34 of Council Code of Meeting Practice

Representations from the public as to whether part of the meeting should be closed to the public can be made after the motion to close the meeting has been moved and seconded for a period of 10 minutes.

Recommendation

That the Council exclude members of the press and public from the meeting and move into Closed Council Meeting to consider the following matters:

Item	<i>Section 339 Report – Senior Staff</i>
Grounds for Closure	Section 10A(2) (a):
Public Interest	Discussion of this matter in an open meeting would on balance be contrary to the public interest because this report contains personal matters concerning the two Executive Directors.

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MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY 13 OCTOBER 2009, AT 6.00PM.

Present Mayor, Councillor Dowell, Councillors Battista, Chant, Clough, Ekins, Graham, Houston, Marks, Meineke, Smith and Yarnall, together with the General Manager, Acting Executive Director Infrastructure Services, Executive Director Sustainable Development, Acting Manager Finance, Acting Manager Integrated Planning, Acting Manager Development and Compliance, Acting Community Services Coordinator, Communications Coordinator, Corporate Compliance Coordinator, and Personal Assistant to the General Manager.

**Apologies/
Leave of
Absence** A leave of absence was granted for:
Councillor Clough from 14-18 October 2009
Councillor Battista from 19-20 October 2009
Councillor Smith from 10-14 November 2009.

(Councillors Clough/Meineke)

168/09 **Minutes** The minutes of the Ordinary Meeting held on 8 September 2009, were confirmed.

(Councillors Clough/Chant)

Disclosure of Interest

S451

Councillor Chant declared a pecuniary interest in the following item:
Report – Tender T2010-04 – Sprayed Bituminous Surfacing Works

Nature of Interest: Part owner of a company named in the report as indicated in Item 5, Local Content.

Councillor Smith declared a significant conflict of interest in the following item:
Report – Shelter for the Homeless

Nature of Interest: Close personal friendship with applicants and closely supported in past and present operations.

Councillor Clough declared a pecuniary interest in the following item:
Report – Shelter for the Homeless

Nature of Interest: Financial discussions held with the Soup Kitchen re: loan.

Councillor Battista declared a significant conflict of interest in the following item:
Report – Councillor Interstate Travel

Nature of Interest: I am the Councillor include in the report.

Councillor Battista declared a significant conflict of interest in the following item:
Report – Lismore Business Promotion Panel

Nature of Interest: One of the nominations is from a person who was on my election group.

Councillor Battista declared a non significant conflict of interest in the following item:
Report – DA2004/281 – S.96 – Eltham Valley Pantry

Nature of Interest: I have a similar hospitality business in the CBD.

Councillor Houston declared a non significant conflict of interest in the following item:
Report – DA2004/281 – S.96 – Eltham Valley Pantry

Nature of Interest: Some opponents/proponents contributed small amounts to my election campaign.

Councillor Meineke declared a non significant conflict of interest in the following item:
Documents for Signing and Sealing

Nature of Interest: I live in Tanelawn Estate.

Councillor Yarnall declared a non significant conflict of interest in the following item:
Confidential Matters – Closed Council Meeting – Developer Dispute – Compensation Claim

Nature of Interest: A member of the community objecting to this development donated to my election campaign.

Councillor Yarnall declared a non significant conflict of interest in the following item:
Report – DA2004/281 – S.96 – Eltham Valley Pantry

Nature of Interest: Objectors to the pantry contributed to my campaign by way of donation.

Councillor Dowell declared a non significant conflict of interest in the following item:
Report – DA2004/281 – S.96 – Eltham Valley Pantry

Nature of Interest: Proponents and opponents made less than significant contributions to my election campaign. I will participate in the debate and vote.

Councillor Dowell declared a non significant conflict of interest in the following item:

Confidential Matters – Closed Council Meeting – Developer Dispute – Compensation Claim

Nature of Interest: Opponents of the development made less than significant contributions to my election campaign. I will participate in the debate and vote.

Public Access Session

Prior to dealing with the circulated reports and associated information, a Public Access Session was held at which Council was addressed by the following:

Connor Anderson – Notice of Motion – Federal Community Infrastructure Funding

Mr Anderson advised he was a regular skater, he cited the benefits to local residents of having a skate facility in Nimbin. He detailed the problems of any further delays would cause and sought Council support to build a skate park.

Karen Kolby – Notice of Motion – Casino-Murwillumbah Railway Line

Ms Kolby claimed that the intent of the State Government's legislation was to permit the sale of the railway land. She detailed the need for retaining rail corridors and the benefits it would bring.

Julie Rhodes – Report – DA2004/281 – S.96 – Eltham Valley Pantry

Ms Rhodes outlined the history of the applications for the expansion at the facility. She detailed issues over seating, noise and traffic and how the application had dealt with them.

Jackie Hudson – Report – Lismore Outside of School Hours Care Services

Ms Hudson raised her concerns over the proposed transfer. These issues being, a decline in the quality of service and a possible increase in the cost of service.

Gary Pratt – Report – Closure of Pathway – Milgate Close to Phillip Street, Goonellabah

Mr Pratt advised he was a resident of Milgate Close for over 16 years. He cited the history of anti-social behaviour associated with the use of the pathway, a pattern which was escalating. He claimed the closure of the pathway would improve the amenity of Milgate Close for the residents.

Brian Best – Report – Rochdale Theatre

Mr Best outlined the history of the theatre, its role in the community and the efforts made by the theatre company to improve the facility. He sought a new lease, improvements to the building and fair rental.

At this junction Councillors Smith and Clough left the meeting.

Jean Rose Rapmund – Report – Shelter for the Homeless

Ms Rapmund supported the need for the homeless shelter but indicated that she considered the Winsome Hotel an unsuitable location. She detailed concerns about the safety for the residents of the homeless shelter and issues associated with community interaction.

John Paterson – Report – Shelter for the Homeless

Mr Paterson detailed the efforts to be made to consult with the community prior to the establishment of the homeless shelter. He acknowledged community concerns and undertook to address these issues.

At this junction Councillors Smith and Clough returned to the meeting.

Notice of Motions

Federal Community Infrastructure Funding

169/09 **RESOLVED** that Council as a matter of priority commit its Commonwealth Community Infrastructure Funding (Round 2) of \$449,000 to the planning and development of a skate park in Nimbin's Peace Park.

(Councillor Clough/Smith) (EF09/631:ED09/16120)

Casino-Murwillumbah Railway Line

170/09 **RESOLVED** that:

1. Council write to the NSW Minister for Transport and Infrastructure and the Premier to object to the introduction of the Transport Administration Amendment (Rail Trails) Bill 2009 (the Bill) on the following grounds that:
 - a) The Bill will remove parliamentary protection from disused rail corridors including the Casino Murwillumbah corridor.
 - b) The Bill is broadly framed even though the publicly stated reason for the legislation is to allow for specific rail trails in the Southern Region of NSW.
 - c) The Bill proposes that State Rail will be able to sell or otherwise dispose of railway tracks and other works used in connection with the Casino to Murwillumbah railway line.
 - d) The Northern Rivers Regional Organisation of Councils (NOROC) is currently developing an integrated regional transport plan. The Casino – Murwillumbah rail corridor is central to that plan.

- e) There is strong community support for the restoration of a commuter rail service between Casino and Murwillumbah and the extension of the service to the Queensland rail system at the Gold Coast airport.
2. The letters request that the legislation be reconsidered and that the Bill is made specific to proposed rail trails in Southern NSW.
3. The letters include a request for the NSW Government to urgently consider the introduction of commuter rail services on a refurbished Casino-Murwillumbah rail line and that the NSW Government seek funding support from the Federal Government.
4. A copy of the letters be sent to the Federal members in Page and Richmond with a request to provide letters of support for Council's position.

(Councillor Clough/Houston) (EF09/631:ED09/16112)

GSAC Augmentation

1711/09

RESOLVED that:

1. Council prepare a report on accessing the \$1million climate change fund for GSAC solar heating augmentation with an estimated cost of \$50,000 and savings of \$15,000 per annum.
2. Council prepare a report on accessing the same fund for GSAC photo voltaic cells to enable self sufficient electricity generation at an estimated cost of \$475,000.
3. Council seek grants from both State and Federal Governments for these projects.

(Councillor Ekins/Clough) (EF09/631:ED09/16057)

Reports

DA2004/281 – S.96 – Eltham Valley Pantry

A MOTION was MOVED that Council:

1. Grant delegated authority to the General Manager to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied subject to Councillors being advised of proposed changes prior to delegations being exercised.
2. As the consent authority, approve the Section 96 application to Development Application 5.2004.281.2 to:
 - a) Modify the description of the development as follows:

The establishment of an eighty eight (88) seat refreshment room (café), minor alterations to an existing approved building associated with a rural industry and the use of a marquee in the grounds.
 - b) Modify conditions 1, 3 and 42 as follows:
 - 1 In granting this development consent, Council requires:

- All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. 2004/5847 dated March 2004, DA04/281-1 & 2 dated 17/5/04 and **plan showing locations of marquees dated Jan 09** and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

Reason: *To correctly describe what has been approved. (EPA Act Sec 79C)*

- 3 The hours of operation of the refreshment room and marquee are limited to:

Monday to Friday	10.00a.m. to 3.00p.m.
Saturday & Sunday	8.00a.m. to 6.00p.m.
Public Holidays	8.00a.m. to 6.00p.m.

Except as provided for in Condition 3A.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 42 Provision shall be made for twenty nine (29) carparking spaces with a dust free or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 18 Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

- c) Add additional conditions 3A, 43A, 49 and 50 to the consent.

- 3A The seating contained within the marquee shall not exceed the total number of approved seats for the development being eighty eight (88). Seating in the marquee is not additional seating for the development.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 43A Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect within two months of the date of this amended consent. The rates and amounts applying at the date of this notice, totalling **\$7,313**, are set out in schedule 2 for your information. All contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

Should levies set out in the attached schedule not be paid within twelve (12) months of the date of this consent, the rates shall be increased in accordance with the listing of rates applicable for the financial year in which payment is made. This listing of rates reflects the adjustment made for the Consumer Price Index (CPI) on an annual basis.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated July 1999 as required by the increased population or activity. (EPA Act Sec 94)*

On-Site Sewerage Management System

- 49 The on-site sewage management system must be upgraded to properly manage all wastewater effluent generated by the existing and proposed development in accordance with contemporary statutes and standards.

Reason: *To protect public health and the environment.*

- 50 Prior to the commencement of the approved use a Section 68 application under the *Local Government Act, 1993* for an on-site sewage management system must be submitted to Council and be approved, and all work must be completed in accordance with the requirements of the approval. The application must include a comprehensive on-site wastewater management report.

Note: The on-site wastewater management report must properly address all the relevant matters contained in Council's letter of request for further information dated 26 February 2009.

Reason: *To protect public health and the environment and to comply with statutory requirements.*

Schedule 2

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 43A, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

The following Levies are charged under Section 94 of the Environmental Planning and Assessment Act 1979 and amounts payable are set out below.

*** Note: For discount see Lismore Contributions Plan 2004**

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Rural Roads				
Boatharbour Road	90440801	1	7313	\$7,313
TOTAL				\$7,313

(Councillors Ekins)

The motion lapsed for want of a seconder.

A MOTION was MOVED that Council

1. Grant delegated authority to the General Manager to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.
2. As the consent authority, approve the Section 96 application to Development Application 5.2004.281.2 to:
 - a) Modify the description of the development as follows:

The establishment of an eighty eight (88) seat refreshment room (café), minor alterations to an existing approved building associated with a rural industry and the use of a marquee in the grounds.

b) Modify conditions 1, 3 and 42 as follows:

- 1 In granting this development consent, Council requires:
 - All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
 - All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
 - Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. 2004/5847 dated March 2004, DA04/281-1 & 2 dated 17/5/04 and **plan showing locations of marquees dated Jan 09** and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

Reason: *To correctly describe what has been approved. (EPA Act Sec 79C)*

- 3 The hours of operation of the refreshment room and marquee are limited to:

Monday to Friday 10.00a.m. to 3.00p.m.
Saturday & Sunday 8.00a.m. to 6.00p.m.
Public Holidays 8.00a.m. to 6.00p.m.

Except as provided for in Condition 3A.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

42 Provision shall be made for twenty nine (29) carparking spaces with a dust free or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 18 Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

c) Add additional conditions 3A, 3B, 3C, 43A, 49 and 50 to the consent.

3A The Saturday night functions are limited to a maximum of 50 patrons and must only operate between the hours of 6pm and 10pm for a maximum of 12 occasions per year with the following frequency:

- A maximum of three functions in December
- A maximum of two functions in any one month in October, November, January, February and March, and
- A maximum of one function in any one month in April, May, June, July, August and September.

Amplified music and voice is not permitted and the windows on the eastern and southern facades must remain closed during any function. All patrons must be seated within the building or the area designated for outdoor seating as shown on the plan marked as attachment 7 from the noise report by Greg Alderson Associates.

Marquees are not to be used for night functions unless a further noise report is submitted to Council's Compliance Officers (Environmental Health) for consideration and approval that demonstrates that noise emitted from the marquees will be less than the design goal of 40dB (A) at the receptors.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

3B All patrons must have vacated the premises on any Saturday night function on or before 10:20pm and in a manner that ensures that no offensive noise is created.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*

3C The seating contained within the marquee for day time use shall not exceed the total number of approved seats for the development being eighty eight (88). Seating in the marquee is not additional seating for the development. Seating in the marquee for night functions shall not exceed fifty (50).

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 43A Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect within two months of the date of this amended consent. The rates and amounts applying at the date of this notice, totalling **\$7,313**, are set out in schedule 2 for your information. All contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

Should levies set out in the attached schedule not be paid within twelve (12) months of the date of this consent, the rates shall be increased in accordance with the listing of rates applicable for the financial year in which payment is made. This listing of rates reflects the adjustment made for the Consumer Price Index (CPI) on an annual basis.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

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The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated July 1999 as required by the increased population or activity. (EPA Act Sec 94)*

On-Site Sewerage Management System

- 49 The on-site sewerage management system must be upgraded to properly manage all wastewater effluent generated by the existing and proposed development in accordance with contemporary statutes and standards.

Reason: *To protect public health and the environment.*

- 50 Prior to the commencement of the approved use a Section 68 application under the *Local Government Act, 1993* for an on-site sewerage management system must be submitted to Council and be approved, and all work must be completed in accordance with the requirements of the approval. The application must include a comprehensive on-site wastewater management report.

Note: The on-site wastewater management report must properly address all the relevant matters contained in Council's letter of request for further information dated 26 February 2009.

Reason: *To protect public health and the environment and to comply with statutory requirements.*

Schedule 2

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 43A, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

The following Levies are charged under Section 94 of the Environmental Planning and Assessment Act 1979 and amounts payable are set out below.

*** Note: For discount see Lismore Contributions Plan 2004**

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Rural Roads				
Boatharbour Road	90440801	1	7313	\$7,313
TOTAL				\$7,313

(Councillors Meineke/Graham)

An AMENDMENT was MOVED that Council:

1. Grant delegated authority to the General Manager to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.
2. As the consent authority, approve the Section 96 application to Development Application 5.2004.281.2 to:

a) Modify the description of the development as follows:

The establishment of an eighty eight (88) seat refreshment room (café), minor alterations to an existing approved building associated with a rural industry and the use of a marquee in the grounds.

b) Modify conditions 1, 3 and 42 as follows:

- 1 In granting this development consent, Council requires:
 - All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
 - All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
 - Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. 2004/5847 dated March 2004, DA04/281-1 & 2 dated 17/5/04 and **plan showing locations of marquees dated Jan 09** and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

Reason: To correctly describe what has been approved. (EPA Act Sec 79C)

- 3 The hours of operation of the refreshment room and marquee are limited to:

Monday to Friday 10.00a.m. to 3.00p.m.
Saturday & Sunday 8.00a.m. to 6.00p.m.
Public Holidays 8.00a.m. to 6.00p.m.

Except as provided for in Condition 3A.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

42 Provision shall be made for twenty nine (29) carparking spaces with a dust free or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 18 Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

c) Add additional conditions 3A, 3B, 3C, 43A, 49 and 50 to the consent.

3A The Saturday night functions are limited to a maximum of 50 patrons and must only operate between the hours of 6pm and 10pm for a maximum of 12 occasions per year with the following frequency:

- A maximum of three functions in December
- A maximum of two functions in any one month in October, November, January, February and March, and
- A maximum of one function in any one month in April, May, June, July, August and September.

Amplified music and voice is not permitted and the windows on the eastern and southern facades must remain closed during any function. All patrons must be seated within the building or the area designated for outdoor seating as shown on the plan marked as attachment 7 from the noise report by Greg Alderson Associates.

Marquees are not to be used for night functions unless a further noise report is submitted to Council's Compliance Officers (Environmental Health) for consideration and approval that demonstrates that noise emitted from the marquees will be less than the design goal of 40dB (A) at the receptors.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

3B All patrons must have vacated the premises on any Saturday night function on or before 10:20pm and in a manner that ensures that no offensive noise is created.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*

3C The seating contained within the marquee for day time use shall not exceed the total number of approved seats for the development being eighty eight (88). Seating in the marquee is not additional seating for the development. Seating in the marquee for night functions shall not exceed fifty (50).

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

4A A detailed landscaping plan (in duplicate) shall be submitted to the Principal Certifying Authority and approved **within one (1) month of the date of this consent**. Landscaping plans shall be in accordance with Council's Landscape Guideline and relevant Development Control Plans. Species identified in Council's Landscape Guideline shall be planted wherever possible. The landscaping will be of sufficient height and density to establish a permanent visual screen along the Western boundary of the car park. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees
- botanical name of shrubs and trees to be planted
- mature height of trees to be planted
- location of grassed areas
- location of paved areas
- location of trees identified for retention in the development application plans.

Principal Certifying Authority approved landscaping shall be completed within three months of the date of this consent and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval. **LN1**

Reason: *To ensure that appropriate landscaping is provided. (EPA Act Sec 79C(c))*

43A Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect within two months of the date of this amended consent. The rates and amounts applying at the date of this notice, totalling **\$7,313**, are set out in schedule 2 for your information. All contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

Should levies set out in the attached schedule not be paid within twelve (12) months of the date of this consent, the rates shall be increased in accordance with the listing of rates applicable for the financial year in which payment is made. This listing of rates reflects the adjustment made for the Consumer Price Index (CPI) on an annual basis.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated July 1999 as required by the increased population or activity. (EPA Act Sec 94)*

On-Site Sewerage Management System

49 The on-site sewerage management system must be upgraded to properly manage all wastewater effluent generated by the existing and proposed development in accordance with contemporary statutes and standards.

Reason: *To protect public health and the environment.*

- 50 Prior to the commencement of the approved use a Section 68 application under the *Local Government Act, 1993* for an on-site sewage management system must be submitted to Council and be approved, and all work must be completed in accordance with the requirements of the approval. The application must include a comprehensive on-site wastewater management report.

Note: The on-site wastewater management report must properly address all the relevant matters contained in Council's letter of request for further information dated 26 February 2009.

Reason: To protect public health and the environment and to comply with statutory requirements.

Schedule 2

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 43A, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

The following Levies are charged under Section 94 of the Environmental Planning and Assessment Act 1979 and amounts payable are set out below.

*** Note: For discount see Lismore Contributions Plan 2004**

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Rural Roads				
Boatharbour Road	90440801	1	7313	\$7,313
TOTAL				\$7,313

(Councillors Yarnall/Clough)

On submission to the meeting the AMENDMENT was DEFEATED.

Section 375A Voting Record

Voting for: Councillors Yarnall, Houston, Clough and Ekins.

Voting against: Councillors Dowell, Battista, Meineke, Chant, Graham, Marks and Smith.

172/09 **RESOLVED** that Council:

1. Gant delegated authority to the General Manager to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.
2. As the consent authority, approve the Section 96 application to Development Application 5.2004.281.2 to:
 - a) Modify the description of the development as follows:

The establishment of an eighty eight (88) seat refreshment room (café), minor alterations to an existing approved building associated with a rural industry and the use of a marquee in the grounds.

b) Modify conditions 1, 3 and 42 as follows:

1 In granting this development consent, Council requires:

- All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. 2004/5847 dated March 2004, DA04/281-1 & 2 dated 17/5/04 and **plan showing locations of marquees dated Jan 09** and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

Reason: *To correctly describe what has been approved. (EPA Act Sec 79C)*

3 The hours of operation of the refreshment room and marquee are limited to:

Monday to Friday	10.00a.m. to 3.00p.m.
Saturday & Sunday	8.00a.m. to 6.00p.m.
Public Holidays	8.00a.m. to 6.00p.m.

Except as provided for in Condition 3A.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

42 Provision shall be made for twenty nine (29) carparking spaces with a dust free or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 18 Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

c) Add additional conditions 3A, 3B, 3C, 43A, 49 and 50 to the consent.

3A The Saturday night functions are limited to a maximum of 50 patrons and must only operate between the hours of 6pm and 10pm for a maximum of 12 occasions per year with the following frequency:

- A maximum of three functions in December
- A maximum of two functions in any one month in October, November, January, February and March, and
- A maximum of one function in any one month in April, May, June, July, August and September.

Amplified music and voice is not permitted and the windows on the eastern and southern facades must remain closed during any function. All patrons must be seated within the building or the area designated for outdoor seating as shown on the plan marked as attachment 7 from the noise report by Greg Alderson Associates.

Marquees are not to be used for night functions unless a further noise report is submitted to Council's Compliance Officers (Environmental Health) for consideration and approval that demonstrates that noise emitted from the marquees will be less than the design goal of 40dB (A) at the receptors.

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 3B All patrons must have vacated the premises on any Saturday night function on or before 10:20pm and in a manner that ensures that no offensive noise is created.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*

- 3C The seating contained within the marquee for day time use shall not exceed the total number of approved seats for the development being eighty eight (88). Seating in the marquee is not additional seating for the development. Seating in the marquee for night functions shall not exceed fifty (50).

Reason: *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 43A Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect within two months of the date of this amended consent. The rates and amounts applying at the date of this notice, totalling **\$7,313**, are set out in schedule 2 for your information. All contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted.**

Should levies set out in the attached schedule not be paid within twelve (12) months of the date of this consent, the rates shall be increased in accordance with the listing of rates applicable for the financial year in which payment is made. This listing of rates reflects the adjustment made for the Consumer Price Index (CPI) on an annual basis.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated July 1999 as required by the increased population or activity. (EPA Act Sec 94)*

On-Site Sewerage Management System

- 49 The on-site sewage management system must be upgraded to properly manage all wastewater effluent generated by the existing and proposed development in accordance with contemporary statutes and standards.

Reason: *To protect public health and the environment.*

- 50 Prior to the commencement of the approved use a Section 68 application under the *Local Government Act, 1993* for an on-site sewage management system must be submitted to Council and be approved, and all work must be completed in accordance with the requirements of the approval. The application must include a comprehensive on-site wastewater management report.

Note: The on-site wastewater management report must properly address all the relevant matters contained in Council's letter of request for further information dated 26 February 2009.

Reason: *To protect public health and the environment and to comply with statutory requirements.*

Schedule 2

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 43A, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

The following Levies are charged under Section 94 of the Environmental Planning and Assessment Act 1979 and amounts payable are set out below.

*** Note: For discount see Lismore Contributions Plan 2004**

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Rural Roads				
Boatharbour Road	90440801	1	7313	\$7,313
TOTAL				\$7,313

(Councillors Meineke/Graham)

Section 375A Voting Record

Voting for: Councillors Dowell, Battista, Meineke, Clough, Chant, Graham, Marks and Smith.

Voting against: Councillors Houston, Yarnall and Ekins (DA2004/281:ED09/15980).

Lismore Outside of School Hours Care Service

173/09

RESOLVED that:

1. Council approve the transfer of the Council's Lismore Outside of School Hours Care (LOOSHC) service to the Lismore Neighbourhood Centre to be managed and operated in conjunction with Lismore Vacation Care.
2. Effective transfer of service to the Lismore Neighbourhood Centre occur when the transitional issues outlined in the Council report of 8 September 2009 are resolved to ensure that there is a continuous service provided to LOOSHC patrons.

(Councillors Houston/Battista) (EF09/1832:ED09/15978)

Closure of Pathway – Milgate Close to Phillip Street, Goonellabah

174/09

RESOLVED that:

1. An 'Application to Close a Public Road' be completed and forwarded to the Land and

Property Management Authority for the pathway between Milgate Close and Phillip Street, Goonellabah.

2. Council request the Land and Property Management Authority to treat the application with urgency.
3. The Department of Housing to pay for:
 - (a) removal of infrastructure on the pathway, ie, concrete stairway and electricity pole with streetlight;
 - (b) installation of new fencing (once pathway is closed);
 - (c) all costs associated with the survey plan for pathway closure and issue of title, boundary adjustment and consolidation, and land transfer; and
 - (d) \$1,000.00 (excl GST) paid to Council for the land component.
4. Lismore City Council to contribute by way of:
 - (a) application to the Land and Property Management Authority to close the pathway;
 - (b) advertising and erection of temporary pathway closure signs; and
 - (c) temporary fencing until the Land and Property Management Authority approves and gazettes the closure.
5. The Mayor and General Manager be authorised to sign and seal the survey plan, contract for the sale of land, transfer documents and any other related document to effect this resolution.

(Councillors Graham/Marks) (R6485:ED09/15914)

Rochdale Theatre

175/09

RESOLVED that:

1. Given Council's decision of 27 October 1998, the rental offer made by the Lismore Theatre Company to continue occupying the building known as the Rochdale Theatre and the cost of required repairs and upgrades, Council explore the option of disposing of the building.
2. Council undertake the necessary investigations into the restrictions on the title of the property, and in the event that these can be resolved satisfactorily, conduct an expression of interest process for sale of the property with the results to be reported back to Council before a final decision is made.

3. Council determine that the rental to be paid on the premises by the Lismore Theatre Company from 1 July 2008 until such time as Council determines the future of the building be \$5,070.72 per annum or \$422.56 per month, indexed by CPI on 1 July each year, being the rental amount calculated under the terms of the previous lease on the understanding that the lease conditions pertaining to maintenance of the premises are observed.
4. All rental collected from the Lismore Theatre Company in the period until Council determines the future of the building be used to fund repairs and maintenance to the building on the following priority basis:
 - A. Repairs to prevent water ingress to the rear of the building,
 - B. Electrical wiring upgrade,
 - C. Statutory upgrades to the fire services in the building.
5. In the event that Council determines not to dispose of the building the terms of any future lease be negotiated at that time.
6. That the report includes comments on ownership of improvements made by Lismore Theatre Company and the cost of getting the building to a satisfactory condition.

(Councillors Meineke/Marks)

Voting against: Councillors Battista, Yarnall and Ekins (P583-02:ED09/16075).

At this juncture Councillors Smith and Clough left the meeting.

Shelter for the Homeless

A MOTION was MOVED that:

1. Council authorise the transfer of \$100,000 from the 2009/10 Budget to Lismore Soup Kitchen Incorporated to assist with the purchase of the Winsome Hotel in order to establish a Homeless Shelter subject to the resolution 156/09 Items 3, 4, 5, 6 and 7.
2. The \$200,000 from the Department of Families, Housing, Community Services & Indigenous Affairs be authorised for release by the General Manager, subject to written confirmation that the use of the funds is in accordance with the Department's requirements.

(Councillors Houston/Chant)

An AMENDMENT was MOVED that:

1. Council authorise the transfer of \$100,000 from the 2009/10 Budget to Lismore Soup Kitchen Incorporated to assist with the purchase of the Winsome Hotel in order to establish a Homeless Shelter subject to the resolution 156/09 Items 3, 4, 5, 6 and 7.
2. The \$200,000 from the Department of Families, Housing, Community Services & Indigenous Affairs be authorised for release by the General Manager, subject to written confirmation that the use of the funds is in accordance with the Department's requirements.
3. The agreement between the Lismore Soup Kitchen Inc and Lismore City Council requiring our funds be returned under certain circumstances be prepared and signed concurrent with settlement of the purchase of the building.

(Councillors Meineke/Graham)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting against: Councillors Houston, Battista and Yarnall.

176/09 **RESOLVED** that:

1. Council authorise the transfer of \$100,000 from the 2009/10 Budget to Lismore Soup Kitchen Incorporated to assist with the purchase of the Winsome Hotel in order to establish a Homeless Shelter subject to the resolution 156/09 Items 3, 4, 5, 6 and 7.
2. That the \$200,000 from the Department of Families, Housing, Community Services & Indigenous Affairs be authorised for release by the General Manager, subject to written confirmation that the use of the funds is in accordance with the Department's requirements.
3. The agreement between the Lismore Soup Kitchen Inc and Lismore City Council requiring our funds be returned under certain circumstances be prepared and signed concurrent with settlement of the purchase of the building.

(Councillors Meineke/Graham)

Voting against: Councillors Ekins. (EF09/101:ED09/15974)

At this juncture Councillors Smith and Clough returned to the meeting.

Revision of Regional Demand Management Plan

A MOTION was MOVED that Council adopt and support the *Regional Demand Management Plan 2009 – 2012*.

(Councillors Yarnall/Ekins)

An AMENDMENT was MOVED that Council adopt and support the *Regional Demand Management Plan 2009 – 2012* and acknowledge the enhancement value of continuing the Odds 'n' Evens program in the Lismore local government area.

(Councillors Graham/Smith)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting against: Councillors Ekins, Clough and Yarnall.

177/09 **RESOLVED** that Council adopt and support the *Regional Demand Management Plan 2009 – 2012* and acknowledge the enhancement value of continuing the Odds 'n' Evens program in the Lismore local government area.

(Councillors Graham/Smith) (RH:VLC; EF09/1697:ED09/15267)

At this juncture Councillor Battista left the meeting.

Lismore Business Promotion Panel

A MOTION was MOVED that Council appoint the following nominees to the Lismore Business Promotion Panel (LBPP) with the term of appointment to be up to three months following the next general Local Government election:

1. Michael Trimbrell
2. Craig Howlett
3. Kaylene Hopf
4. Helen Nott

(Councillors Graham/Meineke)

An AMENDMENT was MOVED that Council appoint the following nominees to the Lismore Business Promotion Panel (LBPP) with the term of appointment to be up to three months following the next general Local Government election:

1. Michael Trimbrell
2. Craig Howlett
3. Bill Sheaffe
4. Helen Nott

(Councillor Smith/Clough)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting against: Councillors Meineke, Chant, Marks and Graham.

178/09 **RESOLVED** that Council appoint the following nominees to the Lismore Business Promotion Panel (LBPP) with the term of appointment to be up to three months following the next general Local Government election:

1. Michael Trimbrell
2. Craig Howlett
3. Bill Sheaffe
4. Helen Nott

(Councillor Smith/Clough)

Voting against: Councillors Chant (EF09/1902:ED09/16092).

At this juncture Councillor Battista returned to the meeting.

Urban and Rural Sports Facilities Fund

179/09 **RESOLVED** that Council:

1. Allocate funds from the Urban Sports Facilities Fund and the Rural Sports Facilities Fund for the amounts and projects and to the organisations listed in the table below:

Urban Sports Facilities Fund		
Club	Project	Grant
Goonellabah Tennis Club	Assist with construction of a shade shelter at the Goonellabah Tennis Club courts	\$16,760
Lismore City Council's Parks and Recreation Section	Assist with construction of a half basketball court at Nesbitt Park	\$10,000
Lismore City Council's Parks and Recreation Section	Commence Stage 2 of the Nesbitt Park project with the construction of a 1km jogging track in the Park	\$30,000
Lismore Old Boys Rugby League Club	Quality lighting for Jolley Field and Heaps Oval for training	\$19,820
Lismore Tennis Club	Assist with the resurfacing of courts 7 – 12 at the Lismore Tennis Club courts	\$25,000
Northern Rivers Radio Controlled Car Club	Assist with the erection of new fencing at the Club's facility at Nesbitt Park.	\$7,575
Rural Sports Facilities Fund		
Dunoon & District Sports & Recreation Club	Assist with earthworks and floodlighting as part of an extension of the sporting field at Balzer Oval	\$20,000
Tullera Tennis Club	Assist with the renovations of the Tullera Tennis Club's tennis court	\$20,790

2. Allocate a grant of **\$15,000** to the Swans AFL Club to assist with the finalisation of the lighting project for Mortimer Oval, subject to confirmation of funding from the AFL Queensland (\$15,000) and the Federal Government (\$26,000).
3. Advise the Northern Rivers Kart Club and Lismore Basketball that their submissions for grant allocations were not considered on the grounds that their facilities are not on Council owned land as per Council's funding Guidelines.
4. Not support the submission from Goonellabah Sports and Aquatic Centre on the grounds that such a submission is outside the intent of the funding program.
5. Refer the guidelines back to the Sports and Recreation PAG to review funding of projects on Crown Land.

(Councillors Marks/Meineke) (EF09/1850:ED09/15961)

Joint Regional Planning Panel

A MOTION was MOVED that Council:

1. Advertises for a community representative and an alternate representative with suitable skills and qualifications to preside on Regional Planning Panel (the Panel) for decisions affecting the Lismore City Council Local Government Area.
2. Agree that the Executive Director, Sustainable Development, Brent McAlister remains as a representative on the panel.

(Councillors Houston/Clough)

An AMENDMENT was MOVED that Council:

1. Agree that Council nominated members of the Joint Regional Planning Panel not sit on the Joint Regional Planning Panel for consideration of the proposed Olley Art Gallery Development Application.
2. Endorse the nomination of the alternate member on the Joint Regional Planning Panel to be the Manager Integrated Planning.

(Councillors Meineke/Graham)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting against: Councillors Houston, Battista, Clough Smith and Ekins.

180/09 **RESOLVED** that Council:

1. Agree that Council nominated members of the Joint Regional Planning Panel not sit on the Joint Regional Planning Panel for consideration of the proposed Olley Art Gallery Development Application.

2. Endorse the nomination of the alternate member on the Joint Regional Planning Panel to be the Manager Integrated Planning.

(Councillors Meineke/Graham)

Voting against: Councillor Ekins (EF09/825:ED09/16149).

At this juncture Councillors Meineke, Clough and Marks left the meeting.

Closure of Redcotes Road, Nimbin

181/09

RESOLVED that:

1. Council consent to an 'Application to Close a Public Road' known as Redcotes Road, Nimbin, adjoining Lot 1 DP 122297 and Lot 1 DP 122288, marked red on the aerial photograph included in the report.
2. The applicant be required to enter into an agreement to purchase the land from Council at market value (to be determined by a registered valuer) and pay all associated costs including valuation, road closure, survey, plan registration, land transfer and Council's legal costs.
3. The portion of closed road is to be included in the applicant's proposed rural subdivision or be consolidated with the adjoining lots.
4. The Mayor and General Manager be authorised to sign and affix the Council seal to plans of survey and land transfer documents or any other documents deemed necessary to complete the resolution.

(Councillors Graham/Smith) (R2106:ED09/15921)

Tender T2010-05 – Supply of Pre-stressed Concrete Bridge Girders

182/09

RESOLVED that:

1. The contract for the supply of pre-stressed concrete bridge girders for the three bridges outlined as part of the State Governments Regional Roads Timber Bridge Replacement Programme is awarded to Con-Tec Pty Ltd with the total price of works being \$605,880.00 inclusive of GST, based on the tender submission.
2. The Mayor and General Manager on behalf of Council be authorised to execute the contracts and attach the Common Seal of the Council.

(Councillors Graham/Chant) (T10/5:ED09/15985)

At this juncture Councillor Chant left the meeting and Councillor Clough returned to the meeting.

Tender T2010-04 – Sprayed Bituminous Surfacing Works

183/09

RESOLVED that Council adopt a panel of suppliers for the duration of the contract, and

implement the following order of priority for the engagement of bitumen sealing contractors for major and minor works:

1. Boral Asphalt
2. Pioneer Road Services Pty Ltd
3. RPQ Spray Seals Pty Ltd
4. SAMI Road Services Pty Ltd
5. FRH Group Pty Ltd.

(Councillors Graham/Houston) (T10/4; ED09/15823)

At this juncture Councillors Meineke, Marks and Chant returned to the meeting.

Asphalt Plant Operations ROI 2009-24

184/09

RESOLVED that:

1. Having conducted a registration of interest process, in accordance with Clause 166(b) of the Local Government (General) Regulation, Council proceed with a selective tender process to establish a suitable management contract for our asphalt plant operation.
2. The three parties that responded to the registration of interest process and satisfied the conditions of the expression of interest be invited to submit a tender to Council.
3. The three parties to be invited to tender are:
 - State Asphalt Services Pty Ltd
 - Fulton Hogan Pty Ltd
 - Downer EDI Works Pty Ltd.
4. In accordance with Clause 171 of the Local Government (General) Regulation, the time for response to the tenders be shortened from the normal 21 days, to 14 days after invitations to tender are sent out due to the level of detail sought and provided by respondents in the registration of interest process.

(Councillors Houston/Chant) (PJK:VLC:T09/24; ED09/15243)

At this juncture Councillor Battista left the meeting.

Councillor Interstate Travel

185/09 **RESOLVED** that Council:

1. Approve the attendance of Councillor Battista at the International Cities Town Centres and Communities Society Conference "Cities in Transition" in Geelong, Victoria.
2. Require a detailed delegate report be completed by Councillor Battista outlining how the objectives of the conference were met and how the community benefited, provided to the General Manager and Councillors in November 2009 and subsequently included in the Annual Report for 2009/10.

(Councillors Smith/Clough) (EF09/112:ED09/15774)

At this juncture Councillor Battista returned to the meeting.

Investments – September 2009

186/09 **RESOLVED** that the report be received and noted.

(Councillors Smith/Chant) (EF09/2209:ED09/15918)

Disclosure of Pecuniary Interest Returns 2008/09

187/09 **RESOLVED** that the report be received and the tabled Pecuniary Interest Return be acknowledged.

(Councillors Chant/Marks) (EF09/645:ED09/15729)

At this juncture Councillor Yarnall left the meeting.

Committee Recommendations

Traffic Advisory Committee- Minutes 16 September 2009

188/09 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted.

(Councillors Clough/Meineke) (EF09/1963:ED09/15970)

At this juncture Councillor Yarnall returned to the meeting.

Financial Assistance - Section 356

A MOTION was MOVED that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

a) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)

Budget:\$15,200 Spent to date: \$0

The Frank Whiddon Masonic Homes requesting Council discount the hire charges (\$125) for the hire of the Fountain Room on August 1, 2009. An entrance fee is not to be charged (CI09/13972).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

\$31.25

Real Art Works Inc. requesting Council discount the hire charges (\$125) for the hire of the Fountain Room on August 3, 2009 to develop a project titled 'veryAbility Project' in partnership with R.E.D. Inc. An entrance fee is not to be charged (CI09/13973).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

\$31.25

Joseph Kennedy requesting Council discount the hire charges (\$156) for the hire of the Fountain Room on August 23, 2009 to hold a concert for the youth of Lismore. An entrance fee is to be charged (CI09/13975).

Recommendation: In accordance with Clause 5 of the policy, a donation of 20% of the hire fee applies

\$31.20

Five Loaves 'Caring is Sharing' requesting Council waive the hire charges (\$309) for the hire of the City Hall on October 17, 2009 to hold a meal and concert to express appreciation to the community for the dedication and continual support of the "Five Loaves" programme. An entrance fee is not to be charged (CI09/13976).

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fee applies

\$309.00

Lismore Neighbourhood Centre on behalf of the Sudanese Community Association NSW Northern Rivers Inc. requesting Council discount the hire charges (\$85) for the hire of the City Hall Foyer on August 1, 2009 for a meeting. An entrance fee is not to be charged (CI09/13978).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

\$21.25

In accordance with policy.

b) Mayor's Discretionary Fund (GL390.485.15)

Budget:\$2,700 Spent to date: \$550

Dunoon Public School is seeking funding to support two performance events for 9-11 year old students.

\$100

Tahlia Cook of Modanville Primary School will be competing in the national Senior Tournament of the Minds in Brisbane and is seeking assistance with travel expenses.

\$100

c) Miscellaneous Donations

The Great Eastern Fly -in Incorporated, requesting that Lismore Airport waive landing fees for visiting aircraft associated with the fly-in held at Evans Head aerodrome.

Comment

It is considered that the benefits to the airport businesses and local community through supporting this event would be worth while, with the following limitations:

- Only display aircraft that are associated with the fly-in have the landing fee waiver.
- Any aircraft that are sightseeing/charter aircraft that are operating commercially at the event will not have the landing fee waived.
- The event organisers will need to report the aircraft registrations and dates the aircraft visit Lismore Airport within one week of the event for the fees to be waived.

Although it is going to be hard to estimate the actual aircraft numbers that would be involved with the fly-in display, my conservative estimate would be that the landing fees waived would not be more than \$1,000.00.

Recommendation

That subject to the limitations above Council waive landing fees for visiting aircraft associated with the fly-in held at Evans Head aerodrome.

(Councillors Grahem/Meineke)

An AMENDMENT was MOVED that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

a) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)

Budget:\$15,200 Spent to date: \$0

The Frank Whiddon Masonic Homes requesting Council discount the hire charges (\$125) for the hire of the Fountain Room on August 1, 2009. An entrance fee is not to be charged (CI09/13972).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

\$31.25

Real Art Works Inc. requesting Council discount the hire charges (\$125) for the hire of the Fountain Room on August 3, 2009 to develop a project titled 'veryAbility Project' in partnership with R.E.D. Inc. An entrance fee is not to be charged (CI09/13973).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

\$31.25

Joseph Kennedy requesting Council discount the hire charges (\$156) for the hire of the Fountain Room on August 23, 2009 to hold a concert for the youth of Lismore. An entrance fee is to be charged (CI09/13975).

Recommendation: In accordance with Clause 5 of the policy, a donation of 20% of the hire fee applies

\$31.20

Five Loaves 'Caring is Sharing' requesting Council waive the hire charges (\$309) for the hire of the City Hall on October 17, 2009 to hold a meal and concert to express appreciation to the community for the dedication and continual support of the "Five Loaves" programme. An entrance fee is not to be charged (CI09/13976).

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fee applies

\$309.00

Lismore Neighbourhood Centre on behalf of the Sudanese Community Association NSW Northern Rivers Inc. requesting Council discount the hire charges (\$85) for the hire of the City Hall Foyer on August 1, 2009 for a meeting. An entrance fee is not to be charged (CI09/13978).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

\$21.25

Australian Vaccination Network requesting Council discount the hire charges (\$125) for the hire of the City Hall on October 22, 2009 for a seminar to provide information on vaccination. An entrance fee is to be charged (CI09/17972).

Recommendation: In accordance with Clause 5 of the policy, a donation of 20% of the hire fee applies

\$25.00

In accordance with policy.

b) Mayor's Discretionary Fund (GL390.485.15)

Budget:\$2,700 Spent to date: \$550

Dunoon Public School is seeking funding to support two performance events for 9-11 year old students.

\$100

Tahlia Cook of Modanville Primary School will be competing in the national Senior Tournament of the Minds in Brisbane and is seeking assistance with travel expenses.

\$100

c) Miscellaneous Donations

The Great Eastern Fly -in Incorporated, requesting that Lismore Airport waive landing fees for visiting aircraft associated with the fly-in held at Evans Head aerodrome.

Comment

It is considered that the benefits to the airport businesses and local community through supporting this event would be worth while, with the following limitations:

- Only display aircraft that are associated with the fly-in have the landing fee waiver.
- Any aircraft that are sightseeing/charter aircraft that are operating commercially at the event will not have the landing fee waived.
- The event organisers will need to report the aircraft registrations and dates the aircraft visit Lismore Airport within one week of the event for the fees to be waived.

Although it is going to be hard to estimate the actual aircraft numbers that would be involved with the fly-in display, my conservative estimate would be that the landing fees waived would not be more than \$1,000.00.

Recommendation

That subject to the limitations above Council waive landing fees for visiting aircraft associated with the fly-in held at Evans Head aerodrome.

(Councillors Clough/Yarnall)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting against: Councillors Graham, Meineke, Chant, Battista and Marks.

189/09 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

a) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)

Budget:\$15,200 Spent to date: \$0

The Frank Whiddon Masonic Homes requesting Council discount the hire charges (\$125) for the hire of the Fountain Room on August 1, 2009. An entrance fee is not to be charged (CI09/13972).

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

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Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies

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Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies.

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Recommendation: In accordance with Clause 5 of the policy, a donation of 20% of the hire fee applies

\$25.00

In accordance with policy.

b) Mayor's Discretionary Fund (GL390.485.15)

Budget:\$2,700 Spent to date: \$550

Dunoon Public School is seeking funding to support two performance events for 9-11 year old students.

\$100

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c) Miscellaneous Donations

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Comment

It is considered that the benefits to the airport businesses and local community through supporting this event would be worth while, with the following limitations:

- Only display aircraft that are associated with the fly-in have the landing fee waiver.
- Any aircraft that are sightseeing/charter aircraft that are operating commercially at the event will not have the landing fee waived.
- The event organisers will need to report the aircraft registrations and dates the aircraft visit Lismore Airport within one week of the event for the fees to be waived.

Although it is going to be hard to estimate the actual aircraft numbers that would be involved with the fly-in display, my conservative estimate would be that the landing fees waived would not be more than \$1,000.00.

Recommendation

That subject to the limitations above Council waive landing fees for visiting aircraft associated with the fly-in held at Evans Head aerodrome.

(Councillors Clough/Yarnall)

Voting against: Councillors Battista, Meineke, Chant, Marks and Graham.

Documents for Signing and Sealing

190/09 **RESOLVED** that the following documents be executed under the Common Seal of the Council:

Licence to Tanelawn Tennis Club Inc – 6B Felicity Drive, East Lismore

Licence to Tanelawn Tennis Club Inc for a period of five years with two five year options at 6B Felicity Drive, East Lismore, being Lot 42 DP632104 (EF09/1921:ED09/16101).

Transfer Granting Easement – Easement in Gross – 8 Beardow Street, Lismore Heights (P1045)

Due to reconstruction work on High Street, upgrading of stormwater drainage is required. An Easement in Gross benefitting Lismore City Council for drainage of water is required for this purpose through the abovementioned property, being Lot 6 DP 21252 (8 Beardow Street, Lismore Heights).

(Councillors Clough/Battista)

Confidential Matters – Closed Council Meeting

191/09 **RESOLVED** that the Council exclude members of the press and public from the meeting and move into Closed Council Meeting to consider the following matters:

Item	<i>Developer Dispute – Compensation Claim</i>
Grounds for Closure Public Interest	Section 10A(2) (g): Discussion of this matter in an open meeting would on balance be contrary to the public interest because it provides advice concerning litigation that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege. (GJH:LM: DA05/999-03: ED09/16150)
Item	<i>Annual Performance Review 2008/09 – General Manager</i>
Grounds for Closure Public Interest	Section 10A(2) (a): Discussion of this matter in an open meeting would on balance be contrary to the public interest because this report contains personal matters concerning the General Manager. (EOSU100)

(Councillors Chant/Clough)

Resumption of Open Council

Council having met in Closed Council to consider the following reports entitled:

Developer Dispute – Compensation Claim
Annual Performance Review 2008/09 – General Manager

Recommends that Council adopt the following recommendations:

Developer Dispute – Compensation Claim

That Council authorise the General Manager to negotiate the matter of compensation to Reavill Farm Pty Ltd on a “without prejudice” and confidential terms basis, up to the amount agreed to in Closed Council.

Annual Performance Review 2008/09 – General Manager

That Council:

1. Receives and notes the Annual Performance Review of the General Manager for the twelve months to July 2009.
2. Elects two new Councillors to the four-person Performance Review Panel for 2009/10, retaining the Mayor as a continuing Panel member.
3. Delegates the Mayor to prepare a draft 2009/2010 General Manager's Performance Agreement in consultation with Mark Anderson for referral to the new Performance Review Panel by 30 October 2009.
4. Records its satisfaction with the overall 'More than Satisfactory' rating of the General Manager's performance based on the Annual Performance Review.
5. Based on the review results endorses payment of an increase in remuneration in accordance with Clause 8.5 of the Standard Contract of Employment.

192/09 **RESOLVED** that the recommendations of Council meeting in Closed Council be received and adopted.

(Councillors Chant/Graham)

Voting against: Councillor Ekins.

193/09 **FURTHER RESOLVED** that Councillors Clough and Yarnall be appointed to the General Manager's Performance Review Panel for 2009/10 in lieu of Councillors Houston and Ekins.

(Councillors Ekins/Chant)

Closure

This concluded the business and the meeting terminated at 10:50pm.

CONFIRMED this 10 November 2009 at which meeting the signature herein was subscribed.

MAYOR

MINUTES OF THE EXTRA ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY 20 OCTOBER 2009, AT 6.00PM.

Present Mayor, Councillor Dowell, Councillors Chant, Clough, Ekins, Graham, Houston, Marks, Meineke, Smith and Yarnall, together with the General Manager, Executive Director Infrastructure Services, Executive Director Sustainable Development, Manager Finance, Manager Assets, Acting Manager Integrated Planning, Principal Accountant, Management Accountant, Art Gallery Director, Development Assessment Planner, Communications Coordinator, and the Corporate Compliance Coordinator

**Apologies/
Leave of
Absence** A leave of absence was granted for Councillor Battista by Council at its meeting held on 13 October 2009.

Public Access Session

Prior to dealing with the circulated reports and associated information, a Public Access Session was held at which Council was addressed by the following:

Kate Melzer – Report – Proposed Senior’s Living Development, 175 Dawson Street, Girards Hill

Ms Melzer, a resident of Girards Hill, spoke against the development citing issues with respect to bulk, scale, lack of compatibility and detriment to the community. She urged Council to continue to oppose the development and to delay if possible the project so that alternatives could be investigated.

Reports

Proposed Senior’s Living Development, 175 Dawson Street, Girards Hill

194/09

RESOLVED that:

- A. The Council note the Minister for Planning’s:
 - intention not to agree with Council’s proposed refusal of the Development Application; and
 - request to submit draft conditions of consent for the development.
- B. The Council, in accordance with section 116E(4)(c) of the EP&A Act, submit the **attached** conditions to the Department of Planning as conditions of consent to be imposed on the proposed development.
- C. The Council grant delegated authority to the General Manager, subject to the concurrence of the Development Assessment Panel, to determine the development application in accordance with the Ministers notification pursuant to section 116E(5) of the EP&A Act.

- D. The General Manager and the Mayor communicate Council's extreme disappointment and concern that the planning minister has decided to overrule the decision of Lismore Council's elected representatives and staff, effectively excluding the local community from input into what is clearly a local planning matter.
- E. Further that:
1. Council reiterates its unanimous decision as per resolution 52/9 passed at Council's Ordinary Meeting on 12 May 2009. that the proposed Senior's Living Development at Girard's Hill does not contribute to neighbourhood amenity and streetscape, accessibility and the public interest; and
 2. Request that the Minister reconsiders her position in respect to the development and be requested to work with Council to investigate alternative sites.
- F. Write to the State Opposition Leader asking him to undertake that if his party is elected to power his government will remove s116 and s89A of the Environment Planning and Assessment Act to ensure that local councils' planning power is not eroded.

Proposed Conditions of Consent

STANDARD

1 In granting this development consent, Council requires:

- All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions
- All proposed works be carried out in accordance with any amendment or modification outlined in these conditions
- Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No:

- Site Layout
- Sheet A01 of 07 Rev C
- Sheet A02 of 07 Rev D
- Sheet A03 of 07 Rev D
- Sheet A04 of 07 Rev C
- Sheet A05 of 07 Rev C
- Sheet A06 of 07 Rev C
- Sheet A07 of 07 Rev A

and/or supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

Reason: *To correctly describe what has been approved. (EPA Act Sec 79C)*

SENIORS LIVING REQUIREMENTS

2 Occupation of the development to be restricted to those persons identified under Clause 20(1) of SEPP (Seniors Living) 2004.

Reason: *To comply with the provisions of Clause 20(2) of SEPP (Seniors Living) 2004.*

- 3 The development is to fully comply with the applicable Access and Useability standards set down in Division 4 of Part 4 of the SEPP (Seniors Living) 2004 (cl. 52 – 72 inclusive) at all times.

Reason: *To comply with the provisions of Clause 20(2) of SEPP (Seniors Living) 2004.*

- 4 Unit 3 is to be provided with wheelchair access, as required by Clause 52 of SEPP (Seniors Living) 2004.

Reason: *To comply with the provisions of SEPP (Seniors Living) 2004.*

DRAINAGE

- 5 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in hydraulic design. All roof water from any proposed building and/or surface water from paved areas shall be directed to the existing Council drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. Drainage is to direct all water to a drainage system to prevent intensification of discharge runoff onto adjoining land.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b))*

- 6 The stormwater detention measures as proposed within Peter Lucena & Associates report dated 27 September 2006, or other equivalent measures that ensure the discharge of stormwater from the site shall be limited to the pre-development flow (rural flow) for an ARI of 10 years and a time of concentration of 6 minutes, shall be implemented prior to occupation of the development.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b))*

STORMWATER/SEDIMENT CONTROL

- 7 Prior to **commencement of works** it must be demonstrated that adequate stormwater treatment has been proposed to ensure that all stormwater arising from the development and its future embellishment, will comply with the water quality management objectives contained in Section 5 of Council's Stormwater Management Plan.

Reason: *To protect the environment.*

- 8 Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site into natural or constructed drainage lines or watercourses. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.

Reason: *To prevent erosion of materials from the site.*

VEHICULAR ACCESS

- 9 **Prior to commencement of works** evidence is to be provided to the Council indicating the pre development condition of the surrounding public infrastructure.

Prior to the occupation of the development the proponent shall repair any damage to infrastructure within the road reserve arising during the construction of the proposed development. Any damage arising from construction activities to roads, kerb and gutter, footpaths or any other infrastructure within the road reserve shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended) to Councils satisfaction.

Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a))*

- 10 **Prior to the occupation of the development** any redundant road pavement, kerb and gutter, foot paving, including redundant existing entrances shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended).

Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a))*

- 11 Driveways, access aisles and parking areas shall be provided with a bitumen sealed or equivalent surface and adequately maintained at all times.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development. (EPA Act Sec 79C(a))*

- 12 Vehicular access from the road pavement to the development shall be provided by the construction of a suitable vehicle crossing. All works shall be in accordance with the Council's Design and Construction Specification for Vehicular Access.

Reason: *To ensure adequate access to and from the development. (EPA Act Sec 79C(c))*

SERVICES

- 13 **During construction and upon completion of construction** provision shall be made for the supply of the following services to number 173 Dawson Street:

- water supply
- telephone
- power.

Upon completion of the construction each service shall have available a 100mm diameter conduit.

Reason: *To ensure adequate protection of services. (EPA Act Sec 79C(c))*

STREET NUMBERING

- 14 **Prior to occupation** the proponent shall place street number identification at the road frontage of the property to indicate the property addresses.

Reason: *To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*

ENVIRONMENTAL

- 15 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:

Monday to Friday- 7.00am to 6.00pm
Saturday - 8.00am to 1.00pm

No noise generating activities are to take place on Sundays or public holidays.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*

- 16 The construction activity shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*

- 17 The installation and operation of all external and security lighting must comply at all times with the requirements of AS4282 – "Control of the Obtrusive Effects of Outdoor Lighting".

Reason: *To protect the amenity of the neighbourhood.*

CONTAMINATION

18 As the site is potentially contaminated prior to the commencement of works, an assessment of the potential contamination of the site must be carried out in accordance with the NSW *Managing Land Contamination Guidelines* and Council's *Regional Policy for the Management of Contaminated Lands*. The contaminated site assessment must identify the status of the development site in relation to site contamination, any remediation strategy and the suitability of the site for the intended use. A copy of the assessment must be submitted to Council.

Reason: *To assess potential land contamination and to ensure effective management of any contaminated land.*

WATER & SEWER

19 A single, adequately sized water meter is required at the boundary to serve this development. Disconnection of existing supply piping or new connections shall comply with Council's design & construction water supply specification. The internal plumbing should be arranged so that each unit can be individually metered. The body corporate is responsible for supplying, installing, reading and maintaining private metering.

Reason: *To comply with Council's; Policy 6.1.1 - Water Meters – Multiple Occupancy. All unit meters be installed and maintained by the body corporate and, Specification for the Design & Construction of Water Reticulation Pipe-work July, 1999.*

20 A single connection to Council's sewerage main is required. An appropriately designed internal sanitary drainage system shall be installed so that each dwelling has its own individual sanitary branch line, inspection shaft and overflow relief gully.

Reason: *To comply with; Part B – 4.10 of the NSW Code of Practice for Plumbing and Drainage 3rd Edition 2006 and, Specification for the Design & Construction of Water Reticulation Pipe-work July, 1999.*

21 The proponent is required to engage licensed plumbers to carry out any plumbing work. All plumbing works shall be the subject of a Plumbing Permit issued by Lismore City Council **prior to commencement of works**. Applications for Plumbing Permits may take up to twenty (20) days to process and significant, additional inspection fees may apply.

Reason: *To comply with Section 20 of the Local Government (General) Regulation 2005.*

22 The proponent shall pay to Council all Water and Sewerage levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993. The rates and amounts applying at the date of this notice, totaling **\$27,504**, are set out in the schedule for your information. Such levies shall be paid, as required by Council, **prior to the commencement of works**.

The levies are those applicable as at the date of the original consent. If these levies are not paid within twelve (12) months of the date of the original consent, the rates shall be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index (Sydney), as applicable at the time of payment.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's Section 64 Contributions Plan as required by the increased population or activity. (Water Management Act 2000, Sec 306)*

LANDSCAPING

23 A detailed landscaping plan (in duplicate) shall be submitted to and approved by Council **prior to the commencement of works**. Landscaping plans shall be in accordance with Council's Landscape Guideline and relevant Development Control Plans. Species identified in Council's Landscape Guideline shall be planted wherever possible. Landscaping plans shall indicate:

- location of Council's sewer.
- proposed location for planted shrubs and trees.
- botanical name of shrubs and trees to be planted.
- mature height of trees to be planted.
- location of grassed areas.
- location of paved areas.
- location of trees identified for retention in the development application plans.

Approved landscaping shall be completed **prior to occupation** and maintained at all times to the satisfaction of Council.

Reason: To ensure that appropriate landscaping is provided. (EPA Act Sec 79C(c))

HERITAGE CONSERVATION

24 A revised Schedule of Colours for the development is to be submitted to and approved by Council's Heritage Planner **prior to the commencement of works**.

Reason: To conserve the significance of the locality.

25 Quad profile gutters are to be used on the building.

Reason: To conserve the significance of the locality.

26 The external weatherboard cladding is to be provided of either: timber, compressed sheeting, or cement profiled weatherboards.

Reason: To conserve the significance of the locality.

FLOODING

27 All habitable floor levels of the dwelling shall be at or above a level of RL 12.8m (AHD) which is 500 mm above the adopted standard flood level (AHD).

Reason: To ensure adequate protection from frequent flooding. (EPA Act Section 79C(c))

28 Before the walls or portals are erected, a practising qualified surveyor shall certify that the floor level of the development, as constructed, is at or above that required by Condition No. 27.

Reason: To ensure adequate protection from frequent flooding. (EPA Act Section 79C(c))

29 A risk analysis report shall be prepared by a structural engineer certifying the design criteria adopted for the building will withstand the impacts of floodwaters and debris for floods up to the 1 in 500 year ARI and PMF events. A copy of this report is to be submitted to Council.

Reason: To comply with Development Control Plan No. 1, Part A, Chapter 7.

30 Bulk fill to within 300mm of the finished surface level is to be sourced from on site, from the preferred excavation area or from another area of the floodplain.

Reason: To minimise the impacts of filling on the capacity of the floodplain.

CONTRIBUTIONS

31 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **construction commences**. The rates and amounts applying at the date of this notice, totalling **\$18,652**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the commencement of works**.

The levies are those applicable as at date of original consent. If these levies are not paid within twelve (12) months of the date of original consent, the rates shall then be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index (Sydney), as applicable at the time of payment.

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

If the contributions set out in the schedule, or part thereof, are to be met by the dedication of land or other approved Material Public Benefit, then the Applicant will pay to Council the GST (defined below) applicable to the value of land dedicated or (Material Public Benefit) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

***Reason:** To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated July 1999 as required by the increased population or activity. (EPA Act Sec 94)*

BASIX CERTIFICATE

32. An updated BASIX Certificate is to be submitted to Council prior to the commencement of works.

***Reason:** To comply with the provisions of the EP&A Act 1979.*

(Councillors Yarnall/Meineke) (DA07/465:ED09/16527)

2008/09 Financial Reports

195/09

RESOLVED that Council:

1. In accordance with Section 413 (2) (c) of the Local Government Act 1993 and clause 215 of the Local Government (General) Regulation 2005, adopt the 2008/09 Financial Reports and form an opinion based on the attached 'Statement by Councillors and Management' for both the General Purpose Financial Reports and Special Purpose Financial Reports.
2. Delegate to the Mayor and Deputy Mayor to sign the 'Statement by Councillors and Management' on behalf of Council.
3. Submit the 2008/09 Financial Reports to the NSW Department of Local Government and the Australian Bureau of Statistics.
4. Advertise the presentation of the 2008/09 Financial Reports to the public from

October 29, 2009 and invite both inspection and submission.

5. That Council present the audited Financial Reports, together with the Auditor's Reports, to the public at the ordinary Council meeting to be held on 10 November 2009, and invite the Council's Auditor from Thomas Noble & Russell Chartered Accountants to the November Council meeting to present the Audit Report for 2008/2009.

(Councillors Smith/Clough) (EF09/581:ED09/16775)

2008/09 Reserves (Internally Restricted Assets)

A MOTION was MOVED that:

Council note the reserve balances for June 30, 2009 of \$22,579,400, comprising \$9,396,000 held as cash reserves, \$3,512,200 as working capital and \$9,671,200 in internal loans held as detailed on the attached summary, and amend Policy 1.5.10 - Reserves (Internally Restricted Assets) to reflect that as attached.

(Councillors Marks/Graham)

MOTION BE PUT

Councillor Smith moved that the MOTION BE PUT.

(Councillor Smith)

196/09 **RESOLVED** that the MOTION BE PUT.

(Councillor Smith)

Voting against: Councillors Clough, Yarnall and Ekins.

197/09 **RESOLVED** that:

That Council note the reserve balances for June 30, 2009 of \$22,579,400, comprising \$9,396,000 held as cash reserves, \$3,512,200 as working capital and \$9,671,200 in internal loans held as detailed on the attached summary, and amend Policy 1.5.10 - Reserves (Internally Restricted Assets) to reflect that as attached.

(Councillors Marks/Graham)

Voting against: Councillors Clough, Yarnall and Ekins (EF09/581:ED09/16777).

Closure

This concluded the business and the meeting terminated at 7:44pm.

CONFIRMED this 10 November 2009 at which meeting the signature herein was subscribed.

MAYOR