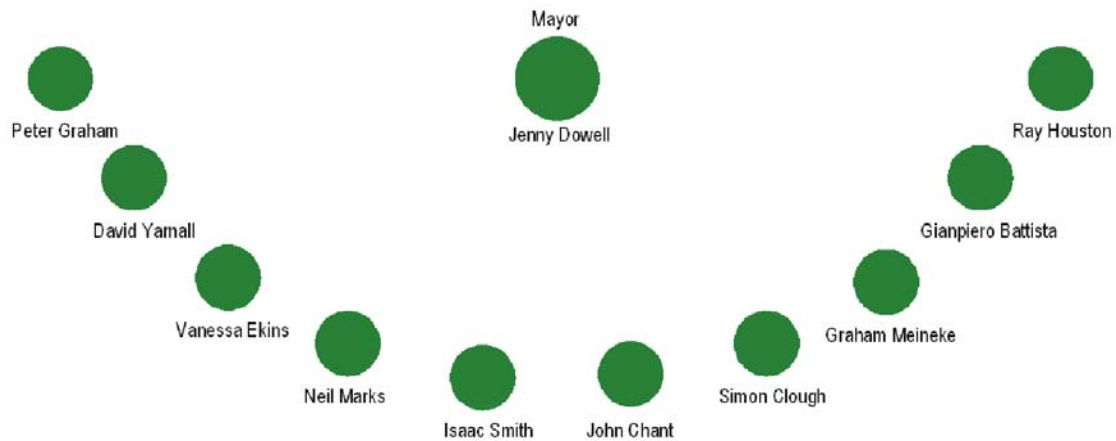


Notice of Council Meeting



Ordinary Meeting

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, 43 Oliver Avenue, GOONELLABAH on **Tuesday, 13 April 2010 at 6.00pm** and members of Council are requested to attend.

Paul G. O'Sullivan
General Manager

6 April 2010



Agenda

Opening of Meeting and Prayer (Mayor)

Apologies and Leave of Absence

Confirmation of Minutes

Ordinary Meeting held on 9 March 2010

Extra Ordinary Meeting held on 23 February 2010

Disclosure of Interest

Public Access Session

Public Question Time

Condolences

Mayoral Minutes

Notice of Rescission Motions

Notice of Motions

Councillor Marks – Margaret Olley Art Centre

Councillor Battista – Roadside Hawking

Councillor Clough – NSW Increase in Car Registration Fees

Altering Order of Business

(Consideration of altering the order of business to debate matters raised during Public Access).

Reports

Section 96 Application to relocate the noise bund for Champions Quarry 5

Champions Quarry Part 3A Exhibition 14

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Lismore Memorial Baths: usage and fee structure review 24

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Development Assessment Panel Review 78

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Committee Recommendations

Documents for Signing and Sealing

Financial Assistance - Section 356

Questions Without Notice

Confidential Matters – Closed Council Meeting

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 Neil Marks has given notice of his intention to move:

That Council withdraw its application for grant funding for the Margaret Olley Art Centre (MOAC) and cease all preparation works on the Development Application.

Councillor Comment

During our extensive community consultation for the Special Rate Variation one of the most consistent comments from the community was that we should not go ahead at this stage with the building of the MOAC. I believe that we should take this opportunity to review our decision due to the community disapproval of this project and the need to borrow extensively for the completion of the MOAC. It would also take some considerable amount of money to run this facility that would be hard to justify at this current time.

Staff Comment

Manager – Assets

In accordance with Council's decision of 8 December 2009, this project has progressed significantly with the appointment of the Architect. Work is now well progressed with the preparation of a design for the building and associated documentation for a development application. It is intended to lodge the DA by the end of April 2010. Council has a contract with the Architect to progress the project to this stage and would now have to pay for this work, regardless of whether it is undertaken. If Council is of a mind to revisit its commitment to the project, it is recommended that the requirements of the current contract with the Architect be fulfilled to ensure Council receives a return on its financial outlay. The contract is structured to allow Council not to proceed beyond the preparation of the development application, but this was primarily to protect Council in the event that the Federal Government funding application was not successful.

In considering this matter, Councillors should also be mindful of the ramifications of withdrawing the application at this very late stage. Successful projects are due to be announced by the end of April 2010 and it is likely that decisions have already been made. Withdrawing the application at this late stage is not likely to be well received by the funding body and could damage Council's reputation and chances of success in future applications. Council currently has a good reputation with the RLCIP program administrators having successfully completed all projects funded under the program on time and within budget to date.

Manager – Arts, Tourism and Leisure

The Federal Government's RLCIP provides a unique opportunity to secure 50% of the costs to construct a new regional gallery. Such an opportunity may not arise again for many years and if the funding application is withdrawn, the cost of replacing the existing gallery would lie solely with the Council. Following years of planning, studies and consultation, a withdrawal of the funding application would jeopardise the goodwill of partners - Southern Cross University, Margaret Olley and other stakeholders, to the detriment of likely forward progress on the project.

From a potential grant recipient's and project management perspective, it is strongly recommended that Council await the outcome of the RLCIP's assessment process prior to making any significant change to the project's planning and delivery.

(EF09/631:ED10/5788)

Notice of Motion

Cr Gianpiero Battista has given notice of his intention to move:

That Council staff prepare a new Policy in order to regulate the sale of products from local farmers and producers, a practice referred as hawking, in safe and suitable areas along main roads in the Lismore Local Government Area.

Councillor Comment

Lismore City Council joined on the 2 November 2009 with Ballina, Byron, Clarence Valley, Kyogle, Richmond Valley, Tweed Shire and Rous Water Councils in an agreement aimed at the implementation of the Northern Rivers Food Link (Securing a Sustainable Food Future) project. Some of the project objectives are:

- Enhance community food knowledge and healthy lifestyles by increasing access to fresh local food.
- Support a reduction of transportation costs and greenhouse gas emissions associated with the food supply and distribution system.
- Increase community resilience against climate change and peak oil impacts by reconnecting urban communities with regional food production.
- Enhance food security by developing a more sustainable local economy.

At the moment hawking is regulated in our Local Government Area via Council's 'Code for Mobile Vehicles' which is not completely relevant and user friendly when a producer is engaged in the selling of bulk products such as cases of Mangoes and other fruit or vegetables.

Some of the major restrictions in the code are for example:

- Vending is restricted to roads that are lightly trafficked. Vending is prohibited on the following roads:
 1. All designated main roads.
 2. Union Street south of the Elliott Road intersection.
 3. Ballina Street and Ballina Road.
 4. Rous Road.
 5. Oliver Avenue/Burgess Street.
 6. Wyrallah Road.
 7. Brunswick Street.
 8. Invercauld Road.
 9. Cynthia Wilson Drive.
 10. Other roads as may be advised from time to time and may be during a current licence.

or

- The person in charge of the mobile vending vehicle shall not allow to be used or operated in any public place a noise device for the purpose of informing members of the public that articles are for sale from that vehicle:
 1. While that vehicle is stationary.

2. For a period longer than 30 seconds in any period of 3 minutes.
3. More than once in any period of one (1) hour in the same street in a neighborhood.
4. That create offensive noise.

The new policy should identify suitable areas where hawking (which is illegally recurring at this point in time) will be permitted in consultation with all the relevant Traffic Authority bodies including the RTA. It is preferable if consultation with other adjoining councils is established during the preparation of the policy in order to create a template that could be possible used by all Councils of the Northern Rivers.

Staff Comment

Manager Development and Compliance

Council regulates the sale of foods on public land, including roadways, through the provisions of the Local Environmental Plan (LEP) and Councils guideline 'Code for Mobile Food Vending Vehicles'. The LEP while providing opportunity for the establishment of road side stalls (means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail) is restrictive for other market and/or shop type developments on rural or roadside land areas for which the Notice of Motion refers to.

Hawking is regulated through Councils guideline 'Code for Mobile Food Vending Vehicles'. This Code has the following objectives:

- provide an effective guideline for persons wishing to establish mobile food or street vending practices.
- to reduce as far as possible the potential hazards associated with the production, preparation, handling, storage, transport and sale of food and to provide confidence that the food product is safe.
- enable the undertaking of mobile or itinerant practices while preserving the integrity of established commercial centres.

In practice the code restricts hawking practices to be mobile in nature accessing lightly trafficked roads which is contrary to the objective of the Notice of Motion.

It is recognised that Council's Draft Delivery Plan recognises a proposed 'Wholesale Produce Market' activity as a high priority item for implementation within Councils business development program area. The objective of this activity is understood to provide a centralised site within the town centre to facilitate the sale/exchange of primary products. This 'Wholesale Produce Market' proposal supports the intention of the Notice of Motion. It may also be difficult to identify agreed sites for this hawking purpose on major roads.

(EF09/631:ED10/5243)

Notice of Motion

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

That Council write to the Minister for Transport, the Premier and the Treasurer expressing extreme disappointment at the increase of up to \$30 in car registration fees to fund the Sydney Transport Plan. This tax is bad policy for a number of reasons:

1. It impacts on rural and regional car owners who will never drive in Sydney. It is the opposite to “user pays”.
2. It discriminates against rural and regional car owners as it is a weight based tax and country drivers generally have heavier cars because of the longer distances they travel and because of the poorer quality of country roads.
3. It penalises diesel, LPG and hybrid cars, all of which produce lower emissions, and most of which are heavier than their straight petrol counterparts.

That Council also seek the support of NOROC in opposing this inequitable and poorly conceived tax.

Staff Comment

Executive Director – Infrastructure Services

These charges will raise up to \$500 million over the next ten years to help fund the NSW Government's Metropolitan Transport Plan. Motorists will be charged a sliding levy of between \$5 and \$30 for cars heavier than 975kg.

(EF09/631:ED10/6270)

Report

Subject	Section 96 Application to relocate the noise bund for Champions Quarry
File No	DA 5.2005.999.3:ED10/3887
Prepared by	Senior Development Assessment Planner
Reason	This is linked to a development previously determined by Council
Objective	Determination of the Section 96 application
Strategic Plan Link	Natural Environment
Management Plan Project	Timely assessment of development applications

Overview of Report

The developer has undertaken unauthorised works on the subject land in the form of a bund that has been constructed without approval. The works were conducted other than in accordance with the approved plans for DA 5.2005.999.2. A section 96 application was lodged with Council to amend the approved plan such that they conformed to the constructed works. This was done in accordance with the principle as set down by the court in *Windy Dropdown Pty Ltd v Warringah Council* [2000] NSWLEC 240 (17 November 2000). The developer has lodged an appeal with the Land and Environment Court for the deemed refusal of the section 96 application.

It is recommended that Council refuse the application due to the visual impact caused by the bund.

1 Background

Council approved Development Application No. 2005/999 on August 9, 2006 to expand the extraction rate of an existing extractive industry quarry from 5,000 cubic metres per annum, to a maximum rate of 29,000 cubic metres per annum, together with associated drainage, access roadway, road construction in Wyrallah Road reserve and signage works. This approval was done under delegated authority.

An amendment was approved on 13 December, 2006 relating to Condition No. 14 Progressive revegetation. Council had included in the consent a requirement to include koala food trees in the rehabilitation plan and in the vegetated buffer as a result of a submission by friends of the koala. The developer asked for this condition to be removed. As there were no impacts on koalas directly related to the quarry the requirement to include koala food trees could not be reasonably related to the development and the condition was amended.

A further amendment to the consent was approved under delegated authority on 19 March 2008 to alter the location of the bunds and the type of vegetation that was to be planted on the bunds. The developer wished to alter the landscape buffer to a be constructed earthen bund built with a mix of topsoil, overburden and resource material which was to be approximately 2.0m-3.0m high. The key plant species were to be koala food trees underpinned with a mix of native shrubs and exotic grasses.

The developer commenced construction of the bund in a location that was not the same as on these approved plans. Attachments 1 and 2 show comparison between the location of the bund as constructed and the approved plans. As a result of complaints by the adjoining property owners Council officers inspected the site and requested that the developer cease work on the bund and establish erosion and sedimentation controls around the earthworks. The developer complied with these requests.

Options to rectify the situation were discussed with the developer. These were:

1. relocate the bund to the approved location; or
2. lodge a section 96 application to amend the approved plans so that the plans correspond with the location of the bund as constructed.

The developer opted to lodge the current section 96 application.

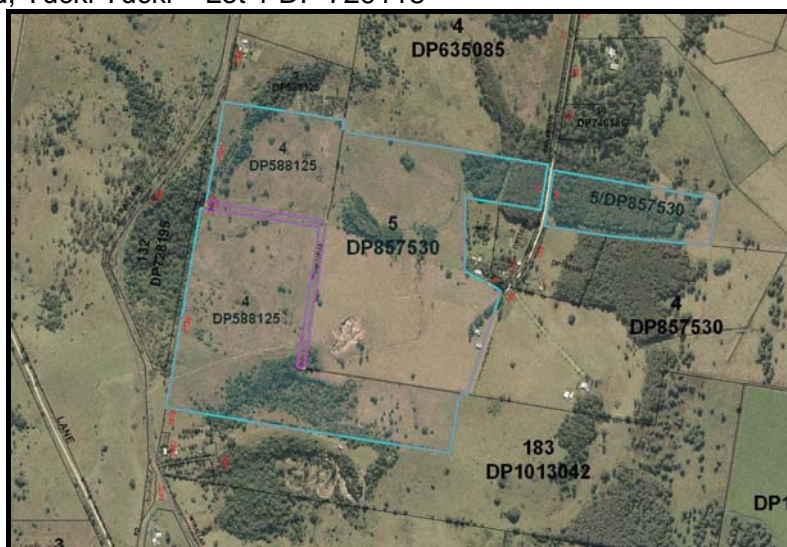
It is a commonly held principle that a consent authority does not have the power to approve a development retrospectively, however development that has not been carried out other than in accordance with an existing development consent may be brought into compliance by way of a section 96 application. This principle was confirmed by the court in *Windy Dropdown Pty Ltd v Warringah Council* [2000] NSWLEC 240 (17 November 2000). The facts of this case were that a development consent was granted and then landfilling was carried out other than in accordance with the approved plans. The court approved a section 96 application to amend the approved plans to reflect the works carried out. The principle creates a legal mechanism to bring works constructed other than in accordance with the approved plans into compliance. It does not however negate the need for a merits assessment nor remove the requirements for Council or the court to consider the relevant provisions of the act with respect to section 79C.

The developer has lodged an appeal with the Land and Environment Court on the deemed refusal of this section 96.

2. Site Description and Locality Plan

The subject land is located approximately 16kms south of Lismore via Wyrallah Road. The real property descriptions and road addresses are:

- 94 Hazlemount Lane, Tuckurimba – Lot 5 DP 857530
- 1586 Wyrallah Road, Tucki Tucki – Lot 4 DP 588125
- 1586A Wyrallah Road, Tucki Tucki – Lot 1 DP 729118



Map 1 - Locality Plan shows subject site hatched.

The land is zoned 1(a) General Rural Zone and 1(r) Riverlands Zone.

3. Proposal

Malcolm Scott on behalf of Reavill Farm Pty Ltd have submitted a Section 96 Application to modify the consent 2005/999. A copy of the application containing the developer's arguments as to why the application should be modified is included as Attachment 2.

The applicant proposes to modify the consent in the following ways:

Original Condition	Applicant's Proposed Amendment
<p>1 In granting this development consent, Council requires:</p> <ul style="list-style-type: none"> • the development, • all roads/civil works, • lot boundaries, and • areas subject to any amendment or modification called for in the following conditions <p>be substantially in accordance with the stamped approved plan(s) No. 05/814 Sheets 1 – 3, 05/814 Sheets 4 and 5 (amended 11/5/06), 05/814 Sheets 6 and 7, 06/858 Sheet 8 Issue A dated 6/7/06 and Job No. 06188 Sedimentation Pond Details dated 11/5/06 and/or supporting documents submitted with the application. A copy/copies of the approved plan is/are attached to this consent.</p> <p>Reason: To correctly describe what has been approved. (EPA Act Sec 79C)</p>	<p>1 In granting this development consent, Council requires:</p> <ul style="list-style-type: none"> • the development, • all roads/civil works, • lot boundaries, and • areas subject to any amendment or modification called for in the following conditions <p>be substantially in accordance with the stamped approved plan(s) No. 05/814 Sheets 1 – 3, 05/814 Sheets 4 and 5 (amended 11/5/06), 05/814 Sheets 6 and 7, 06/858 Sheet 8 Issue A dated 6/7/06 and Job No. 06188 Sedimentation Pond Details dated 11/5/06 and Plan LM 070268-SV17 and/or supporting documents submitted with the application. A copy/copies of the approved plan is/are attached to this consent.</p> <p>Reason: To correctly describe what has been approved. (EPA Act Sec 79C)</p>

3. Public Notification

The application was lodged on 21 May 2009 and was placed on public exhibition from 26 May 2009 until 19 June 2009. Copies of the submissions are included as Attachment 3. A précis of the main points of objection is as follows:

- Council should not retrospectively approve the bund
- Health risk from silica in the bund
- Visual impact
- The bund does not stop the noise
- The developer does not comply with consents
- The proposed amendment does not relate to the approved DA
- The bund does not provide any benefit to koalas traversing the site.

Planner's comment on the submissions

The ability of Council to retrospectively amend plans to bring them into compliance with the works constructed is clearly outlined by the court. This is not a justifiable reason to refuse the application. The issue of the perceived health risk has been considered previously and the risk is considered to be acceptable by NSW Health. The relationship of the bund to the approved DA is not a relevant reason to refuse the application nor is the developers history of compliance. The issue of visual impact is relevant to the determination of this application and is discussed below.

4. Key Issues

The key issues for consideration are noise and visual impact

Noise

The Environmental Impact Statement lodged with the DA 2008.233 provides a comprehensive Noise Impact Assessment undertaken by Environmental Resource Management (ERM) Australia . The report was undertaken as per the DECC *Industrial Noise Policy (INP)*. The applicant seeks to rely on this noise report as justification for the amended location of the bund.

The dwellings that the bund is intended to ameliorate noise to is referred to as Noise Assessment Location (NAL) 2. Location 2 is Lot 10 DP736216, 139 Hazlemount Lane.

The existing noise of the environment was evaluated by unassisted continuous noise monitoring. The recorded Rating Background Levels (RBL) and ambient noise levels are summarised below. The report nominates the dominant existing noise source as being traffic on Wyrallah Road.

Summary of Background and Ambient Noise Levels

Location	Rating Background Level (RBL), dB(A)			Ambient Noise Level, dB(A) Leq, period			Range of Maximum Noise Levels dB(A)Lmax, period
	Day	Evening	Night	Day	Evening	Night	Day
Logger 1 (Location 4 1682 Wyrallah Road)	35	40	35	54	53	50	65-107
Logger 2, (Location 2 139 Hazlemount Lane)	32	35	28	48	42	42	35-98

Day = 7am to 6pm; Evening = 6pm to 10pm; Night = 10pm to 7am

The report notes that the assessment criteria for sensitive receivers near industry are based on the following DECC INP objectives:

- Protection of the community from excessive intrusive noise.
- Preservation of amenity for specific land uses.

The intrusive criteria are applicable over 15 minutes in any period, and the amenity criteria covers the day, evening and night period. A noise source is generally considered to be intrusive if it exceeds the rating background noise level by 5dB(A).

The amenity criterion requires the noise to be within an acceptable level for the particular locality and land use. The DECC INP recommended acceptable amenity day goal for rural areas is 50dB(A). The noise report has however stated that the more stringent intrusiveness criteria (RBL + 5dB(A)) will be adopted to achieve a higher amenity goal. This is summarised in the following table.

DECC Industrial Noise Policy (INP) Intrusiveness Criteria

Rating Background Level (RBL), dB(A)			DECC INP Intrusiveness Criteria, dB(A) Leq, period			DECC INP Acceptable Amenity Criteria dB(A) for rural areas		
Day	Evening	Night	Day	Evening	Night	Day	Evening	Night
Logger 2 32 35 28			Locations 2 37 40 35			50 45 40		

The Project Specific day time noise levels for the site are therefore nominated **37dBA** for Locations 2.

The quarry will not be operated during evening and night time periods.

Project Specific Noise Levels (PSNL)

Noise Assessment Location	Project Specific Noise Limit [L_{Aeq} (15 minute)]
Location 2	37dB(A)

Noise Modelling

ERM conducted noise modelling for the designated development DA 2008.233.1 that Council refused in February 2009. There were 5 scenarios with plant and equipment representative of realistic operating conditions for the 3 cells to be determined in that application:

1. Existing Operation,
2. Central Section,
3. Northern Section,
4. Initial Southern Section (first 3-6 months)
5. Southern Section.

Of these modelled parameters only the operation of the central section is relevant to this section 96 as the central section was approved in DA 2005.999. The existing operation refers to the continuing use right extraction.

Noise Modeling Summary (Table 5.1 of ERM Noise Report) from DA 2005.233

Predicted Daytime Leq, 15minute Noise Levels, dB(A)	Central Section
Location 1	<35
Location 2	39*
Location 3	<35
Location 4	36

* Deemed: Within industry standard of ± 2 dB,

The modelling assumes that all plant and equipment was operating simultaneously which is noted as being conservative. The results of the modelling indicate that Locations 2 will not be adversely affected by the operation of the central cell as approved in DA 2005.999 if the bund is constructed in the location that is the subject of this section 96 application.

In response to DECC feedback ERM conducted additional noise modelling for DA 2008.233 to validate the previously modelled noise levels. Noise Assessment Locations (NAL) 2 was re-assessed and an addendum to the ERM noise report was submitted on October 20, 2008. The report concluded that the contribution from the existing quarrying operations was well below the PSNL and that the initial assessment was conservative.

ERM has submitted a letter with this section 96 application confirming that the location where the buffer is proposed will provide an increased level of noise attenuation for NAL 2.

It is considered that the bund will provide additional noise protection from the operation of the quarry. However as the original approval did not rely on this bund for noise attenuation and the bund was only for visual impact purposes (landscape screening) the noise justification for constructing the bund is not valid. It is not the role of Council to determine the validity of a justification for making an amendment. Council's role is to consider the impacts of the modification under the relevant heads of consideration for section 79C. The impact of the bund is the relevant consideration for Council to consider.

Visual Impact

The relocated bund will have an impact and Council must determine if this impact is acceptable.

The assessment of the visual impact of the relocated bund should be conducted with reference to the

'Principles of View Sharing' as set out in the Land and Environment Court Planning Principles and based on the methodology for the assessment of visual impacts as accepted by the Court in *Taralga Landscape Guardians Inc v Minister for Planning and RES Southern Cross Pty Ltd* [2007] NSWLEC 59. This matter involved the erection of wind turbines in a rural environment, which would result in a significantly changed visual environment, and as such direct parallels can be drawn between that application and the impacts from this section 96.

Tenacity Consulting v Waringah [2004] NSWLEC 140 provides the principles of view sharing and these are set out as follows:

- 1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge, North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
- 2. The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*
- 3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
- 4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The only dwelling that will be impacted upon visually by the bund is receiver 2 (139 Hazlemount Lane). There is a threshold question to be answered when considering visual impact: that is, should any alteration of the landscape be allowed? If the answer to this question is yes, then to what extent should the landscape be allowed to be altered? The four principles of view sharing can be used to answer the second question. To answer the first question consideration needs to be given to following matters:

- the permissible uses within the zone
- specific clauses in the Lismore City Local Environmental Plan 2000 relating to visual impact
- the quality of the landscape to be altered.

It is not a reasonable position to determine that no visual change should be allowed to occur in the rural environment. Various forms of development (quarries, glasshouses, rural industries etc) are permissible in this locality and all of these would alter the view of the landscape from the receivers. Based on the permissible uses within the zone, alteration of the landscape by the creation of the bund passes this threshold test. Council must now consider the magnitude of the impact.

The alteration of the views from receiver 2 will not be permanent as the bund can be removed at the end of the life of the quarry. However given the timeframe of operation (20 years) it should be treated and assessed as a permanent feature.

Any assessment of the quality of the landscape to be altered will be highly subjective. There can be no question that the landscape has scenic value to the residents who enjoy views of, and through, the subject property. The landscape is typically rural in nature, with pasture being the predominant characteristic of the landscape. The most visually dominant feature of the landscape is the ridge and knoll that will be removed in the southern cell and the gentle slope of pasture in the northern cell.

Various rating schemes have been considered in other matters, but have been considered to provide little assistance in determining the value of a landscape. It cannot be denied that the landscape holds intrinsic value for those that enjoy a view of it from their dwellings. However this is not sufficient reason to determine that there should be no alteration to the landscape or indeed to blocking of views to that landscape. The landscape is not viewed by a significant amount of the community nor is it unique.

If Council accepts the premise that alteration of the landscape is acceptable due to:

1. the fact that many uses that are permissible (e.g., quarries, rural industries, rural tourist facilities) with and without consent (horticulture) can be conducted in the locality; and
2. that whilst the landscape has value for those that view it, the landscape is not so significant to the greater community so as to warrant specific protection; then,

Council can assume that the threshold question of “should any alteration to the landscape or views to that landscape be allowed” has been answered in the affirmative.

Council should now utilise the principle of view sharing to consider if the level of alteration of the landscape is acceptable.

Step 1 - Consider the type of view to be affected at each receiver:

Receiver 2: The views are not considered “iconic” but it is a whole view. The view will be totally lost by the relocation of the bund. Previously more of the view would have been retained. A significant portion of this view to the west and southwest will be lost. The view to the northwest will be preserved. As the proposed mitigation measures will change the view from grazing lands with rolling hills to grazing and a vegetated bund (densely planted vegetation). Receiver 2 will suffer from view loss due to the relocation of the bund. In the assessment of the location of the bund in DA 2008.233 Council officers came to the conclusion that this level of view loss was acceptable. However with the bund being moved much closer it is considered that this impact is unacceptable, and alternative options that may have lesser impacts have not been adequately explored.

Step 2 - Consider from what part of the receiver property the views are obtained

Receiver 2: The views that are most likely to be impacted on would be obtained from the side of the dwelling (facilities on the southern side of the house unknown). The view of adjoining pasture lands and knoll will be obscured by the creation of the vegetated bund.

Step 3 - Consider the extent of the impact

Receiver 2: Considering the views of the whole property, not just the affected areas, the impact is likely to be significant as there is a total loss of view due to the vegetation screen plantings. This will impact on the use of enjoyment of the outdoor areas. The vegetative bunds were to be located 45m from the property boundary and 85m from the dwelling which was considered an acceptable distance from these areas. There was to be no overshadowing or other significant alteration of the amenity of this property resulting from the planting of these buffers. However the relocated bund is 12.5m from the property boundary and 52.5m from the dwelling and will be 4m high. There is clearly an increase in the extent of the visual impact on a significant rural outlook from the dwelling, without a corresponding need or linkage to the development consent being modified.

Step 4 - Consider the reasonableness of the application having regard to compliance with Council's planning controls

Council does not have any specific controls that relate to the preservation of views with respect to vegetated bunds or landscape screening. When viewed in the context of land uses that are permissible without consent such as agriculture or forestry the location of the bund will not have any greater impact than these uses would. That is: the owner could plant macadamias or a forestry plantation on the land that would have similar impact to the bund. This is however unlikely given the agricultural classification of the land as being suitable for grazing. Because of this it is not considered reasonable to allow this level of view loss.

The need, possibility of alternative locations, and height of the bund have not been explored or demonstrated to ensure that the visual impact of the bund has been minimised. A bund located further away from the affected dwelling would have a lesser visual impact.

Comments

Financial Services

Not required for this application.

Public consultation

Refer assessment above.

Conclusion

Council has the power to deal with the application and there may be a benefit for acoustic reasons to have the buffer in this location. However when the application was originally approved this buffer was not required for noise attenuation. The unacceptable visual impacts due to view loss on receiver 2 are sufficient reason to refuse the application.

Council should also consider the enforcement actions required if the application is refused. There are two options available to Council:

1. Issue orders under section 121 of the Act to have the bund removed; or
2. Commence Class 4 Civil Enforcement proceedings in the court to have the bund removed.

Option 1 is initially cheaper but the developer has the option to appeal the order resulting in further litigation. In both cases the court is likely to stay any enforcement proceedings

Recommendation

That:

1. Council refuse the application to modify development consent 2005/999 to retrospectively approve an earth bund forming part of Champion's Quarry for the following reasons:
 - a) The bund will have an unacceptable visual impact.
 - b) The bund will adversely impact on the amenity of the occupants of 139 Hazlemount Lane.
2. Council resolves to defend any appeal proceedings commenced in relation to Council's determination of modification application DA2005.999.3 for the reasons in item A above, and authorises Council staff to deal with any appeal proceedings to this effect in accordance with existing delegations of authority.
3. Council commence the process of serving an order to have the unauthorised bund removed.

Report

Subject	Champions Quarry Part 3A Exhibition
File No	P16275:ED10/5623, AD10/4297
Prepared by	Senior Development Assessment Planner
Reason	To seek Council's input into a submission on the Champion's Quarry major project.
Objective	Public participation in the development assessment process
Strategic Plan Link	Natural Environment and Economic Development
Management Plan Project	Planning

Overview of Report

The Department of Planning has placed the Environmental Assessment (EA) for the Part 3A major project Expansion of Champion's Quarry on exhibition until 23 April 2010. This report outlines the history of the approvals on the site and Council's position and identifies a significant issue with respect to the section 94 contributions. The report identifies a list of without prejudice conditions to be recommended to the Minister that are designed to protect Council's interests.

Background

Council approved Development Application No. 2005.999 on 9 August 2006 to expand the extraction rate of an existing extractive industry quarry from 5,000 cubic metres per annum, to a maximum rate of 29,000 cubic metres per annum, together with associated drainage, access roadway, road construction in Wyrallah Road reserve and signage works. This approval was done under delegated authority.

An amendment was approved on 13 December 2006 relating to Condition No. 14 Progressive revegetation. Council had included in the consent a requirement to include koala food trees in the rehabilitation plan and in the vegetated buffer as a result of a submission by friends of the koala. The developer asked for this condition to be removed. As there was no impacts on koalas caused by the quarry the requirement to include koala food trees could not be reasonable related to the development and the condition was amended.

A further amendment to the consent was approved under delegated authority on 19 March 2008 to alter the location of the bunds and the type of vegetation that was to be planted on the bunds. There is currently a further section 96 amendment to relocate the bund

Council then considered DA 2008.233 for "Expansion of existing Extractive Industry (Quarry) to an extraction rate of 120,000m³ or approximately 200,000 tonnes per annum (at an average of 400,000 tonnes over any 2 year period) to a maximum of 5,000,000 tonnes over a 25 year period, and a subdivision (boundary alteration)" at the meeting of 10 February 2009. Council resolved that the Council Officer's Recommendation not be adopted and that the application be refused on the following grounds:

1. *The development does not comply with the prescribed buffers in the Lismore Development Control Plan and will create land use conflict.*
2. *The development is inconsistent with the relevant zone objectives in the Lismore Local Environment Plan 2000.*
3. *Traffic impacts are very significant and will have an unacceptable impact on the road network over the life of the quarry.*
4. *The development will generate unacceptable levels of noise especially during the proposed construction period. There is no consideration of the noise and vibration impacts on nearby fauna such as koalas.*
5. *The development will generate unacceptable levels of dust, including silica dust that poses health risk to adjoining residents and fauna.*
6. *The development may have impacts on flora and fauna. There has been insufficient investigation to determine the level of impact.*
7. *The development will have unacceptable impacts on water systems, soil stability and there is an inadequate rehabilitation plan.*
8. *Visual impacts will be significant and unacceptable for many people living in the area especially within the buffer zones.*
9. *The development may negatively impact on Aboriginal sites of archaeological and cultural significance.*
10. *The application does not address the economic impacts on eco tourist businesses.*
11. *This development cannot be held to comply with the public interest.*

This refusal is currently the subject of an appeal in the Land and Environment Court.

On 13 May 2009 the Director General of the Department of Planning wrote to Council to seek input into formulating the Director Generals Requirements (DGRs) for the Part 3A Major Project for the expansion of the quarry. Council's then Manager of Planning Services responded to the Department in the following terms:

As you are aware, Lismore City Council at its meeting of 10 February 2009, considered Development Application 2008/233 for an expansion of the quarry and determined to refuse the application. Copies of Council's resolution and Notice of Determination are enclosed.

The Preliminary Environmental Assessment has been considered in relation to Council's concerns, as contained within its resolution. Of these matters, it is noted that the proponent intends to address traffic impacts, noise, dust and air quality, impacts on flora and fauna, soil and water, visual impacts, and Aboriginal cultural heritage. However it is requested that the Environmental Assessment also address the following matters:

- *the traffic impact assessment should assess the total number of trucks resulting on the haulage routes and the adequacy and appropriateness of the haulage routes to accommodate the level of heavy vehicles anticipated. Any deficiencies identified within haulage routes should be detailed and the relevant corrective action and timing for action identified within the assessment;*
- *compliance with adopted statutory planning controls in the Lismore Local Environmental Plan and Development Control Plan, specifically the objectives of the zone in which the quarry is situated, buffer requirements for quarries and the avoidance of land use conflict;*

- effect of noise and vibration on fauna such as koalas in nearby areas;
- the economic impacts on eco-tourism businesses.

The Department issued the DGRs and the proponent prepared the Environmental Assessment (EA) as required. The Department has now placed the EA on public exhibition and Council has the opportunity to make a submission prior to the determination of the application by the Minister. A copy of the EA and Appendices' has been provided to all Councillors for review. It is important for Council to recognise that its role is that of a submitter and not the determining authority

Proposed Council submission

This report recommends the content for a Council submission against the 3A application as outlined in this report. The Council's reasons for refusing the application have been used as a basis for preparing this submission. Secondly a set of conditions are provided in the event the Minister approves the 3A application.

There is only one new issue of significance and that relates to section 94 contributions. Although the proposal has changed the issues and planning implications remain generally unchanged from that which was assessed in the report for DA 2008.233 as considered by Council at the meeting of 10 February, 2009.

The other matters raised in the submission relate to established legal principles on retrospective approvals and a procedural matter on the exhibition. These are clearly explained in the attached letter.

Section 94 Contributions

The EA presents an argument from RoadNet (a traffic engineering consultant) that significantly reduces the section 94 contributions payable by Council. To put this into context the following sets of calculations are provided as a comparison between the contributions plan and the RoadNet calculations:

Assumptions from our Section 94 plan and inputs from application

Cost of construction	= \$369,000
ESA load	= 6.74×10^6
CPI Dec 03 to Dec 09	= 1.1776
Administration levy	= 2.5%
Convert m ³ to tonnes	= 1.7
Credit for extraction	= 5000m ³
Extraction PA	= 250,000t

$$\begin{aligned} \text{Levy} &= (\$369,000 / 6.74 \times 10^6) \times 15 \times (250,000 - [5000 \times 1.7]) \times 1.025 \times 1.1776 \\ &= 0.0547 \times 15 \times 241,500 \times 1.025 \times 1.1776 \\ &= \$239,176 \end{aligned}$$

This is the maximum charge in year 1.

Expressed as a \$ per tonne at quarry gate = \$0.96 + CPI*

* CPI to be calculated from date of consent.

Recalculation based on RoadNet figures from part 3A EA

Cost of maintenance	= \$50,000
ESA load	= 6.74×10^6
CPI Dec 03 to Sept 09	= 1.1776
Administration levy	= 2.5%
Convert m ³ to tonnes	= 1.7
Credit for extraction	= 5000m ³
Extraction PA	= 250,000t

$$\begin{aligned} \text{Levy} &= (\$50,000 / 6.74 \times 10^6) \times 15 \times (250,000 - [5000 \times 1.7]) \times 1.025 \times 1.1776 \\ &= 0.0074 \times 15 \times 241,500 \times 1.025 \times 1.1776 \end{aligned}$$

= \$32,357

This is the maximum charge in year 1.

Expressed as a \$ per tonne at quarry gate = \$ 0.13 + CPI*

* CPI to be calculated from date of consent.

NOTE: RoadNet's calculations come to \$0.11 per tonne but this doesn't account for application of CPI from December 2003 to today's date.

The total cost of S94 payments as per the plan over the 25 year life of the quarry is: \$5,979,400 + CPI. This reduces to \$808,925+ CPI under the RoadNet proposal giving Champion a net saving of \$5,170,475 + CPI over the life of the quarry.

It is the position of staff that the Minister should apply the contributions plan and not adopt the RoadNet figures.

Comments

Financial Services

In regards to the proposal to apply S94 contributions based on the RoadNet's assessment, if approved the impact on what Council would receive to undertake road network maintenance created by the DA would be reduced by \$5,170,475 + CPI over the life of the DA.

Clearly, it is beyond Council's financial capacity to meet this type of shortfall and therefore road maintenance would not be provided to an acceptable standard.

Other staff comments

No other staff were required to make a comment on this application.

Public consultation

Council has not undertaken any consultation.

Conclusion

The protection of Council's interests by the provision of without prejudice conditions of consent is considered to be an appropriate response to the exhibition. Defending the contributions plan is also considered to be of vital importance. Council has an obligation to notify the Minister of the legal implications of the bund constructed without approval. If Council resolves to approve the section 96 application for the bund then the submission will need modification.

Recommendation

That:

1. The report be noted and Council make a submission to the Minister as provided in attachment 1; and
2. If Council resolves to approve section 96 application 2005.999.3 for Champion's Quarry, then the section of the submission under the heading "Unauthorised Development and Retrospective Approval" be removed from the submission.

Report

Subject	Lismore Lake Pool
File No	EF09/1839:ED10/5467
Prepared by	Manager Arts, Tourism and Leisure
Reason	Council resolution
Objective	Provide options for future use of the Lismore Lake Pool
Strategic Plan Link	Improve passive and active recreation facilities
Management Plan Project	Arts, Tourism and Leisure

Overview of Report

This report identifies serious infrastructure safety concerns impacting on the Lismore Lake Pool and identifies several options for future use of the Lake Pool area including water play spray parks.

Background

The Lismore Lake Pool has arguably reached the end of its effectiveness as an asset. The facility is 35 years old and showing signs of age and deterioration with frequent occurrences of breakdowns and pool closures in recent years. Following the comprehensive audit undertaken by Royal Life Saving Australia in January 2009, a report to Council recommended the Lake Pool's closure in 2009 due to the high cost of refurbishing the facility and ongoing operational costs. However, due to the popularity of the facility, especially over the summer months, the Council determined to continue to operate the pool in December 2009 and January 2010, and resolved that:

“Council also investigate and cost other options of a water play area for the use of families that would suit the current area.”

As part of an assessment process, an attempt to quantify the extent of use at the Lake Pool was made by informal head counts at various times during the day. In December 2009 and January 2010 attendances at the Lake Pool were noted on a daily basis and are provided as an overall average. The pool is most popular during the afternoons and on weekends. On hot days numbers averaged between 50 – 100, and on weekends over 100. However when the weather was cool or overcast numbers could drop to single figures. The pool is particularly popular with families and children who enjoy the large expanse of shallow water and extensive deck area to recline and play.

Although the facility is ageing and non-compliant in relation to modern health and safety standards, the Council may resolve to continue its operation in the short term. This decision would impact on Council's exposure to risk, as well as the need to allocate funds in the 2010/2011 budget. \$33,000 was allocated in the 2009/2010 budget and appears to be adequate to date given there was no major plant or equipment failure this year.

Water play

A water play area or spray park is a zero-depth children's play area where water is sprayed from upright structures or ground sprays, then drained before it can accumulate. Systems are available that capture and reuse water.

Accordingly staff have made enquiries from water play suppliers regarding design options and requirements. Enquiries were also made to the House with No Steps in Alstonville, which has installed a small water play feature within their grounds.

The average spray park is 232m² in size, however, they can be built on pads from 93m² - 930m². The House with No Steps water play area is approximately 80m², with two above ground features and several in-ground spray jets. Constructed in 2006, the installation cost was around \$100,000. Feedback from management provided the following information.

- Operational and maintenance costs are typically downplayed by the suppliers and it was estimated that cleaning, maintenance and water quality control costs averaged up to \$200 per day. It was stressed that water play areas are not a set and forget attraction, requiring daily monitoring and maintenance, particularly on weekends.
- The footprint/ design area had to be extended as the overspray zone (area that acts as a buffer between the wet deck and surrounding grassed landscape) was underestimated and led to increased mud and dirt on the pad and within the spray jets due to high traffic in saturated landscape areas.
- In hindsight, they would look at alternate feature attractions as the spray park is only typically used for 7 - 8 months of the year. Monitoring and maintenance is similar to an all year round swimming pool, i.e. it needs to be treated and maintained over the cooler months even when not in use.

Water play systems

Current designs on the market include the following components: concrete pad and overspray area, spray equipment (a variety of passive and interactive features may be chosen), pipework, water treatment system holding tank, pumps, filtration and disinfection equipment, power connection, pump house near or in the vicinity of the water play area. It may not be possible to utilise the existing lake pool infrastructure due to its age and condition.

Water play parks may include a range of elements that can be chosen according to the user's requirements and prices will vary accordingly. Model WP 2417-001 is provided as an indicative design only. Covering a relatively large area of approximately 402m², the features are predominantly ground sprays which while entertaining children across a range of ages, also limits exposure to vandalism and accidental damage that above ground features may be more susceptible to. The design is also less expensive as a result.

Cost

The purchase price quoted for the spray equipment is \$166,000, and base installation costs bring this figure to \$332,000. Selection of the spray park elements will be a major contributing factor to the overall cost of the project as well as the size of the spray pad. It is likely that a treated, re-circulating water system to reduce water wastage would be required as an additional element. In order to maintain proper sanitation and public safety standards, the area must be managed similar to any public swimming pool. It is estimated that a treated water system would cost an additional \$60,000 for a park of this size. A treated water system should use approximately 85% less water than a similar sized potable water system.

Other costs should be considered in the overall play park design, including the demolition of existing infrastructure estimated at \$65,000, planning fees (\$10,000), landscaping (\$20,000), shade (\$25,000), park furniture (\$30,000) and 15% contingency . Total costs would be in the order of \$555,000, however the overall cost could be reduced with a smaller and simpler design.

Operating costs

These costs vary depending on the operating hours, the number of features included and the volume of water used, chemicals for water treatment, electricity and monitoring and maintenance of the equipment. The non-supervised nature of such a park may also lead to increased costs as features and equipment may be damaged more frequently than in a supervised environment. The House With No Steps estimates costs of up to \$200 per day for a relatively small park with few features. A design such as model WP 2418-001 is more than four times as large with many more water features, and therefore the operating costs could be much higher. Note, the equipment has to be monitored and cleaned on a daily basis and heavy weekend use would require additional staff time.

Options for future use of the Lismore Lake Pool area

Option 1 Dry recreation area

Decommission the Lismore Lake Pool and convert the area to a dry picnic / BBQ / recreation area to complement Lake Gates. Primary costs would include preliminaries, removal of pump house, demolition of pool estimated at \$65,000. Additional work including the purchase of fill for the pool, spreading and compaction of fill, topsoil supply and spread, turf provision and basic landscaping is estimated at \$76,000. All estimates include 20% contingency.

Issues

- Removal of the Lismore Lake Pool will result in the loss of a large aquatic recreation facility. (Loss of this facility could be compensated by introducing free entry, \$1 days or similar at the Lismore Memorial Baths for specific time periods.)
- The provision of traditional recreation facilities such as picnic tables will not replace the aquatic environment which caters to individuals and families of all ages.
- Estimated cost - demolition of pool and pump shed, fill, turfing and landscaping: \$141,000. BBQ and shade facilities have not been costed.

Option 2 Lismore Lake Pool

Continue to operate the Lismore Lake Pool over December and January during the school holidays when usage is high.

Issues

- Given the age of the plant and infrastructure, ongoing future use may be curtailed subject to major plant or equipment failure.
- Continuing to operate the facility is a health and safety risk given the known high non-compliance with the 2009 Royal Life Saving facility audit.
- Estimated cost: \$33,000 pa based on 2009/2010 allocation. Major equipment failure is possible and would add to the estimated annual cost, however repair or replacement costs cannot be estimated at this time.

Although there is significant risk associated with the continued operation of the Lake Pool, given the costs of available alternatives, this option could be considered in the short term. Provided the risks are managed, the facility could operate in a fashion similar to this year, however the likelihood of major plant and equipment failure increases with each operating season. As discussed in earlier reports, major repairs and/or refurbishment of the facility is not recommended.

Option 3 Water Play Spray Park

Removal of the existing Lismore Lake Pool and replaced with a water play spray park. A spray park would provide a recreational aquatic environment for young families in particular, which would not require direct supervision due to the lack of water accumulation in such a facility.

Issues

- Significant capital outlay to construct the park.
- Ongoing operating costs.
- Impact on existing aquatic facilities (Lismore Memorial Baths and Goonellabah Sports and Aquatic Centre) – the provision of a free water play spray park would negatively impact on attendance at both facilities.
- Estimated cost: demolition cost of \$65,000, plus establishing a flat and compacted substrate estimated at around \$50,000, plus between \$350,000 - \$400,000 construction cost; plus a water treatment system of \$60,000, plus between \$36,000 and \$73,000 operating costs for 6 months of the year, and operating costs for the remaining 6 months of the year, estimated at \$10,000 - \$20,000 for six months. This option totals \$571,000 - \$668,000.

Option 4 Water Play Spray Park built within existing facilities

Inclusion of a spray park within the Lismore Memorial Baths or the Goonellabah Sports and Aquatic Centre.

Issues

- Location within the Lismore Memorial Baths would require the acquisition of adjacent land.
- An entry fee for use of the spray park may be applicable at either location.
- Estimated cost: as above with additional land purchase price if relocating to the Lismore Memorial Baths.
- If the spray park was located at one facility, the attendance figures could be expected to increase at that facility

Comments

Financial Services

The draft 2010/11 Operational Budget has no funding included for the Lismore Lake Pool. As such, any proposal including Options 1 – 4 as reported, will require new funding to be allocated. Given the fact the budget has little discretionary funding, the inclusion of project funding for even demolish of existing infrastructure and site re-establishment is not readily possible. The Lismore Lake Pool is not a project which figures prominently in the list of Delivery Plan proposals.

In regards to Options 1 – 3 reported, the estimated funding requirements are:

Option	Year 1	Year 2 and Ongoing
Dry Recreational Area (Toilet Block Refurbished)	\$217,333	\$17,000
Dry Recreational Area (Toilet Block Demolished)	\$216,000	\$ 7,000
Status Quo - Operating Costs	\$30,000	\$ 0
Water Play Spray Park	\$646,000	\$62,000* (*Average)

No comment is provided on Option 4, but the possibility of this occurring at some time in the future should be noted if and when land becomes available adjacent to the Lismore Memorial Baths.

Other staff comments

Safety Officer

Purely in respect to risk exposure and Option 2 above, attention is drawn to the high risk non-compliances identified by the 2009 Royal Life Saving Australia audit.

Manager Assets

The Lismore Lake Pool is near the end of its life and requires substantial repairs to be undertaken just for it to continue to operate as it has in the past. If any upgrades are undertaken such that increased patronage is expected, Council may also be required to provide a lifeguard service.

As an alternative, costs have been estimated for the provision of a spray park and these are detailed in the report. Costs have also been provided to demolish the structure and restore the site to parkland. Regardless of which option Council chooses to pursue, adequate allowance will need to be made in the 2010/11 budget process.

Manager Goonellabah Sports and Aquatic Centre

An inspection of the Lismore Lake Pool has identified a number of issues that will require expenditure if the pool is to open for a short season in 2011. The main pump set is at the end of its life cycle and could fail at any time. The two filters are also failing with leaks and visible cracking noticeable in both of the fibreglass vessels. These vessels are under pressure and the cracks could split open at any time due to the deterioration of the filter shell.

The pool shell was also inspected and it was noted that there are numerous cracks in the surface of the shell. It was also noted that there are areas where water is seeping up through the cracked membrane from beneath the shell. This indicates that the shell has been compromised and that water will leak through the pool lining into the subsoil. No estimate can be given as to what volumes of water will be lost as a result of this cracking without the pool being filled and measurements being taken.

The change rooms were inspected and expenditure will be required to remove graffiti, replace tapware, repairs to toilet sets and general grounds maintenance prior to opening.

In the event that the pool has a major breakdown, cost estimates to repair/replace are as follows:

- Replace pump set, including motor, pump and strainer plus labour and commissioning: minimum \$70,000.
- Replace filters including decommissioning and removal of old filters, install and commission new filters: \$90,000 - \$100,000.

Due to the cost of these elements in addition to major works required for the shell, should there be a major equipment failure, repair of same is not recommended.

Public consultation

A petition with more than 400 signatures was received in January 2010, requesting Council to restore and maintain the Lismore Lake Pool. At the time of writing three other letters and one email had been received, similarly requesting the Lake Pool to remain open. These requests are covered in Option 2 above. No other consultation has been undertaken.

Conclusion

The Lismore Lake Pool continues to be a popular aquatic destination for people of all ages. Unfortunately the facility is ageing and does not meet modern aquatic health and safety standards. It has been estimated that refurbishing the existing facility and providing modern amenities and supervision would cost in excess of \$2 million. Should the Lake Pool close, some alternatives for the pool site include those options discussed above. The cost estimates provided are best estimates only and lack very specific planning and investigation. There may be other creative uses and solutions for the Lake Pool however they are not addressed within this report.

All options discussed above have significant capital costs except for Option 2 which has an operational cost not yet factored into the 2010/2011 budget. In the current financial climate and given the estimated costs, the development of a water play spray park appears to be unachievable in the short to medium term and therefore is not recommended. In light of Council's current financial situation, Options 1, 3 and 4 have associated major expenditure and are therefore not recommended.

With respect to Option 2, while public health and safety risks have been identified, the same risks have been apparent for many years. Council has reviewed its signage at the facility and undertakes water testing on a regular basis. Operating the facility for a shorter period in 2009/2010 resulted in lower operating costs and the plant and equipment remained operational for most of that time. Secondly permanently closing the pool and rehabilitating the site etc will come at a major cost (\$141,000) that is a high cost to afford in what will be a tight financial year. It is therefore recommended that the Lismore Lake Pool continue to operate for a limited season and budget, i.e. December 2010 and January 2011 with a budget allocation of \$30,000, subject to it remaining within budget and that no major repairs are required.

It should be noted that the Sport and Recreation Planner is currently undertaking a comprehensive review of all sport and recreation facilities in Lismore as part of the preparation for a 10 Year Sport and Recreation Plan. It is recommended that any decisions regarding the future options for the site as discussed in this report are placed on hold until the 10 year plan is completed. Completion date is estimated to be December 2011.

Recommendation

That:

1. The Lismore Lake Pool remain open for a limited season (December 2010 - January 2011) subject to it remaining within budget and that no significant repairs are required.
2. The long term use of the Lismore Lake Pool facility be determined after the Sport and Recreation Plan is completed.

Report

Subject	Lismore Memorial Baths: usage and fee structure review
File No	EF09/1851:ED10/5465
Prepared by	Manager Arts, Tourism and Leisure
Reason	Council Resolution
Objective	Review Memorial Baths usage and pricing structure
Strategic Plan Link	Develop and Support Art, Cultural, Sporting and Tourism Activities
Management Plan Project	Arts, Tourism and Leisure

Overview of Report

This report presents a breakdown of the Lismore Memorial Baths usage, reviewing casual and membership patronage since July 2008. It also compares its fee structure with several neighbouring pools and recommends a revised fee structure.

Background

At the 10 November 2009 Ordinary Council meeting it was resolved:

That staff prepare a detailed report on the public usage of the Memorial Baths including price categories related to patronage for the 2008/09 and other relevant financial years and include price comparisons with similar facilities.

The Lismore Memorial Baths (LMB) receives revenue from casual entries, multi-visit passes, membership passes, program fees such as Aquarobics and Learn to Swim, school entry fees, merchandise and the kiosk. This report will provide summary information on casual visitation but will focus primarily on multi-use membership options.

A review of the Memorial Baths attendance and membership data provided the following information regarding casual entry use.

Table 1 1 July 2008 – 30 June 2009 (12 month period)

Type of use	Quantity sold	Net value (excl GST)
Casual entries	32,095	\$95,280
Multi visit passes (10 and 20 visit passes)	285	\$10,804
Memberships	143	\$15,067

Table 2 1 July 2009 – 31 January 2010 (7 month period)

Type of use	Quantity sold	Net value (excl GST)
Casual entries	21,616	\$77,957
Multi visit passes (10 and 20 visit passes)	291	\$13,428
Memberships	152	\$19,783

Table 3 below, details the type of membership (3, 6, 9 (season) or 12 month) purchased on a month by

month basis for the period 1 November 2008 – 30 June 2009, the number of passes sold and the net value of those passes, together with multi-pass figures as comparisons.

Table 3

Type of pass	Nov	Dec	Jan	Feb	Mar	Apr	May	June
10 visit multi-pass	0 \$221	17 \$417	17 \$417	21 \$497	15 \$359	10 \$232	6 \$143	1 \$25
20 visit multi-pass	40 \$1,768	48 \$2,089	42 \$1,838	46 \$1,976	45 \$1,964	25 \$1,065	15 \$644	5 \$206
3 month Adult	9 \$638	27 \$1,899	26 \$1,844	15 \$1,064	10 \$693	4 \$284	2 \$142	1 \$71
3 month Child								
3 month Family	7 \$1,324	5 \$945	6 \$865	3 \$567		5 \$298		
6 month Adult	8 \$1,018	4 \$509	6 \$764			2 \$255	1 \$127	2 \$255
6 month Child	1 \$127							
6 month Family								
Season Adult								
Season Child								
Season Family								
12 month Adult	3 \$687	2 \$458	2 \$458	3 \$687		1 \$229	2 \$458	2 \$458
12 month Child								
12 month Family	1 \$611		1 \$611					

* Peak and Off Peak membership have been combined.

Table 4 details the type of membership (3, 6, 9 (season) or 12 month) purchased on a month by month basis for the period 1 July 2009 – 31 January 2010, the number of passes sold and the net value of those passes.

Table 4

Type of pass	July	Aug	Sept	Oct	Nov	Dec	Jan
10 visit multi-pass	3 \$83		20 \$553	13 \$372	18 \$512	10 \$286	16 506
20 visit multi-pass	10 \$609	2 \$97	61 \$3,292	45 \$2,287	41 \$2,216	35 \$1,898	39 \$1,964
3 month Adult	2 \$145	5 \$372	27 \$2,213	17 \$1,364	9 \$724	13 \$1,075	31 \$2,523
3 month Child			1 \$83	1 \$83	1 \$83		
3 month Family			6 \$1,489	7 \$1,737	6 \$1,489	2 \$496	3 \$1,439
6 month * Adult							2 \$295
6 month * Child							
6 month*Family							
Season Adult				1 \$223	1 \$168		
Season Child				1 \$223			
Season Family							

12 month Adult	1 \$268	1 \$229	6 \$1,609	5 \$1,263	5 \$1,341	3 \$805	2 \$536
12 month Child							
12 month Family			1 \$805				

* This pass was reinstated following the November 2009 Council meeting.

* Peak and Off Peak membership have been combined.

The tables clearly identify the strong popularity of 10 and 20 multi-visit passes which represents 10% of casual revenue in 2008/2009, and 15% of casual revenue in 2009/2010. In comparison, membership represents 12% of casual, multi-pass and membership revenue in 2008/2009, and 18% in this current financial year. Multi-use visits are popular with patrons because they can be used at any time, represent good value for money, and are valid for a 12 month timeframe. Memberships also arguably represent good value for money but only if the bearer/s can commit their time accordingly.

Towards the end of 2009, Councillors and Council staff received a number of complaints regarding the 2009/2010 membership structure. The feedback identified the lack of a 6 month pass, which was reinstated following the November 2009 Council meeting, and the general high cost of membership passes. As a result of complaints and the Council resolution detailed above, a review of the existing fee structure forms the latter section of this report.

Cost comparison with other pools

Ballina, Alstonville, Casino and Kyogle pools are Lismore's closest neighbours and the fees for 2009/2010 are listed below:

Table 5

	Casual entry	Half season pass (January – April)	Season pass (September – April)
Ballina / Alstonville 50m pool			
Adult	\$3.30	\$96.00	\$155.00
Child	\$2.60	\$85.00	\$128.00
Family of four	\$12.00	\$167.00	\$280.00
Seniors/pensioner/disabled (Ballina)		\$85.00	\$135.00
Casino 50m pool *			
Adult	\$2.80	\$55.00	\$90.00
Child	\$2.20	\$41.00	\$66.00
Family		\$94.00	\$180.00
Kyogle 50m pool			
Adult	\$3.00	\$62.00	\$113.00
Child	\$2.00	\$47.50	\$86.00
Family		\$118.00	\$215.00
Lismore			
Adult	\$3.50	\$91.00	\$245.00
Child	\$3.50	\$91.00	\$245.00
Family	\$10.50	\$245.00	\$735.00

* Casino staff anticipate a significant increase in fees in the 2010/2011 financial year.

Table 5 clearly shows the membership prices at Lismore are significantly higher than neighbouring pools, which are in part a direct result of the recent multi-million dollar refurbishment of the facility which is considered by many to be the best competitive aquatic facility in the Northern Rivers. However, it is recognised that a community facility has to be accessible and affordable to users, and a review of the existing fee structure is warranted. All fees associated with the 2009/2010 management plan and budget were developed according to a formula which was applied across all fees. The proposed 2010/2011 fee structure is a modification of the original formula.

With reference to Table 6, the proposed fee structure is based on the cost of a casual visit x 2 visits per week per individual, and 1.5 visits per week per family. An increasing scale of discount applies according to the length of pass purchased. An average visitation of 1.5 per week for families has been costed deliberately lower in an attempt to make the passes more affordable for families who are frequent users of the Baths. The formula is calculated as follows:

Table 6

Pass	Formula	Proposed fee Includes GST	(Existing fee)
Individual			
3 month pass	$\$3.50 \times 2 \text{ visits} \times 13 \text{ weeks} - 10\% \text{ discount}$	\$82.00	(\$91.00)
3 month pass – off peak	$\$82.00 \times 25\% \text{ discount}$	\$61.00	(\$68.25)
6 month pass	$\$3.50 \times 2 \text{ visits} \times 26 \text{ weeks} - 20\% \text{ discount}$	\$146.00	(\$162.00)
6 month pass – off peak	$\$146.00 \times 25\% \text{ discount}$	\$109.00	(\$122.00)
9 month (season) pass	$\$3.50 \times 2 \text{ visits} \times 39 \text{ weeks} - 25\% \text{ discount}$	\$205.00	(\$245.00)
9 month (season) pass – off peak	$\$205.00 \times 25\% \text{ discount}$	\$154.00	(\$185.00)
12 month pass	$\$3.50 \times 2 \text{ visits} \times 52 \text{ weeks} - 30\% \text{ discount}$	\$255.00	(\$295.00)
12 month pass – off peak	$\$255.00 \times 25\% \text{ discount}$	\$191.00	(\$185.00)
Family			
3 month pass	$\$10.50 \times 1.5 \text{ visits} \times 13 \text{ weeks} - 10\% \text{ discount}$	\$185.00	(\$273.00)
3 month pass – off peak	$\$185.00 \times 25\% \text{ discount}$	\$139.00	(\$204.75)
6 month pass	$\$10.50 \times 1.5 \text{ visits} \times 26 \text{ weeks} - 20\% \text{ discount}$	\$328.00	(\$491.00)
6 month pass – off peak	$\$328.00 \times 25\% \text{ discount}$	\$246.00	(\$368.00)
9 month (season) pass	$\$10.50 \times 1.5 \text{ visits} \times 39 \text{ weeks} - 25\% \text{ discount}$	\$460.00	(\$735.00)
9 month (season) pass – off peak	$\$460.00 \times 25\% \text{ discount}$	\$345.00	(\$555.00)
12 month pass	$\$10.50 \times 1.5 \text{ visits} \times 52 \text{ weeks} - 30\% \text{ discount}$	\$573.00	(\$885.00)
12 month pass – off peak	$\$573.00 \times 25\% \text{ discount}$	\$430.00	(\$673.00)

Determining which pass presents most value is the responsibility of the purchaser. The formulas are calculated such that a 10 or 20 visit pass is comparable to the base rate of the 3 month pass (i.e. 2 or 1.5 visits per week). Should an individual or family intend swimming more than 2 or 1.5 times per week, the 3, 6, 9 and 12 month passes provide greater value, especially the longer term passes. Should visitation be casual or sporadic, then a 10 or 20 visit pass may be preferable and better value in the long term.

Student / concession / pensioner

From time to time staff are queried regarding the lack of a concession fee. All neighbouring pools have some type of concession, most commonly reduced charges for children. Should Council wish to consider the reintroduction of a concession fee, the above off peak rates for all types of membership would provide an appropriate structure. The off peak rate was originally introduced to cater for concession holders.

Impact on longer term passes

As part of the full budget review undertaken late in 2009, closing the Memorial Baths over the winter period was considered as an option to make savings in the 2010/2011 financial year. This option will be reviewed by Council as part of the 2011/2011 budget process. Earlier in 2009 Council resolved to open the 25m pool at the Baths in 2009, from Monday to Friday, operating with reduced hours. Attendance numbers for the winter period were recorded and are as follows:

June	551	(an average of 25 per day)
July	581	(an average of 25 per day)
August	282	(an average of 13 per day)

Given the cost of staffing, heating and monitoring the pool, together with low attendance and revenue figures, it is proposed that the entire Baths complex is closed from June - August 2010. If Council endorses that recommendation there will be implications for longer term pass holders who may have anticipated swimming over winter. A number of alternatives are available for those pass holders, including:

1. the pro rata value of the membership pass could be refunded, or
2. the expiry date on a membership pass could be extended pro rata, or
3. Goonellabah Sports and Aquatic Centre (GSAC) – access could change from the Memorial Baths to GSAC.

If the Baths complex closes over the winter period it may not be prudent to offer 12 month memberships given some adjustment would need to occur and therefore it may not be essential to include 12 month passes within the pricing structure.

Marketing Plan

The Council resolved at the November Council meeting that 'staff prepare a marketing plan for Council's two main pools.' A marketing plan for the Memorial Baths was completed in 2006 following the redevelopment of the Baths, and was further refined in 2008/2009. Staff are in the process of recruiting an Aquatics Team Leader, a position which will oversee aquatic operations at both the Memorial Baths and the Goonellabah Sports and Aquatic Centre. Following a suitable appointment, the Aquatics Team Leader will develop a new marketing plan for the Memorial Baths. If Council adopts the proposed reduced fees a specific promotion should occur to publicise the changes. The Goonellabah Sports and Aquatics Centre has its own marketing plan that addresses wet and dry areas within the Centre.

Comments**Financial Services**

The proposal to reduce the fees for the 3, 6, 9 and 12 month pass fee structure at the Lismore Memorial Baths is in response to affordability concerns. As reported above, if the proposed formulae are applied to the 2009/10 Fees, they would decrease between 10% and 38%. It is anticipated that these changes will address this issue and at the same time potentially increase visitations. Based on this assumption, it is likely to have a positive financial impact.

Other staff comments

Manager Goonellabah Sports and Aquatic Centre

The proposed fee structure will deliver an equitable range of passes for users of the Lismore Memorial Baths in comparison with pools in adjacent local government areas.

The costs associated with keeping the Lismore Memorial Baths open during the winter period are extremely high given the limited patronage and return on revenue. To be fiscally responsible it is recommended that the Baths be closed for the period June – August. If this recommendation is endorsed then the 12 month pass would become obsolete and be replaced with 3, 6 and 9 month passes to accommodate the annual opening times.

Public consultation

No formal consultation has been undertaken, however Council has received 26 form letters from existing pool users concerned at the high cost of a season pass for families, together with several phone calls and emails with a similar complaint. A copy of the letter is attached (Attachment 1) together with a copy of Council's existing fees and charges (Attachment 2).

Conclusion

Upon review of the existing fee structure resulting from the Council resolution of November 2009 as well as recent complaints, it is proposed to modify the existing fee structure to make the longer term membership passes more affordable for users. The proposed fees for 3,6, 9 (season) and 12 month passes have been reduced from the 2009/2010 schedule of fees and charges, and are more comparable with similar neighbouring facilities. It is anticipated that a more affordable fee structure will result in greater sales of all types of memberships in the 2010/2011 financial year, and thus increased visitation and higher overall revenues. It is recommended that the entire complex close over the winter period, June to August.

Recommendation

That:

1. Council endorse the proposed fee structure for the Lismore Memorial Baths outlined in Table 6 of this report to be included in the 2010/2011 fees and charges with the 12 month pass being removed from the pricing structure subject to Item 2 below.
2. the Lismore Memorial Baths close over the winter period, June – August 2010.
3. the adopted fees be promoted as part of the new marketing plan for the Lismore Memorial Baths.

Attachment 1

Date:

The General Manager
Lismore City Council
43 Oliver Ave
Goonellabah

Dear Sir/ Madam

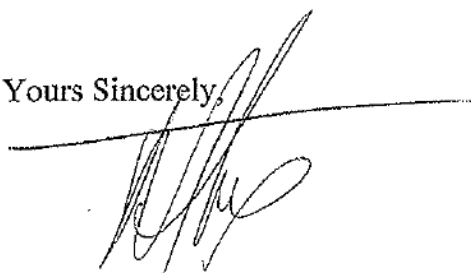
RE: Exorbitant Prices for seasonal passes at Lismore Memorial Baths

I would like to bring to your attention the outrageous prices that families are being charged at the Lismore Memorial Baths. The Lismore Memorial Baths family seasonal pass is set at \$735. Other Olympic pools in the area charge between \$180-\$280 for their family seasonal passes. This huge difference in price can not be justified.

Lismore families simply can not afford this price. We want our children to be able to learn to swim and be able to train to achieve their sporting goals. At \$735 you are making it impossible for families to visit the pool on a regular basis.

We need an immediate change to the pricing policy at the Memorial Baths to bring it in line with the other pools in the area. We can not wait until next season.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'M. J. ...', written over a horizontal line.

LISMORE MEMORIAL BATHS

Code	Ref No.	Description	GST	2008/09	2009/10
		Entrance Fees			
M	410	Casual Swimmers - Adult	T	3.00	3.50
M	410	Child*, Student, Pensioner/Concession.....	T	3.00	3.50
M	410	Under 4 years.....	T	Free	Free
M	410	Spectator	T	2.00	2.00
M	410	Casual Family Swim ***	T	8.00	10.50
M	411	10 Visit Pass - Adult.....	T	27.00	31.50
M	411	Child*, Student, Pensioner/Concession.....	T	27.00	31.50
M	411	Family***.....	T	N/A	94.50
M	411	Offpeak** - Adult, Child*, Student, Pensioner/Concession.....	T	22.00	28.00
M	411	- Family***.....	T	N/A	84.00
M	411	20 Visit Pass - Adult.....	T	49.00	57.00
M	411	Child*, Student, Pensioner/Concession.....	T	49.00	57.00
M	411	Family***.....	T	N/A	171.00
M	411	Offpeak** - Adult, Child*, Student, Pensioner/Concession.....	T	40.00	50.00
M	411	- Family***.....	T	N/A	150.00
M	412	Schools	T	2.50	2.50
		Passes – 3 Months			
M	411	Adults.....	T	78.00	91.00
M	411	Child*, Student, Pensioner/Concession.....	T	78.00	91.00
M	411	Family ***.....	T	208.00	273.00
M	411	Offpeak** - Adult, Child*, Student, Pensioner/Concession.....	T	65.00	68.25
M	411	- Family***.....	T	N/A	204.75
		Passes – 6 Months			
M	411	Adults.....	T	140.00	N/A
M	411	Child*, Student, Pensioner/Concession.....	T	140.00	N/A
M	411	Family***.....	T	374.00	N/A
		Passes – 12 Months			
M	411	Adults.....	T	252.00	295.00
M	411	Child*, Student, Pensioner/Concession.....	T	252.00	295.00
M	411	Family***.....	T	673.00	885.00

LISMORE MEMORIAL BATHS continued

Code	Ref No.	Description	GST	2008/09	2009/10
		Season Pass			
M	411	Adults.....	T	N/A	245.00
M	411	Child*, Student, Pensioner/Concession.....	T	N/A	245.00
M	411	Family***	T	N/A	735.00
M	411	Offpeak** - Adult, Child*, Student, Pensioner/Concession.....	T	N/A	185.00
M	411	- Family***	T	N/A	555.00
M	411	Extension to 3 month, 6 month and 12 month passes will only be considered upon payment of administration fee.....	T	10.00	N/A
M	416	Locker Hire	T	1.00	1.00
		*Child means 4 years to 16 years of age. ** Off Peak passes can only be used between 10.30am-3.00pm Monday to Friday. ***Family - Generally all family members should be on same Medicare Card. Other circumstances at Manager's discretion. Note - Times of operations may vary at Council's discretion.			

Report

Subject	Development Application 2010/1 – Proposed Liquor Outlet
File No	DA2010/1:ED10/4499
Prepared by	Development Assessment Planner
Reason	Development Application called in by two Councillors for determination.
Objective	Council determination of the Development Application.
Strategic Plan Link	Sustainable Economic Growth and Development
Management Plan Project	Development Assessment

Overview of Report

The proposed development involves: the demolition of existing structures, the erection of a Liquor Outlet (Dan Murphy's), on-site car parking, landscaping, signage and the consolidation of allotments.

The site of the proposed development is: flood prone (Flood Fringe Area), has a relatively flat topography, has frontage to both Ballina Road and Ewing Street and is occupied by a vacant commercial building and three vacant residential dwellings. The site is located within the 3(f) Services Business (Flood Liable) Zone and is surrounded by a mix of commercial and residential land uses.

Advertising and notification of the application were undertaken in accordance with Council's DCP. Nine (9) submissions were received objecting to the development in relation to: impact upon other liquor outlets, social impact, traffic and parking, loss of existing dwellings and noise.

The key impacts/issues associated with the proposal are identified as: noise impact, impact upon the amenity of adjoining dwellings, traffic and vehicular access to a main road, loading and unloading, and stormwater management.

The proposed liquor outlet is required to be licensed (Packaged Liquor License) under the Liquor Act 2007. In this regard, the application states that the license for the proposed liquor outlet will be transferred from an existing 'Beer Wine Spirits' (BWS) liquor outlet in town and will not involve the creation of an additional license for Lismore.

Following consideration of the application, the likely impacts of the proposed development are assessed as being reasonable in the circumstances and where required able to be appropriately mitigated via conditions of consent. Accordingly, it is concluded that the site is suitable for the proposed development.

Background

The Development Application was lodged with Council on the 4 January 2010 and is now being reported to Council for determination.

Pre-lodgement discussions regarding the proposed development were held between Council and the applicant.

Proposal

The development proposed for the subject lands includes the following components:

- Demolition of all existing structures on Lot 1 DP 774867 and Lots 5-7 DP19046;
- Construction of a Liquor Outlet with a Gross Floor Area (GFA) of 1,510m², with 25% being above the flood planning level of 12.37m AHD;
- Vehicular access and egress off Ballina Road;
- On-site loading zone off Ewing Street;
- Car parking for 68 vehicles and 12 bicycles;
- Erection of associated Signage Structures;
- Landscaping works; and
- Consolidation of all the subject lots (4 into 1).

Applicant

Newton Denny Chapelle Planning Consultants for Fabcot Pty Ltd.

Location

Lot 1 DP 774867 and Lots 5 – 7 DP 19046 being 68 Ballina Road and 47, 51 and 53 Ewing Street, Lismore.

Zoning

3(f) Services Business (Flood Liable) Zone.

Key Issues

- Noise Impact
- Impact upon the amenity of adjoining allotments
- Traffic and Vehicular Access to a Main Road
- Loading and Unloading
- Stormwater Management.

1. Site and surrounding properties and environs

The subject lands are located on the south-eastern fringe of the Lismore commercial precinct fronting Ballina Road and Ewing Street.

68 Ballina Road (Lot 1 DP 774867) contains a total site area of 2,430m² with street frontage to Ballina Road, which forms the development site's southern boundary. The allotment is adjoined to the north by residential development, with a restaurant (KFC) to the west and motor showroom and car repair station to the east. This allotment included within the proposed development contains an existing raised commercial building utilised previously for a restaurant (Pizza Hut) and more recently a motor showroom with its primary orientation and dual vehicular access to Ballina Road. Landscaped areas are located on all boundaries and are currently in a poor condition.

No's 47, 51 and 53 Ewing Street (Lots 5-7 DP 19046) are located north of 68 Ballina Road fronting Ewing Street, which forms the development site's northern boundary. All three allotments are embellished with raised dwellings, with each allotment containing a single driveway crossover. These allotments are adjoined to the east and west by other raised dwelling houses and to the south by the existing commercial building on 68 Ballina Road and a restaurant (KFC).

The immediate locality of the development is undergoing a transformation from a primarily dominant residential area to one being dominated by commercial land uses (businesses, offices, restaurants, motor showrooms). This transformation is due to the Services Business (Flood Liabile) zoning, the main road frontage to Ballina Road and the shortage of larger commercial sites suitable for developments of this kind. The adjacent areas to the north of Ewing Street and to the south of Ballina Road are residential in character.

The landscape and visual value of the subject site and the surrounding locality is characterised by a mixture of commercial buildings and elevated residential buildings, which front both Ballina Road and Ewing Street. The southern part of the subject site has a high visual value given its frontage to Ballina Road, which is the primary transport corridor through Lismore.

The site is relatively flat with a height of RL 10.10m in southern areas, 10.54m in central portion of the development site, and 9.67m in the northern area of the site. The site has a high point of RL 10.64m towards the centre of the site.

The site has a sewer main passing through, in an east west direction, the rear yards of No's 47 - 53 Ewing Street.

Site History

No. 68 Ballina Road has had a number of development consent notices issued by Council, which are outlined as follows:

Development Consent	Proposed Land Use	Date of Consent
85/3074	Restaurant (Pizza Hut)	6/6/1986
87/656	Subdivision (Amalgamation)	12/1/1988
2004/279	Motor Showroom	26/7/2004

No's 47, 51 and 53 Ewing Street are not subject to any notable development consents.

2. Proposal

Plans depicting the layout and design of the development are provided as Attachment 1 to this report.

Building siting and design

The proposed liquor outlet building is located on the northern portion of the site towards Ewing Street with the associated car parking located south of the building fronting Ballina Road. The building will have a ground floor area of 1,200m², together with a 310m² mezzanine flood free storage area, which equates to 25% of the ground floor GFA. The mezzanine floor will contain staff rooms, meeting rooms and amenities equating to an area (inclusive of the stairs/hallway) of 114m². This area will be made available for the storage of stock during flood events.

The proposed architectural entry feature nominates a maximum height of 11.8m, while the main body of the proposed building nominates a maximum building height of 8.25m. The ground floor level of the building is raised 1.1 to 1.2 metres above natural ground level.

The main body of the proposed building, as illustrated on the attached plans, will be constructed using precast concrete walls, while the large architectural entry feature on the southern end of the building that will be clad in colorbond and includes glass panels for the entry area. The building will be painted using two colours.

The proposed building nominates a 5.6m setback from the western boundary, a 3.9m setback from the eastern boundary and a setback to Ewing Street ranging from 5m to 11m.

Two acoustic barriers located adjacent to the loading area and parallel to the eastern and western boundaries are proposed to attenuate noise from the loading area to the adjoining residential dwellings. The first acoustic barrier located off the north-eastern corner of the building is 2.5m long, 3.8m high and is to be constructed of painted masonry. The second acoustic barrier located in the north-western corner of the site is approximately 10m long and 3.8m high. Of this height, the first 1.8m is to be constructed of rendered masonry and the remaining 2m is to be constructed of steel framed Perspex.

Hours of operation

The hours of operation for the Liquor Outlet are proposed from 9.00am to 9.00pm, Monday to Saturday and 10.00am to 8.00pm on Sunday.

Access and parking

The design has sought to retain the general access arrangements currently available to the site which serviced the former Pizza Hut and motor showroom land uses. Specifically, primary access is to be made via entrance / exit access points separated off Ballina Road to provide access to the proposed car parking areas in front of the liquor outlet entry.

The proposed car park includes provision for 68 cars spaces (inclusive of two disabled car spaces adjacent to the buildings entry) and 12 bike spaces. A dedicated pedestrian pathway traverses the car park in a north / south direction leading to the entrance of the building.

Servicing

The proposed development includes a loading dock and refuse collection facilities at the rear of the site with access from Ewing Street. Large service vehicles such as a semi-trailer (articulated vehicle – 'AV') and garbage truck will enter Ewing Street from Brewster Street and exit the site either westbound via Ewing Street through to Dawson Street, or eastbound back to Brewster Street.

Signage

The proposed development involves the installation of a pylon sign in the southeast corner of the site, along the Ballina Road frontage. The proposed sign has a height of 7.5m and a face area of 3.2m². The proposal also contains two (2) wall signs and one (1) fascia sign. The southern façade orientated to Ballina Road contains a 6.5m² wall sign and 10m² fascia sign, whilst the northern elevation to Ewing Street is embellished with an 11.5m² wall sign.

Landscaping

Landscaping is provided throughout the site particularly:

- between the proposed building and the adjoining dwellings to the east and west;
- between the building and Ewing Street; and
- between the car park and the street and between the car park and the eastern and western boundaries.

The proposed landscaping in the car park includes the planting of a number of shade trees.

3. Public notification

The development proposal was advertised in the local newspaper and notified to adjoining owners for a period of fourteen days. A total of nine (9) public submissions, objecting to the development, were received during the advertising / notification period. A copy of the public submissions are provided as Attachment 2 to this report.

Section 4.7 of this report provides a summary of the issues raised in the submissions and an assessment of the issues.

4. Assessment under Section 79C of the E.P. & A ACT

4.1 Any Environmental Planning Instruments

4.1.1 State Environmental Planning Policies (SEPPS)

SEPP 55 – Remediation of Land

Council's Environmental Health Officer has reviewed the proposal in relation to the issue of contamination and is satisfied that the past land uses would not have contaminated the subject land to a level that might impact on the proposed commercial development.

SEPP 64 – Advertising and Signage

The proposed signage is considered to be consistent with the provisions of this SEPP. More detailed discussion is provided in relation to signage below in this report.

SEPP (Infrastructure) 2007

Clause 104 of SEPP (Infrastructure) 2007 requires written notice of the Development Application (DA) to be given to the Roads and Traffic Authority (RTA) prior to its determination.

The RTA reviewed the application and advised that they raised no objection to the proposed development provided the following comments are included in Council's conditions of consent:

- All road works shall be designed and constructed in accordance with relevant *Australian Standards* and *Austroroads* guidelines to the satisfaction of Council.
- 'No-stopping' signs shall be installed to prohibit kerb side parking on Ballina Road between the existing driveways. This will ensure there is adequate sight distance for vehicles exiting the site

If consent is granted, the above conditions will be included as part of any consent.

4.1.2 Lismore Local Environmental Plan (LEP)

Classification of Land Use

The proposed use is classified as a '**liquor outlet**' under the provisions of the LEP, which means – *"a building or place which is licensed under the Liquor Act 1982 to permit the sale of liquor for consumption away from the licensed premises"*.

Since the above definition was written the Liquor Act 1982 has been repealed and replaced with the Liquor Act 2007. The proposed use is required to be licensed (Packaged Liquor License) under the Liquor Act 2007 to permit the sale of liquor for consumption away from the licensed premises. The NSW Police Licensing Sergeant has confirmed that the proposed use requires a 'Packaged Liquor License', which authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises.

Zone Objectives

A '**liquor outlet**' is permissible 'only with development consent' within the 3(f) Service Business (Flood Liable) Zone.

The objectives of the 3(f) Zone are:

- (a) *to encourage the establishment and development of businesses that require direct vehicular access;*
- (b) *to allow the development of services, businesses and light industries that support the business, industrial, rural and tourism activities of the City and the region, and*
- (c) *to encourage facilities (not being shops) which are not adversely affected by flooding.*

The proposed development is considered to be generally consistent with the objectives of the 3(f) Zone. In particular:

- the use requires and the proposal provides direct vehicular access from Ballina Road to the premises;

- the development of a liquor outlet on the site is broadly considered to support the general business activities of the city and the region; and
- the development is classified as a liquor outlet and not a shop and has been designed so as not to be unreasonably affected by flooding.

Clause 22 – Flooding

The ground floor of the proposed development is to be constructed below the Flood Planning Level. The first floor and mezzanine level, which equates to 25% of the GFA of the building, is to be constructed above the Flood Planning Level and is considered to provide an acceptable degree of flood proofing and adequate flood free storage in the event of a flood.

Given the nature of the use of the premises and the flood characteristics of the area there is not considered to be a need to access the building when the land is flooded, nor is there considered to be the need to prepare an evacuation plan for the premises.

The construction of the proposed building is not considered to adversely impact upon the functioning of the floodway.

Clause 25 – Development along Main Roads

- (1) *Consent must not be granted to the carrying out of development on land that has frontage to a main road, unless:*
- (a) *vehicular access to that land is provided by a road other than the main road, wherever possible, and*
 - (b) *in the opinion of the consent authority, the safety and efficiency of the main road will not be adversely affected by:*
 - (i) *the design of the vehicular access to the proposed development, or*
 - (ii) *the emission of smoke or dust from the proposed development, or*
 - (iii) *the nature, volume or frequency of vehicles using the main road to gain access to the proposed development.*

The application proposes that light vehicles (cars) access the development from Ballina Road, being a main road, whilst services vehicles (heavy vehicles) access the development from Ewing Street, being a local road. The applicant has used the following rational to justify this arrangement:

- Access currently exists to the site from Ballina Road;
- Recent developments such as the ALDI supermarket have been permitted left in left out access to Ballina Road; and
- Restricting traffic within Ewing Street to service vehicles only will limit the volume of traffic in Ewing Street and therefore reduce the impact on the existing dwellings in Ewing Street.

In addition to the above justification, the proposed access arrangements will also provide the benefit of separating heavy vehicles from cars which minimises the likelihood of possible conflict between cars and manoeuvring heavy vehicles as they enter loading areas.

The RTA and Local Traffic Advisory Committee have both supported the proposed access arrangements based on the above justification presented by the applicant.

Subject to appropriate conditions of consent being imposed to require the upgrade of Ewing Street to a standard suitable to accommodate service vehicles and amending the existing accesses from Ballina Road to comply with the relevant design standards, it is considered that the proposed access arrangements meet the intent of the above mentioned clause of the LEP.

4.2 Any Draft EPI that is or has been placed on Exhibition

Nil.

4.3 Any Development Control Plan

Part A Chapter 7 – Off-Street Parking

The normal car parking rate for a 'liquor outlet' is 4.4 spaces per 100m² of GFA. The site however is mapped as being within the Lismore CBD for the purposes of this Chapter and therefore a fixed car parking rate of 3.3 spaces per 100m² of GFA technically applies to the site.

During pre-lodgement discussions the applicant was advised that despite the site being mapped within the CBD, it is recommended that the normal car parking rate of 4.4 spaces per 100m² of GFA be applied to the development. This recommendation was made given:

- the site is located on the fringe of the Lismore CBD map (not near the core of the CBD) where there is not the availability of nearby public car parking spaces;
- there is limited potential for parking on Ballina Road;
- the proposed use is considered to have a high traffic generating potential; and
- it is not desirable to have patrons parking on a main road (Ballina Road).

The applicant agreed to apply the higher parking rate (4.4 spaces per 100m² of GFA) to the GFA of 1,314m² (which excluded the dedicated mezzanine area for flood storage) which required a total of 58 cars spaces. The proposal nominates 68 cars space, which complies with the requirement.

The proposal makes satisfactory provision for an articulated vehicle to load and unload on the site, with access and egress movements being in a forward direction.

The proposal nominates a designated pedestrian path through the car park in a north / south direction. This pedestrian pathway is considered to provide a reasonable separation of vehicular and pedestrian traffic within the car park area.

The proposal makes adequate provision for shade trees within the car park area, exceeding the required 1 shade tree per 5 car spaces.

Parts of the landscaped areas between the car park and the eastern and western boundaries of the site nominate a width of 1.5m, which does not comply with the 2m requirement of this chapter. In addition, part of the landscaped area between the car park and the southern boundary of the site has a width of 1m which also does not comply with the required 2m width for landscaped areas. A variation to the 2m landscaped area requirement is supported in the circumstances given:

- there are other areas of landscaping adjacent to the car park (southeast and southwest corners of the site) that well exceed the required 2m width;
- if consent is granted a condition will be applied to convert one of the car spaces adjacent to the southern boundary of the site into a landscaped area; and
- when considered in combination, all the areas of proposed landscaping in and around the proposed car park are assessed as satisfactorily achieving the following objectives stated in this Chapter:
 1. to screen the car park from adjoining development and public areas
 2. to provide shade to patrons vehicles
 3. to provide a reduction of radiant heat.

Notwithstanding the above, given there is a surplus of 10 car spaces provided on the site, it is available to the Council to convert more of the car spaces into landscaped areas.

Part A Chapter 8 – Flood Prone Lands

The flood hazard category of the site is 'Flood Fringe Area' under the Lismore Floodplain Management Plan.

For commercial development within the Flood Fringe Area, this chapter requires that an equivalent of 25% of the GFA of the building to be at or above the Flood Planning Level. The proposal nominates 310m² of the GFA of the proposed building at a level of 14.9m and 15.5m, which is above the Flood Planning Level of 12.7m. This 310m² of GFA above the Flood Planning Level equates to 25% of the overall GFA of the building.

Conditions will be applied to the consent requiring compliance with the other applicable requirements of this chapter.

Part A Chapter 9 – Outdoor Advertising Structures

The proposal nominates a range of signage including: a 'pole / pylon sign', a 'facia sign' and two 'wall signs'.

The 'pole / pylon sign' complies with the requirements of this chapter having a height of 7.5m and a panel area of 3.2m².

The 'fascia sign' of 10m² is considered to be appropriately scaled and positioned when considering the size of the entry feature.

The two proposed wall signs (6.5m² and 11.5m² in area) on the front and rear facades are considered to be appropriately sized when considering the respective façade areas. In particular, the proposal complies with the requirements of this chapter in that there is only 1 wall sign per wall and each of the wall signs are less than 15m² in area.

The proposed signage for the liquor outlet is considered acceptable, demonstrating consistency with the design guidelines within this Chapter, particularly the:

- signs are simple, concise and professionally designed;
- signs are designed and located so as to be in scale and character with the architecture and appearance of the building and also other signage in the commercial locality;
- number of signs are considered appropriate to enable the reasonable identification of the proposed business without resulting in an unnecessary proliferation of signage; and
- proposed signage is not considered to adversely impact upon the streetscape, the amenity of the adjoining properties or broader locality.

For the above reasons, the proposed signage is also considered to satisfy the requirements of clause 8 of SEPP 64.

Part A Chapter 13 – Crime Prevention through Environmental Design

The site layout and design of the proposal is considered to demonstrate adequate regard to Crime Prevention through Environmental Design Principles (CPTED). In particular:

- the proposed entry / exit of the building nominates a reasonable level of surveillance of the car park and Ballina Road;

- the entry of the building is sited and designed so as to be clearly visible and easily identifiable from the street and car park area for prospective users;
- the entry of the building is safe and amenable and designed to allow users to see in before they enter;
- the building and car park will be provided with security lighting for increased safety and surveillance at night;
- target hardening measures have been employed in the development including: use of appropriate building materials, provision of bollards and the use of a monitored alarm system and CCTV;
- the proposal nominates a property manager who will be responsible for: removal of graffiti and maintaining the building, car park, lighting and landscaping;
- the various spaces of the site are clearly defined by fencing, gates and landscaping, which results in good definition and access control of the public and private areas; and
- if consent is granted, Conditions will be applied ensuring that the proposed landscaping has adequate regard to CPTED principles.

The NSW Police Crime Prevention Officer reviewed the application and wrote to Council advising of his support for the proposal as submitted.

Part A Chapter 14 – Tree Preservation Order

The proposal requires the removal of a number of trees and shrubs from the rear yards of the three residential blocks off Ewing Street. The application outlines that the trees to be removed include: native, exotic and noxious species and that the site is of a low ecological significance as the trees to be removed are almost completely dominated by exotic species.

The removal of the proposed trees is considered acceptable, given the urban context of the site, the commercial zoning of the site and the replacement landscaping proposed.

Council's Tree Officer reviewed the application and raised no objection to the proposal subject to the retention of three (3) existing trees – 1 x Cook Island Pine, 2 x Alexandra Palm. If consent is granted a condition will be applied requiring the retention of these trees.

Part A Chapter 15 – Waste Minimisation

Council's Environmental Health Officer proposes a condition of consent to ensure that the demolition and construction phase are undertaken in accordance with the provisions of this Chapter of the DCP.

Part A Chapter 21 – Public Art

As the value of the proposed retail development exceeds \$2 Million, Council requires the provision of public art as a component of the development or else have the developer enter into an arrangement with Council to contribute towards the funding of public art at a location other than the development site.

The application seeks Council's approval to provide a financial contribution of \$15,000 towards a mutually agreed public art project.

This offer by the developer to contribute \$15,000 towards the funding of public art at a location other than the development site complies with the provisions of this Chapter of the DCP.

4.4 Any Matters Prescribed By the Regulations

Satisfactory.

4.5 The Likely Impacts of that Development, including Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality

Context and Setting (*bulk, scale, height, mass; design, character of locality, streetscape, compatibility with adjacent properties, overshadowing, privacy, views, etc*)

The proposed building as described earlier in this report nominates a built form (bulk, scale and height) that while larger than the majority of existing buildings in the immediate locality, is generally consistent with that of other large format retail development in Lismore's CBD. In this regard, the built form of the development is considered to be appropriate for a large format retail development of this type and is generally compatible with the scale of development envisaged within the 3(f) Services Business Zone.

The visual impact of the proposal upon the adjoining residential properties is considered to be acceptable given the commercial zoning of the area and the size of the side setbacks of the building (5.6m to the western boundary and 3.9m to the eastern boundary), which provides breathing space between the buildings and allows opportunity to establish quality landscaping to soften and screen the large built form of the building. In addition, the rear yards of the adjoining residential allotments have extensive landscaping which will further help screen the proposed building.

The architectural design and visual appearance of the proposed building is considered to be reasonable for a development of this kind. In this regard, the proposal incorporates:

- A reasonable range of building materials (masonry, colorbond and glazing);
- A large entry feature (central to the site) that provides: good articulation, variation to the roof form and visual interest to the building; and
- The use of dual colours to help break up the blank facades.

The proposal's impact upon the Ballina Road streetscape is acceptable given the large setback from the southern boundary of the site.

The siting of the building on the northern half of the site and the need for acoustic barriers results in the impact upon Ewing Street being considerably greater than Ballina Road. The impact upon the Ewing Street streetscape is assessed as being reasonable given:

- the commercial zoning of the site;
- the bulk of the building has a setback (ranging from 5m to 11m) from the street that is greater than the adjoining dwellings and predominant building line of the street. In this regard, it is relevant to note that there is no building line requirement for commercial development in this zone;
- the areas of landscaping proposed between Ewing Street and the building, which will help soften and screen the impact of the building and acoustic walls when viewed from the street; and
- the top 2m of the 3.8m acoustic barrier on the western side of the site is proposed to be constructed of Perspex, which reduces its visual impact upon the street.

The proposal results in no adverse privacy impacts to the adjoining residential dwellings.

The application includes a set of shadow diagrams, which illustrate that the proposal does overshadow the adjoining residential allotments. In particular, at the winter solstice the proposal overshadows part of the adjoining allotment to the west in the morning (9am) and part of the adjoining allotment to the east in the afternoon (3pm). The extent of the overshadowing by the development is not considered to unreasonably impact upon the residential amenity of the adjoining residences and is considered to be acceptable given:

- the commercial zoning of the area;

- the proposal only overshadows the rear yards of the adjoining allotments and not the actual dwellings; and
- the adjoining allotments have large rear yards, parts of which retain access to sunlight throughout the day.

Isolated Land

The adjoining residential lot to the east (Lot 8 DP 19046, No. 55 Ewing Street) does become isolated as a result of the proposed development in that it has an existing commercial building (Lismore Nissan) on its eastern boundary.

To address the concerns about the creation of an isolated lot the application outlines that:

- representation was made to the owner of 55 Ewing Street for the purchase of their land with the nature of the proposed development outlined during the representation. The application states that the owner of No. 55 Ewing Street advised the applicant's representative of their decision not to sell their land; and
- the land could, in the future, be amalgamated with either the subject liquor outlet or the adjoining commercial building (Lismore Nissan).

Notwithstanding the above, it is considered that despite becoming isolated, No. 55 Ewing Street does retain a reasonable level of development potential on its own having an area of approximately 800m² (49m length x 16m wide).

To help facilitate a future redevelopment of this allotment it is considered reasonable to require a 'right of way' be provided over the car park of the Liquor Outlet that permits vehicular access from Ballina Road to the rear yard of the isolated lot, No 55 Ewing Street. If consent is granted a condition will be applied requiring such a right of way to accommodate future development of that parcel of land. This will enable future development of that land in a flexible manner without significantly reducing its development potential, and be designed to compliment the surrounding built environment, and consolidate on site parking and access arrangements for a better planning outcome.

Traffic / Access / Loading

The application includes a Traffic Report, which addresses traffic, access, parking and servicing (loading) impacts of the development.

As detailed above in this report, no objection is raised to vehicular access to the development being provided from Ballina Road or the loading area being provided from Ewing Street. In addition, the Traffic Report concludes that the additional traffic generated by the development is unlikely to appreciably impact upon the surrounding road network.

The proposal makes satisfactory provision for an articulated vehicle to load and unload on the site, with access and egress movements being in a forward direction.

Noise Impact

An acoustic report has been submitted with the application to address the potential noise impacts of the post construction/operational phase of the development. The acoustic report is generally in accordance with the NSW Industrial Noise Policy (INP) and provides sufficient data to reasonably determine the noise impacts of the development. For the purposes of the acoustic report, four (4) sensitive receivers were identified, these being:

- 48 Ewing Street (opposite the delivery dock to the North);
- 45 Ewing Street (adjoining neighbour to the west);
- 55 Ewing Street (adjoining neighbour to the east); and
- 143 Ballina Road (opposite the entry and car park to the south).

The INP breaks the day into 3 assessment periods being: daytime (7am to 6pm), evening (6pm to

10pm) and night-time (10pm to 7am). Background noise levels have been assessed for all periods and appear to be consistent with expectations in the neighbourhood. Project Specific Noise Levels (PSNL) have been based on the intrusive noise criteria (and not the amenity criteria) as they are the most stringent. The PSNL sets the limit for noise generated by the development for each assessment period and is calculated by adding 5dB(A) to the rating background noise level for each period. From the data provided in the acoustic report the PSNL for each assessment period has been determined as follows:

- Daytime (7am to 6pm) - 47dB(A);
- Evening (6pm to 10pm) - 43dB(A);and
- Night (10pm to 7am) - 36dB(A).

The development incorporates acoustic barriers which will reduce noise levels at some receivers, particularly for the adjoining dwellings at 45 and 55 Ewing Street. The predicted noise levels have been assessed at each sensitive receiver using a calculation of likely noise occurring during a peak 15 minute period (except for stationary noise sources). The noise sources include:

- 78 car door closures;
- 39 car drive-bys;
- patron conversations;
- one (1) goods delivery including reversing beepers and pallet jack manoeuvring at the loading dock;
- one (1) waste collection event; and
- two (2) cardboard baling events.

It is most unlikely that all these events will occur concurrently so the predicted noise levels are considered to be conservative. Further the INP allows for an adjustment for duration of 5dB(A) for the waste collection service being a single event in any 24 hour period. Stationary noise sources were not included because plant selection is unknown at this time but all stationary sources can be properly acoustically treated to ensure the PSNL can be met.

Road traffic noise from the development will most significantly impact on Ballina Road, with garbage collection and delivery vehicles using Ewing Street. These noise impacts have been modelled using the process contained in the Environmental Criteria for Road Traffic Noise and appear to comply with the relevant criteria.

Waste collection, deliveries (including pallet jacks) and cardboard baling activities are to be confined to the daytime period only and will not impact into the evening and the night-time periods. Taking into account the adjustment for duration of the waste collection service, installation of acoustic treatments for plant, the acoustic barriers, the limitation of some activities to daytime only and the conservative assessment process, the predicted noise levels at each receiver will comply with the PSNL for each assessment period.

To ensure that noise impacts on the neighbourhood from both construction activities and operational activities are properly managed extensive conditions are proposed within the recommendation.

Stormwater Management

The application includes a Stormwater Management Report, which is considered to have adequately addressed stormwater quality and quantity impacts. If consent is granted, conditions will be applied in relation to stormwater management.

During the assessment of the application, an adjoining land owner advised Council that overland stormwater currently flows from the subject site onto their property. In this regard, the adjoining land owner was concerned that the proposed development might exacerbate this situation.

To address this impact, the applicant has provided additional information proposing that a stormwater drainage inlet shall be placed upon the eastern boundary, at the level of the existing natural surface, to collect overland flows from adjoining properties and convey them to the proposed stormwater drainage system. This proposal should address the issue raised by the adjoining owner and, subject to detailed design, adequately address the overland flows of stormwater within the vicinity of the development. The requirement to address this issue has also been reinforced within the proposed conditions of consent.

Social Impact

The social impacts of the proposed liquor outlet have been considered in the assessment of the application.

The potential for negative social impacts (i.e. alcohol related crime and violence) upon the community associated with the liquor outlet are considered to be largely mitigated by the fact that the proposal nominates a transfer of a liquor license from an existing liquor outlet in town and does not result in a new liquor license for Lismore. The liquor license for the subject premises is to be transferred from one of the existing two 'BWS' liquor outlets in town, both of which are located within a radius of 750m from the subject site. In addition, the price of liquor sold from the proposed premises is considered to be an issue of business competition and not a relevant planning matter to be considered in the assessment of the Development Application.

Council's Social Planner's comments and recommendations are summarised later in this report. In summary, Council's Social Planner recommended that while the proponent has provided minimal information for a social impact comment, given that the liquor license is a direct transfer, no further information is required. In this regard it is has been noted that Council's "Draft Social Impact Assessment Guidelines" do not require a Social Impact Assessment be prepared for a proposed liquor outlet involving a transfer of a liquor license. Council's Social Planner does however recommend that future DAs involving new hotel, packaged liquor licences or gaming licences be required to provide a full Social Impact Assessment. Such action would accord with the requirement for Community Impact Statement for liquor licences issued by the State Government post development consent, and would ensure consistency in considering social impacts from an early stage in the DA process.

The local Licensing Sergeant and the NSW Crime Prevention Officer both raised no objection to the proposed development.

There are also positive social impacts associated with the employment generated by the construction and operation of the liquor outlet.

Utility Services

The proposed location of the building is directly over one of Council's sewerage mains. It has been established, by desktop analysis, that a sewer diversion external to the proposed building alignment is possible and is Council's preferred option.

Prior to being issued with a Construction Certificate the developer is required to either; obtain approval for a diversion of the sewerage main external to the proposed building, or should it be established a diversion is not actually possible; obtain approval to build over Council's Sewer in accordance with Council's Policies (5.2.16 The Erection of Structures and Filling and Excavation near Easements, Drains, Sewer and Water Mains and 7.2.1 Construction of New Structures over Sewerage Mains).

4.6 The Suitability of the Site for the Development

The application seeks approval to erect a large liquor outlet with associated parking, landscaping and signage on a large site in the 3(f) Services Business (Flood Liable) Zone, which is made up of a mix of commercial and residential land uses.

The siting and design of proposed development is considered to adequately respond to the site constraints and in this regard it is concluded that the site is suitable for the proposed development subject to reasonable and relevant conditions of consent.

4.7 **Any Submissions made in Accordance with this Act or the Regulations**

Submissions should be in dot point format and summarised under common themes e.g. Noise, Traffic, etc.

Issue 1 – Competition to existing Liquor Outlets / no need for another Liquor Outlet

A number of submissions objected to the proposed liquor outlet as it will cause hardship and unemployment to existing liquor outlets in the area and that there is no need to for another liquor outlet in the area.

A number of submissions further stated that in affecting the income of existing liquor outlets in the area, the proposal will also affect the support to charitable and local sporting groups that those liquor outlets give.

A couple of submissions stated that if the application was to be approved then Woolworths (which the submission understood to own Dan Murphy's) would have three major liquor outlets all within a close proximity of one another and will saturate the market.

Comment: The issue of retail competition between liquor outlets is not a relevant planning matter to be considered in the assessment of the Development Application.

Notwithstanding the above, the application confirms that the license for the proposed liquor outlet is to be transferred from an existing 'Beer Wine Spirits' (BWS) liquor outlet in town. In this regard, the proposal does not nominate a new liquor outlet for Lismore.

Issue 2 – Social Impact

A number of submissions are concerned about the negative social impacts resulting from the construction of such a large liquor outlet, particularly the selling of discount liquor.

Comment: This issue has been addressed within this report.

Issue 3 – Traffic Generation and Parking

A submission is concerned that Ballina Road is already overloaded with traffic and does not need further traffic added to it.

A submission is concerned about the increased traffic that will result on Ewing, Cathcart and Magellan Streets from traffic wanting to exit the site and go west along Ballina Road to the Ballina / Wyrallah Road roundabout.

A submission states that another 68 car spaces for Lismore is excessive and is concerned about the loss of gardens and greenery to construct such a car park.

Comment: A finding of the submitted Traffic Report states that *“exiting traffic wishing to travel west would turn left at Brewster Street and circulate back to Ballina Road at either Conway Street or Dawson Street. This is the same arrangement as the adjacent KFC outlet”*. A further finding of the Traffic Report states that *“the additional traffic generated by the development is unlikely to appreciably impact upon the surrounding road network”*.

The traffic generated by the proposed development is not considered to unreasonably impact upon the residential amenity of the surrounding residential areas.

The RTA, Council's Traffic Advisory Committee and Council's Development Engineer all raise no objection to the proposal accessing Ballina Road or the capacity of the surrounding road network to accommodate the increase in traffic generated by the proposed development.

The proposal requires the provision of 58 car spaces and therefore nominates a surplus of 10 car spaces. Despite the surplus, the design of the car park and associated landscaping is assessed as being satisfactory, subject to the conversion of one (1) of the car spaces (adjacent to the southern boundary) to an area of landscaping.

Issue 4 – Loss of three dwellings

A submission is concerned that there is currently a shortage of affordable housing close to the CBD and the demolition of the three dwellings (in good condition) subject of this DA will only add to this problem. The respondent also states that Lismore has lost nearly 50 houses within an easy walk to town over the past 10 years and that it needs people living close to the city to keep it vibrant and alive.

Comment: The subject allotments are Zoned 3(f) Services Business (Flood Liable). In this regard, the objectives of the zone encourage the expansion of business and professional activities.

Issue 5 – Noise

A submission is concerned about the offensive noise impact upon nearby residences from the refrigeration units which operate 24 hours a day 7 days a week.

Comment: The submitted acoustic report states that *“Plant and equipment must be acoustically treated to prevent noise emissions from adversely impacting the receiver. This may include selecting the quietest plant possible, or treating the plant equipment with enclosures, barriers, duct lining and silencers”*. Proposed conditions are nominated to ensure that all plant will be acoustically treated to ensure the established Project Specific Noise Levels can be met.

Issue 6 – Smaller sized development

A respondent stated that if the proposal must go ahead then the application should be reassessed as a smaller sized development that retains the three houses along Ewing Street and reduces the number of car parks required.

Comment: The Development Application as proposed is required to be assessed and determined on its merits.

4.8 The Public Interest

The proposed development is considered to be consistent with the public interest.

5. Referral comments

5.1 Internal

5.1.1 Local Traffic Committee – The Committee had no objection to the proposed development provided the following comments are included in Council’s conditions of consent:

- All road works shall be designed and constructed in accordance with the relevant Australian Standards and Austroads guidelines to the satisfaction of Council; and
- ‘No Stopping’ signs shall be installed to prohibit kerb-side parking as indicated in the proposal.

5.1.2 Development Engineer – Council’s Development Engineer raised no objection to the proposed development subject to conditions of consent.

5.1.3 Environmental Health Officer – Council’s Environmental Health Officer raised no objection to the proposed development subject to conditions of consent.

5.1.4 Water and Sewer – Council’s Water and Sewer Officer raised no objection to the

proposed development subject to conditions of consent.

5.1.5 Building Services – Council's Building Surveyor raised no objection to the proposed development subject to conditions of consent.

5.1.6 Social Planner – Council's Social Planner reviewed the application and made comment in relation to: Dan Murphy's offering price reductions, the increase in alcohol consumption as a result of price reduction and the adverse social impacts of alcohol. Notwithstanding these comments, the Social Planner made the following recommendations:

- *The proponent has provided minimal information for a social impact comment. Given that the liquor license is a direct transfer, no further information is required;*
- *In the interests of the long term health and social well being of the Lismore community I recommend that internal planning be undertaken by Lismore City Council with respect to identifying upper limits for liquor and gaming licenses in the LGA. This upper limit should be based on the cumulative effects on residents of access to these services. It should also be based on the plethora of evidence that shows the negative health and social effects of alcohol, tobacco and gambling.*
- *I also recommend that future DAs involving new liquor and gaming licenses be required to provide a full Social Impact Assessment.*

5.1.7 Tree Officer – Council's Tree Officer raised no objections to the proposed development subject to the retention of three (3) trees, which be conditioned as part of any consent.

5.2 External

5.2.1 Roads and Traffic Authority (RTA) – The RTA reviewed the application and raised no objection to the proposed development provided the following comments are included in Council's conditions of consent:

- All road works shall be designed and constructed in accordance with relevant *Australian Standards* and *Austroroads* guidelines to the satisfaction of Council.
- 'No-stopping' signs shall be installed to prohibit kerb side parking on Ballina Road between the existing driveways. This will ensure there is adequate sight distance for vehicles exiting the site.

5.2.2 Crime Prevention Officer – The Crime Prevention Officer reviewed the proposal and advised that *"overall the application has addressed the majority of CPTED principals"* and that the *"police support the development application as submitted"*.

5.2.3 Licensing Sergeant – The Richmond Local Area Command Licensing Unit reviewed the proposed development and advised that it is not opposed to the application based on the following:

- Hours of operation for the premises to be:
 - 9.00am to 9.00pm Monday to Saturday; and
 - 10.00am to 8.00pm Sunday.
- The transfer of an existing 'Beer Wine Spirits' (BWS) license to Dan Murphy's, Ballina Road and Ewing Street, Lismore.

Conclusion

The proposal nominates the construction of a large liquor outlet and associated parking, landscaping and signage within the 3(f) Services Business (Flood Liable) Zone. The proposed Liquor outlet is permissible within the zone and is generally considered to be consistent with its objectives. The likely impacts of the proposed development are assessed as being reasonable in the circumstances and able to be appropriately mitigated via conditions of consent.

The proposed liquor outlet is required to be licensed under the Liquor Act 2007. The Development

Application states that the license for the proposed liquor outlet will be transferred from an existing 'Beer Wine Spirits' (BWS) liquor outlet in town and will not involve the creation of an additional license for the Lismore. In this regard, the proposal is not considered to result in any direct adverse social impacts upon the local community.

Lismore is recognised as a regional centre and as such it is not unreasonable that such a centre have a liquor outlet of the size proposed. Overall it is concluded that the site is suitable for the proposed development and that the Development Application is worthy of the grant of conditional consent.

Recommendation

That:

1. Council grant delegated authority to the General Manager - subject to the concurrence of the Development Assessment Panel, 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. Council, as the consent authority, approve Development Application 2010/1 for the: demolition of existing structures, the erection of a Liquor Outlet (Dan Murphy's), on-site car parking, landscaping, signage and the consolidation of allotments, subject to conditions as detailed below:

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) Drawing No's:

- DL-TP001 Revision B Sheet 01 dated 02.12.09
- DL-TP002 Revision B Sheet 02 dated 02.12.09
- DL-TP003 Revision B Sheet 03 dated 02.12.09
- DL-TP004 Revision B Sheet 04 dated 02.12.09
- DL-TP005 Revision B Sheet 05 dated 02.12.09
- DL-TP006 Revision B Sheet 06 dated 02.12.09
- DL-TP007 Revision B Sheet 07 dated 02.12.09
- DL-TP008 Revision B Sheet 08 dated 02.12.09

and as shown overdrawn in red and/or supporting documents submitted with the application. Copies of the approved plan is/are attached to this consent.

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

CONSOLIDATION

2 All separate parcels of land shall be consolidated into one allotment under one title and lodged with the Registrar General **prior to any Occupation of the building.**

Reason: *To prevent future dealing in separately titled land, the subject of one consolidated site development application. (EPA Act Sec 79C(c))*

3 The proponent shall submit an **application for a Subdivision Certificate** for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

Reason: *To comply with environmental planning instrument. (EPA Act Sec 79C(a))*

BUILDING

4 Provide an on-site sign, in prominent visible position, stating:
(a) That unauthorised access to the site is not permitted, and

- (b) Showing the name of the builder or person responsible for the site and a telephone number at which such person can be contacted outside working hours.

Reason: Required by Clause 78H of the Environmental Planning and Assessment Regulation.

- 5 Provide a fence, hoarding or other measure to restrict public access to the site, when work is not in progress or the site is otherwise unoccupied. The fence is to be provided **prior to any work commencing on site.**

Reason: Required by Clause 78H of the Environmental Planning and Assessment Regulation.

- 6 Temporary toilet facilities must be provided on the site, prior to commencement of building work and must be maintained until permanent facilities are provided.

Reason: To ensure the provision of minimum amenities to the site.

- 7 The building must be clad in low-reflective material.

Reason: To minimise the reflectivity of the building and to ensure its compatibility with the landscape.

- 8 Retaining wall structures 1200 mm (1.2 m) or more in height must be of a design certified by a Practising Structural Engineer acceptable to Council.

Reason: To ensure the structural integrity of the retaining wall.

- 9 Structural Engineering details are to be submitted to and approved by the principal certifying authority **prior to commencement of the work.**

Reason: To ensure the adequate structural design of the building components.

- 10 The primary building elements must be protected against attack by subterranean termites by physical barriers in accordance with AS 3660.1-1995 "Protection of Buildings from Subterranean Termites".

Reason: Required by Clause B1.1 of the Building Code of Australia.

- 11 Access for people with disabilities in accordance with AS1428.1 is to be provided to the main entrance of the building.

Reason: Required by Clause D3.2 of the Building Code of Australia.

- 12 Facilities for the use of people with disabilities must be provided as specified in Clause F2.4 Building Code of Australia and shall be constructed to the requirements of AS 1428.1-1998 "Design for Access and Mobility".

Reason: Required by Clause F2.4 of the Building Code of Australia.

- 13 Provide signs to facilities for people with disabilities in accordance with AS 1428.1-1998 "Design for Access and Mobility".

Reason: To highlight the availability of facilities for people with disabilities.

- 14 Provide car parking spaces for people with disabilities, including signage, in accordance with the requirements of AS 2890.1 - 1993 "Off-Street Car Parking" Cl 2.4.5(b).

Reason: Required by Clause D3.5 of the Building Code of Australia.

- 15 Provide signs, incorporating the disabled access symbol to people with disabilities, identifying the location of each accessible entrance to the building, lift and sanitary facility.

Reason: Required by Clause D3.6 of the Building Code of Australia.

- 16 Fire hose reels must be provided in accordance with Clause E1.4 Building Code of Australia and the following:

- (a) Must comply with Australian Standard 1221 "Fire Hose Reels" and be installed in accordance with Australian Standard 2441, "Installation of Fire Hose Reels".
- (b) At the connection of the most hydraulically disadvantaged hose reel to the fire main or water service pipe, provide a water flow rate of 0.33 L/s.

- (c) Must not be installed in fire-isolated stairways, fire-isolated ramps or fire-isolated passageways.
- (d) At least one hose reel must be accessible to all occupants of the storey served by it.
- (e) No part of the storey must be beyond the reach of the nozzle end of a fully extended hose reel installed on that storey.

Reason: Required by Clause E1.4 of the Building Code of Australia.

- 17 During construction provide not less than one fire extinguisher to suit Class A, B and C fires and electrical fires, on each storey adjacent to each required exit or temporary stair or exit.

Reason: Required by Clause E1.9 of the Building Code of Australia.

- 18 Fire hydrants are to be provided within the building so no point on the floor of the building is more than 6 m from the nozzle end of a fully extended 30 m length of hose. The hydrant is to be within 4 m of a required exit and installed in accordance with AS 2419.1 "Fire Hydrant Installations".

Reason: Required by Clause E1.3 of the Building Code of Australia.

- 19 Where an external hydrant serves a building the maximum length of hose shall be 60 metres, providing a maximum 10 metres horizontal jet of water.

Reason: Required by Clause E1.3(b) of the Building Code of Australia.

- 20 Provide portable fire extinguisher/s, suitable to address the relevant risk, in accordance with AS2444.

Reason: Required by Clause E1.6 Building Code of Australia.

- 21 A hydraulic consultant shall certify that the pressure/flow from the hydrant is satisfactory in accordance with the provisions of Australian Standard AS2419.1 - 1994. This certification must be submitted to the Accredited Certifier or Council with the application for the Construction Certificate.

Reason: To ensure adequate pressure as required by Australian Standard AS2419.1 - 1994.

DRAINAGE

- 22 Prior to **release of the Construction Certificate** detailed design of stormwater drainage from hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be undertaken by a suitably qualified person experienced in hydraulic design and submitted to **the Principal Certifying Authority**. The design shall incorporate suitable measures to prevent any inundation of adjoining properties due to changes to existing overland flows. This system shall be designed and constructed in accordance with Australian Standard AS3500 Plumbing and Drainage Part 3: Stormwater Drainage. Drainage is to direct all stormwater from impervious areas to an appropriate drainage system to prevent intensification of discharge runoff onto adjoining land or concentration of flow upon adjoining lands. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. Appropriate management practices must be put in place to ensure that the integrity of this condition is maintained at all times both during construction, and when the development is operational.

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))

- 23 Prior to **release of the Construction Certificate** the detailed design of stormwater drainage systems shall 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. On-site retention of stormwater shall be encouraged to achieve this requirement.

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)).

ROADWORKS AND VEHICULAR ACCESS

- 24 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended), relevant Australian Standards and Austroads guidelines. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work.

Required roadworks include:

- a) Construction of a kerb and gutter on the alignment of the existing kerb on the southern side of Ewing St with a bitumen sealed road pavement between the kerb and the existing bitumen sealed road pavement generally as indicated in ttm's drawing number 33705-01 rev A1 dated 1/12/09, as lodged with the development application.
- b) Construction of a bitumen sealed road pavement on the northern side of Ewing St to accommodate heavy vehicle turning movements generally as indicated in ttm's drawing number 33705-01 rev A1 dated 1/12/09, as lodged with the development application.
- c) Pavement strengthening of Ewing St to accommodate the expected increase in heavy vehicles incorporating construction of a 100mm depth gravel overlay and reseal of the existing road pavement in Ewing St from the intersection with Brewster St to the western boundary of the subject property.
- d) Alterations to the existing line marking and traffic signage upon Ballina Road to restrict parking for the frontage of the development to Ballina Road.

Prior to the release of either an Interim or Final Occupation Certificate the applicant shall obtain a certificate of completion for the above works from Council. Prior to obtaining this certificate a practising qualified surveyor or engineer shall submit to Council for approval, a "works-as-executed" set of plans, completed asset record forms and a construction certification. The certification shall certify that all roads, drainage and civil works required by this development consent and the approved design plans have been completed in accordance with Council's Development and Construction Manual (as amended).

Reason: To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a) and to specify requirements for approval under section 138 of the Roads Act.

- 25 **Prior to the issue of the construction certificate** the applicant shall obtain approval under section 138 of the Roads Act for the works upon public roads. For this approval full design plans of the proposed engineering works required upon the public road shall be submitted to and approved by Council. Plans shall include details of works required to satisfy condition(s) 24,28 and 29. Such plans shall be accompanied with the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

Reason: To ensure an adequate road network in accordance with adopted standards can be provided. (EPA Act Sec 79C(a)) and to specify requirements for approval under section 138 of the Roads Act.

- 26 **Prior to the commencement of works** upon the public road the proponent shall have approved by Council a Plan of Management for the construction of all civil works outside the real property boundaries of the proposed development. The plan shall table scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community. Such plan shall include a Traffic Control Plan prepared by an RTA accredited person. All works shall comply with the Occupation Health and Safety Act.

Reason: To ensure no conflict occurs between civil works and general public during construction.

- 27 **Prior to the issue of a Construction Certificate** the proponent shall lodge a bond of \$5000 with Council to cover any damage to infrastructure within the road reserve arising during the construction of the proposed development. Evidence is to be provided to the Principle Certifying Authority indicating the pre development condition of the surrounding public infrastructure. 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. Certification as to compliance with this condition shall be provided by the Principle Certifying Authority to Council **prior to the issue of an interim or final Occupation Certificate.**

Reason: To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a))

- 28 **Prior to the issue of an interim or final Occupation Certificate** the vehicular accesses to the proposed development shall be constructed generally in accordance with ttm's traffic report "Proposed Retail Development – Dan Murphy's Liquor" dated December 2009, as lodged with the development application. All works shall be constructed in accordance with the Council's Design and Construction Specification for Vehicular Access. The existing accesses to Ballina Rd shall be modified to provide a left in and a left out access. Appropriate signage shall be erected within the carpark to clearly identify the access/egress requirements.

Reason: To ensure adequate access to and from the development. (EPA Act Sec 79C(c))

- 29 **Prior to the issue of an Interim or Final Occupation Certificate** any redundant driveway crossings shall be removed and 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))

CAR PARKING AND LOADING and UNLOADING

- 30 All loading and unloading shall take place within the property boundaries, as will the parking of construction and private vehicles associated with the development.

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

- 31 All vehicles associated with the construction of the development shall be legally parked at all times. During the construction of the development no vehicles shall be parked, standing or loaded/unload from Ballina Road.

Reason: To ensure activities relating to the development do not interfere with the movement of traffic along the public road. (EPA Act Sec 79C(b))

- 32 Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction, in accordance with Council's Development Control Plan No. 1, Part A, Chapter 7 - Off Street Carparking Requirements. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.

Reason: To ensure adequate access to and from the development. (EPA Act Sec 79C(c))

- 33 **Prior to the release of either an Interim or Final Occupation Certificate** provision shall be made for Sixty Seven (67) car parking spaces and a loading bay suitable for a articulated vehicle with a bitumen sealed/paved or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 1, Part A, Chapter 7 - Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Design plans to be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction 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))

- 34 Prior to the release of an Interim or Final Occupation Certificate car parking and loading areas, as shown on the approved plan, shall be clearly marked on the ground and signage erected to clearly indicate both the off-street parking and loading area.

Reason: To ensure the free flow of traffic and comply with traffic regulations. (EPA Act Sec 79C(c))

NOISE MANAGEMENT

- 35 The hours of work for any noise generating activity relating to any demolition work and the construction 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 construction 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))

- 36 All noise generated by demolition and construction activities must be managed in accordance with the Interim Construction Noise Guideline, DECC July, 2009. A construction noise management plan (CNMP) must be prepared and be implemented for the development. The CNMP must include auditing procedures. Site managers and all persons who carry out demolition or construction activities on and about the development site must be made properly aware of their responsibilities and to ensure the objectives of the guideline are complied with.

Reason: To minimise the impact of demolition and construction noise on the neighbourhood.

37 The proposed land use shall not result in the emission of offensive noise.

Offensive noise means:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
- (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
 - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

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

38 The noise generated by the post construction phase of the development must not exceed the project specific noise levels (PSNL) as detailed in the acoustic report and based on the intrusive criteria as this reflects the most stringent noise level requirement. The PSNL are:

- Daytime 7.00am to 6.00pm **47dB(A)**
- Evening 6.00pm to 10.00pm **43dB(A)**
- Night 10.00pm to 7.00am **36dB(A)**

No audible security or equipment alarm devices or forklifts are to be used on the premises.

A Noise Management Plan (NMP) must be prepared and implemented to put in place appropriate management practices to ensure that the requirements of this consent and the PSNL are complied with at all times. The NMP must be regularly reviewed and reflect contemporary best practice.

The noise generated from the development (and including all activities, machinery, plant, and equipment) must not exceed the PSNL at all assessment time periods at any receiver.

Reason: *To confirm the PSNL for the development and to ensure that noise generated by the development complies with the PSNL and this consent.*

39 **Prior to the issue of any Occupation Certificate**, a document prepared by a suitably qualified noise assessment professional, must be provided to Council certifying compliance with Condition 38.

Reason: *To confirm the PSNL for the development and to ensure that noise generated by the development complies with the PSNL and this consent.*

40 Waste collection is limited to one collection event of no more than one hour duration in any 24 hour period.

Reason: *To provide for a noise adjustment of 5dB(A) for duration as detailed in the NSW Industrial Noise Policy and to confirm the information provided in the acoustic report.*

41 Waste removal and delivery activities (including the use of trolley/pallet jacks) must be limited to the following time restrictions:

- Monday to Saturday - 8am to 6pm;
- No waste removal and delivery activities on Sundays or public holidays.

A maximum of 2 deliveries are permitted each day. Trolley/pallet jacks may be used within the building during normal operating hours provided that all doors are closed and the PSNL are met at all times.

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

42 All cardboard bailing activities must take place between the hours of 8am and 6pm and must be carried out inside the loading dock with all doors closed.

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

- 43 Acoustic barriers must be provided as detailed in the recommendations contained in the acoustic report.

Reason: *To confirm the provision of acoustic barriers.*

- 44 A detailed assessment of noise emissions from plant and equipment must be carried out by a qualified acoustic consultant **prior to installation**. Plant and equipment must be acoustically treated and have soft start capability to prevent noise emissions from adversely impacting on receivers.

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

EROSION AND SEDIMENT CONTROL

- 45 Erosion and sediment control measures must be put into place and be properly maintained to prevent soil erosion and the transport of sediment from the development site or into natural or constructed drainage lines or watercourses.

The measures must:

- maximise the diversion of clean waters
- minimise the extent and duration of site disturbance
- provide for appropriate water quantity and quality treatment and management
- include devices and practices to prevent sediment being carried from the site by vehicles and plant and including their tracks and tyres
- properly manage all dust generated by the development.

All control measures must be properly designed and be regularly inspected and be managed and maintained to ensure the measures operate to the design requirements and to meet all relevant environment protection standards. Weather patterns must be monitored and be coordinated in with the inspection and management and maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion or the transport of sediment from the development site.

Reason: *To ensure the proper management of the site with regard to soil erosion and sedimentation.*

SECURITY LIGHTING

- 46 All security and external lighting (including signage lighting) must be installed to ensure that no nuisance is caused to neighbouring premises or motorists. Appropriate light selection and shielding and/or other measures must be implemented, and the installation must comply with AS4282 "Control of the Obtrusive Effects of Outdoor Lighting".

Reason: *To protect the amenity of the neighbourhood.*

STORMWATER QUALITY

- 47 **Prior to issue of the Construction Certificate** a Section 68 application to install stormwater treatment devices, together with full engineering design details, and the appropriate fees, must be submitted to and be approved by Council. The application details must implement contemporary water sensitive design practices (including any water reuse strategies), and optimise the interception, retention and removal of water-borne pollutants through the use of measures (including the construction of stormwater treatment devices e.g. bio-retention systems and detention/retention basins) that will satisfy the performance objectives as stated within Table 19 of Lismore Urban Stormwater Management Plan, 2007 (SMP), prior to discharge to receiving waters. The information submitted must include commentary that clearly demonstrates compliance with Councils SMP and detail soil media specifications (filter media) for surface, transition and drainage layers. A comprehensive management plan must be developed and include maintenance and auditing/accountability systems. Responsible persons and contact details must be provided.

If CSIRO 2005 or other publications are to be referenced it will be necessary to demonstrate that the performance can be related to the Lismore environment and rainfall characteristics. The performance curves for South Coast within the WSUD Technical Design Guidelines for South Eastern Queensland are accepted as being indicative of Lismore characteristics.

Reason: *To protect the environment (EPA Act Sec 79C(b)), to satisfy the requirements of the Local Government Act, 1993, and to ensure the environmental management of stormwater complies with contemporary standards.*

WASTE MANAGEMENT

- 48 **Prior to the issue of a Construction Certificate**, a Waste Management Plan in accordance with the provisions of Chapter 15 - Waste Minimisation of the Lismore Development Control

Plan, must be prepared, submitted to and approved by Council.

Reason: *To comply with the requirements of the Lismore Development Control Plan.*

- 49 All waste materials generated from construction and demolition works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008'.

Reason: *To protect the environment and manage wastes appropriately. (EPA Act Sec 79C(b))*

- 50 All waste management must incorporate sustainable waste minimisation and recycling initiatives that are consistent with contemporary community expectations.

Reason: *To ensure sustainable waste management practices are incorporated into the development.*

- 51 No equipment or materials are permitted to be stored outside the building except for sealed waste storage/recycling containers which must be stored in an unobtrusive location and must be maintained in a sanitary condition at all times.

Reason: *To clearly state the location of storage activities and to prevent the creation of unsightly, disorderly or insanitary conditions.*

WATER AND SEWER

- 52 The proponent shall obtain approval under Section 68 (s68) of the Local Government Act, 1993 for the water supply and sewerage works required for this development. The proponent shall submit the appropriate Activity Application Forms accompanied by such information as is listed in Council's Water, Sewer and Liquid Trade Waste Activity Application Check-list.

The proponent's Principal Certifying Authority should note; the proponent must be granted approval for the water supply and sewerage works **prior to being issued with a Construction Certificate.**

Reason: *To comply with Section 68 (s68) of the Local Government Act, 1993.*

- 53 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, **totalling \$4,492**, are set out in the schedule for your information. Such levies shall be paid, as required by Council, **prior to being issued with a Construction Certificate.**

Lismore Council Development Charges are those applicable as at the date of the original consent. If the Development Charges 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.

NOTE: The Rous Water Development Charge will be the charge that is current at the time of payment NOT the charge current at the time of consent adjusted by CPI to the time of payment.

Reason: *To provide funds for the provision of services and facilities identified in Lismore City Council's and Rous Water's Development Servicing Plans as required by the increased population or activity (Water Management Act 2000, Sec 306).*

LANDSCAPING and VEGETATION

- 54 A revised landscaping plan (in duplicate) shall be submitted to the Certifying Authority and approved **prior to release of the Construction Certificate.**

The revised landscaping plan shall provide **higher 'screening buffer planting' adjacent to the eastern and western sides of the building and acoustic barriers** to better soften and screen these built form elements from the adjoining residential dwellings.

The revised landscaping plan shall also be in accordance with **Crime Prevention Through Environmental Design (CPTED) Principles**, 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; and
- location of trees identified for retention in the development application plans.

Certifying Authority approved landscaping shall be completed **prior to the release of either the Interim and/or Occupation Certificate** 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.

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

- 55 Any landscaping to be located within 2m of the vehicular access shall be limited in height to a maximum height of 0.6m.

Reason: To ensure that landscaping does not inhibit pedestrian sight distance.

- 56 As shown overdrawn on the approved plans in red, one of the car spaces adjacent to the southern boundary is to be converted to a landscaped area.

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

- 57 Three (3) existing trees, as shown overdrawn on the approved plans in red, are to be retained on the site as part of the development.

Reason: To ensure the protection of nominated existing vegetation.

- 58 The removal of nominated trees must be completed by an Arborist (AQF level 3 qualifications) in such a way so as to ensure no damage is caused to any surrounding vegetation or structures on the same or adjoining lots, including any boundary fence. It is recommended that all insurances are checked before works commences.

Reason: To protect surrounding vegetation or structures on the same or adjoining lots.

FLOODING

- 59 Secure storage facilities shall be provided above the adopted standard Flood Planning Level of 12.7m (AHD) and shall be equivalent to not less than 25% of the GFA of the proposed building, that is subject to flooding. Such space shall accommodate goods or fittings that are not flood compatible. **114m² of the nominated 25% of the GFA** may be used for purposes other than storage when flooding is not expected, provided the space is readily available and can be made secure during the period of flooding. Documentary evidence to be provided to the Certifying Authority **prior to release of Construction Certificate** indicating storage area has been provided.

Reason: To ensure adequate protection from frequent flooding. (EPA Act Section 79C(c))

- 60 All materials used in the building, fixtures and power outlets below the adopted standard flood level of 12.37m (AHD), shall be flood compatible.

Reason: To ensure adequate protection from frequent flooding. (EPA Act Section 79C(c))

- 61 In accordance with this development consent and in the event of flood waters entering the premises, reasonable action shall be taken to minimise damage to machinery, equipment, goods or other property stored in the premises upon the land.

Reason: To ensure adequate protection from frequent flooding. (EPA Act Section 79C(c))

- 62 A risk analysis report 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. **Such report to be lodged with the Construction Certificate Application.**

Reason: To comply with Part A, Chapter 8 of the Lismore Development Control Plan.

SIGNAGE

- 63 Display lighting, other than that required for reasonable security, shall not be used between the hours of 9.00pm and 6.00am.

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

- 64 **Prior to the release of the Construction Certificate**, documentary evidence shall be submitted to the Principal Certifying Authority to confirm that the erection of the sign satisfies Country Energy guidelines. Evidence shall confirm sufficient clearance and setbacks are provided from the existing above ground electrical supply in the area.

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

- 65 Signs that interfere with the amenity of the area, by reason of glare or excessive illumination or any interference to radio, television or communication equipment and/or transmission signals in the locality, shall not be used or installed.

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

- 66 The signage shall be located wholly within the subject property.

Reason: *To ensure activities relating to the development do not interfere with the traffic along the public road. (EPA Act Sec 79C(b))*

- 67 The sign shall be located so as to not restrict the vision of traffic either upon the public roadway or entering/exiting private property.

Reason: *To ensure activities relating to the development do not interfere with the traffic along the public road. (EPA Act Sec 79C(b))*

CRIME PREVENTION

- 68 Security lighting for the development is to be provided in accordance with AS1158.3.1:2005 and AS4282 "Control of the Obtrusive Effects of Outdoor Lighting".

Reason: *To increase the safety of the common areas of the site.*

- 69 Security lighting is to be designed to be vandal resistant. Details are to be submitted to and approved by Council **prior to the issue of the Construction Certificate**.

Reason: *To target harden approved infrastructure.*

- 70 A maintenance schedule for the approved security lighting is to be submitted to and approved by Council **prior to the issue of the Construction Certificate**.

Reason: *To ensure security lighting is well maintained and operational.*

PLANNING

- 71 All plant and equipment is to be screened from the public domain to the satisfaction of Council. Details of the location and proposed screening are to be provided to Council **prior to the issue of the Construction Certificate**.

Reason: *To ensure plant and equipment is well screened from the public domain.*

- 72 A 'Right of Carriageway' benefitting Lot 7 DP 19046 (No. 53 Ewing Street) is to be provided over relevant parts of the car park access aisles of the development to enable, in the event of future redevelopment of that site, two-way vehicular access and egress from Ballina Road to the southern boundary of No. 53 Ewing Street.

The 'Right of Carriageway' is to be registered on the relevant titles **prior to any occupation of the liquor outlet building**.

Reason: *To enable greater access options to the future redevelopment of Lot 7 DP 19046 (No. 53 Ewing Street)*

- 73 **Prior to the issue of the Construction Certificate** the developer is to enter into an agreement with Council to contribute an amount of \$15,000 towards the provision of public art on public land.

Reason: *to ensure compliance with Part A Chapter 21 of the Lismore DCP.*

- 74 Operating hours of the premise shall be between 9.00am to 9.00pm Monday to Saturday and 10.00am to 8.00pm on Sunday and Public Holidays.

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

CONTRIBUTIONS

75 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 Certificate is granted**. The rates and amounts applying at the date of this notice, totalling **\$20,169.74**, 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 levies, fees, contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

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)*

INFORMATION TO APPLICANTS

ADVISORY NOTES

NOTE 1: The proponent shall not commence construction of any part of the water supply and sewerage works **prior to receiving an Activity Approval** specifically for the water supply and sewerage works and plans with Council's stamp of approval imprinted thereon. The proponent should note:

- a) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
- b) If applicable, an approved Road Opening Permit and Traffic Management Plan must accompany the application for Activity Approval.
- c) Processing applications may take up to twenty-eight (28) days. Council will return the plans within twenty-eight (28) days of their receipt provided no amendments are required.
- d) A set of approved plans must be kept on site during construction. Variations proposed during construction must have Council's prior approval.
- e) All works shall be the subject of a Plumbing Permit and Minor Works Permit purchased from Council. Permit fees and inspection fees apply. The number of inspections will be nominated on the Activity Approval. Fees are as adopted at the time of payment and as set out in Council's Fees and Charges.

NOTE 2: Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

- (i) A Construction Certificate is to be obtained from the Consent Authority or an Accredited Certifier in accordance with Section 81A(2)(a) of the Act.
- (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
- (iii) Council is to be given at least two (2) days notice of the persons intention to commence building works, in accordance with Section 81A(2)(c) of the Act.

NOTE 3: The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

NOTE 4: This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

NOTE 5: If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs, and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

NB: 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.

LISMORE CITY COUNCIL

DEVELOPMENT CONSENT NO: 2010/1

ADDRESS: 68 Ballina Road and 47, 51 and 53 Ewing Street, Lismore

IMPORTANT TO NOTE

The rates and amounts shown against the various items below 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.

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 75, 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
Transport Plan				
Strategic Urban Roads				
Commercial Development	574	1314m ²	\$41.41 per m ² (GFA) less credit of \$34,553	\$19,859.74
SES				
All areas	584	5	62	\$310
Total				\$20,169.74

ET'S CORRECT - PLANNING SERVICES OFFICER DATE/...../.....

The cost per ET is in accordance with the relevant Lismore Contributions Plan and/or Section 64 Plan applicable, as at the date of development application approval.

LEVIES CORRECT - FINANCIAL SERVICES OFFICER DATE/...../.....

Total levies at current rates (actual amount to be calculated when final plan submitted).

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT DATE:

RECEIPT NO: CASHIER:

COUNCIL USE ONLY

Cashier to Note:

This section must be completed by a Financial Services Officer prior to receipt.

I hereby certify that the fees payable have been checked to ensure that;

the Consumer Price Index has been applied to the schedule of Section 94 fees and Section 64 fees, where the period between the date of consent and the date of payment is in excess of twelve (12) months.

...../...../.....

LISMORE CITY COUNCIL

DEVELOPMENT CONSENT NO: 2010/1

ADDRESS: 68 Ballina Road and 47, 51 and 53 Ewing Street, Lismore

IMPORTANT TO NOTE

The rates and amounts shown against the various items below 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.

To be read in conjunction with advice of development consent.

The levies imposed by conditions are identified in this Schedule.

The rates and amounts shown against the various items are those current at the date of this notice. If these levies are not paid within twelve (12) months of the date of this consent these rates shall be increased annually from the date of this notice, in accordance with the percentage increase from the date of approval to the date of payment, as notified by the CPI (Sydney).

Rous Water has resolved that from 1 January 2010, the Development Charge payable by developers will be the charge that is current at the time of payment NOT the charge current at the time of consent adjusted by CPI to the time of payment.

The following Levies are charged under and amounts payable are set out below.

Levy Area	Account No.	No. of ET's	Cost Per ET	Amount Payable
Water and Sewerage Headworks Levies are charged under Section 306 of the Water Management Act 2000 and amounts payable are set out below.				
Sewerage Headworks				
Lismore Sewer	507	0.6	7486	\$4,492
Total				\$4,492

ET'S CORRECT - PLANNING SERVICES OFFICER **DATE**/...../.....

The cost per ET is in accordance with the relevant Lismore Contributions Plan and/or Section 64 Plan applicable, as at the date of development application approval.

LEVIES CORRECT - FINANCIAL SERVICES OFFICER **DATE**/...../.....

Total levies at current rates (actual amount to be calculated when final plan submitted).

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT DATE:

RECEIPT NO: CASHIER:

Report

Subject	Amendment No. 6 to Lismore DCP – North Lismore Industrial Estate
File No	EF09/1957:ED10/5482
Prepared by	Strategic Planner
Reason	To advise Council of the close of exhibition period for the amendment to the Lismore Development Control Plan (DCP) to include North Lismore Industrial Estate DCP.
Objective	Council resolution to adopt Amendment No. 6 to Lismore Development Control Plan – North Lismore Industrial Estate.
Strategic Plan Link	Provide Sustainable Land-use Planning
Management Plan Project	Planning

Overview of Report

The aim of this report is to advise of the close of public exhibition of Amendment No.6 to Lismore Development Control Plan – North Lismore Industrial Estate. This amendment will allow a site specific DCP to be adopted to guide development of industrial land in North Lismore. The amendment was publicly exhibited from 27 August to 24 September 2009. One submission was received during the exhibition period. It is recommended that Council adopt the Development Control Plan, incorporating a number of amendments arising from issues raised during public exhibition and staff review.

Background

At the Ordinary Council meeting of 10 March 2009, Council considered a report recommending adoption of Amendment No.37 to the Lismore Local Environmental Plan (LEP) and Amendment No.6 to Lismore Development Control Plan (DCP) – North Lismore Industrial Estate. Council resolved to adopt draft Amendment No. 37 to the Lismore LEP and forward it to the Minister for Planning with a request that it be made, but defer adoption of Amendment No.6 to the Lismore DCP pending insertion of additional matters. The additional matters, which are listed below, were inserted into the draft amendment prior to it being placed on public exhibition. Amendment No.37 to the LEP was gazetted by the Minister on 27 November 2009.

- More detailed building and landscaping design guidelines for the Tweed and Terania Street frontages.

Section 9.9 was included in the DCP amendment to highlight the location of the site on a main entrance to Lismore. This section requires development on Terania Street to demonstrate careful consideration of building design and landscaping to ensure a high standard of design at the city entrance.

Section 9.13 addresses building and site design requirements for the external appearance and building materials of new development, particularly for development with frontage to Tweed and Terania Streets. Buildings on allotments with frontage to Tweed and Terania Streets are to be articulated and bulky roof forms and blank facades are to be avoided. This section also contains controls relating to building height, setbacks, access, car parking, loading docks, open storage areas, landscaping, fencing and signage.

- List types of industrial development which will not be acceptable in the light and general industrial areas as to avoid any detrimental impact on dwellings in the area.

Section 9.10 includes a list of uses that are not acceptable in the light industrial area and general industrial area. Changes made to this section following exhibition are discussed in a later part of this report.

- Include advice of the existence of the saleyards, aimed at supporting the continued operation of the saleyards by encouraging any development proposal which may be impacted by the operation of the saleyards to locate elsewhere.

Section 9.11 outlines the location of the saleyards in relation to the site, recommending that any development that may be impacted by the operation of the saleyards should locate to an alternative site.

- Specify that in addressing requirements for water use efficiency, development applications for uses of individual sites are to consider the use of rainwater tanks.

An additional provision was inserted in Section 9.14 'Stormwater control and management' requiring buildings on individual sites to demonstrate consideration of the use of rainwater tanks and the use of the stored rainwater in operations or staff facilities.

In addition to the matters detailed above, the following sections of the DCP amendment were modified prior to public exhibition.

- The flora and fauna section was amended to include additional information in relation to the requirement for a flora and fauna assessment.
- An additional requirement was inserted in the flood management section of the DCP amendment, outlining the requirement for the construction of a new drainage system as part of development consent for subdivision of the site.
- Additional provisions have been included in the stormwater control and management section requiring stormwater to be piped to the nearest Council approved stormwater inlet and stormwater from areas which may contain pollutants to be directed to the sewer following pre-treatment.
- The section outlining matters to be addressed in development applications was expanded to include noise, air, odour and water pollutants and any other matter required under the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

Submissions

The revised amendment to the DCP was placed on public exhibition from 27 August 2009 to 24 September 2009. During the public exhibition period one submission was received. The following issues were raised in the submission.

1. Commercial uses

The submission requests that the term 'permissible commercial development' or such other similar term be included in the objectives of the DCP amendment. This request is based on the rationale that commercial uses may be appropriate for the area identified as light industrial.

Comment: The addition of the term 'permissible commercial development' is not required in the objectives of the DCP amendment. The zoning of the land determines permissibility of land use; therefore, the specific reference to commercial development is not required in the objectives of the DCP. The zoning of the land provides for a range of land uses, including commercial premises, bulky goods showrooms and warehouses. No change to the objective is recommended.

2. Objectives

The submission proposes a modification to an objective in the DCP amendment. It is proposed that the objective relating to flooding be amended to be consistent with the objective relating to flooding in the existing Chapter 3 – Industrial Development of the Lismore DCP.

Comment: The objective relating to flooding in the DCP amendment aims to facilitate industrial development that does not result in detrimental impacts on flooding characteristics of the area. This objective is specific to the development of the North Lismore Industrial area. The objective provides for industrial development but ensures that development will not result in detrimental impacts on flooding characteristics of the area, including flooding impacts to the surrounding residential development. Therefore, no change in the objective is recommended.

3. Lot sizes

The submission requests the minimum lot size in the industrial area to be reduced from 1500m² to 1000m², with the average of 2000m² to be retained.

Comment: The minimum lot size of 1500m² is considered an appropriate minimum size for industrial lots. The minimum lot size of 1500m² provides sufficient area to cater for parking, manoeuvring and loading/unloading of vehicles on-site. The minimum lot size of 1500m² will provide for a range of industrial activities and will also provide sufficient area for stormwater control and treatment and landscaping. No change is recommended.

4. Roads and parking

The submission requests a modification to the DCP amendment to provide the option of utilising grassed swales as an appropriate means to control and treat stormwater, rather than kerb and gutter as required in the draft DCP.

Comment: It is a requirement of the DCP amendment that Bouyon, Tweed and Terania Streets are upgraded with kerb and gutter. The use of swales for an industrial development is not supported due to the high number of heavy vehicle movements and functioning of traffic within an industrial area. The use of swales is not considered to be an effective method for the control and treatment of stormwater in an industrial estate. Kerb and gutter is a requirement for industrial subdivision to ensure the efficient functioning and maintenance of the road network. This requirement is considered appropriate for any future industrial subdivision. Therefore, no change to the DCP is recommended.

5. Flood management

The submission requests an amendment to the paragraph relating to the restriction on the filling of roads. The submission requests an amendment to the paragraph to read; "filling of roads is restricted so as to minimise as much as practical any potential impact upon the flood regime in the locality".

Comment: The proposed amendment has been incorporated into the DCP amendment. The intent of this provision is to restrict filling as much as practical. There may be circumstances where this cannot be achieved; however, amending this provision will not alter its intent or application.

The following change is recommended:

“Filling of roads is restricted so as to minimise as much as practical any potential impact upon the flood regime in the locality”.

6. External appearance and building materials

The submission requests an amendment to clarify the intent of the requirement for the facades of buildings on Tweed and Terania Streets to be articulated. The submission questions the rationale and practicality of this requirement, given there will no direct access to new lots from Tweed or Terania Streets. The submission questions if the requirement relates to the frontages to the internal road or to only the existing lots fronting Tweed and Terania Streets.

Comment: This section has been amended to clarify the requirement for buildings on lots with frontage to Tweed and Terania Streets to be articulated. Although there will be no direct access to the lots from Tweed or Terania Street (access will be via an internal road) the design of the buildings with frontage to Tweed and Terania Street will have considerable visual impacts. Buildings on lots with frontage to both the internal road and Tweed or Terania Street, will have to address both street frontages in terms of building design and landscaping. This requirement is important due to the location of the industrial area on a main entrance to Lismore.

The following change is recommended:

“Development on allotments in the light industrial area is to be designed to address the frontage to Tweed and Terania Streets and the internal access road. The facade of new buildings on allotments with frontage to Tweed and Terania Streets are to be articulated, so as to enhance the streetscape and local amenity by providing variation in the facade and building form along Tweed and Terania Streets”.

7. Building height

The submission requests an amendment to the definition of building height in the DCP amendment from natural ground level to finished (filled) ground level.

Comment: The definition of building height has been modified in the draft amendment to the DCP. The revised definition of building height is taken as the distance from ground level (filled), rather than natural ground level. This will ensure that development on filled lots is not restricted by the 8.4m height limit.

The following change is recommended:

“Building height’ means the vertical distance from ground level (filled) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”.

Other modifications

The DCP amendment was reviewed by planning, engineering and environmental health staff following public exhibition. This resulted in the removal of some clauses that were considered to be unnecessary and changes in wording to assist in the interpretation and usability of the DCP. These changes, which are discussed below, do not have any impact on the intent of the draft DCP.

Section 9.8 'Residential Amenity' was amended to clarify the requirements for noise protection. The following section was removed from section 9.8: "*alternatively, design and siting of buildings in the light industrial area may address noise attenuation, if required, by means such as placement of door and window openings, location of exhausts and air conditioning units, insulation to walls and roof, double glazing of windows, or other means which mitigate noise impacts on nearby residences*". Section 9.8 requires noise protection for development in the light industrial area to be addressed through the design or siting of buildings or the construction of a noise buffer. Reference has been made to EPA industrial noise policy in Section 9.8.

Section 9.10 was amended as the land use definitions identified in the table of unacceptable uses in the exhibited amendment to the DCP related to the standard LEP template. This is the template that applies to the draft LEP 2010. As the standard LEP has not yet commenced, the list has been amended to be consistent with the land use definitions in the Lismore LEP 2000. The DCP will be amended to incorporate the definitions in the standard template once the standard LEP is gazetted. It should be noted the draft LEP proposes to zone the land IN1 General Industrial and IN2 Light Industrial. The proposed light industrial zoning will correlate to the light industrial area in the DCP and will restrict the types of industrial activities in this area.

A subsection of 9.12 'Flood Management' was removed. This section required "*development applications for use of each lot are to include flood management mechanisms to reduce or prevent contact of flood water with areas and infrastructure frequented by workers or visitors to the site, in order to avoid human contact with petroleum hydrocarbon contaminants conveyed by floodwaters*". This requirement is unnecessary as health investigation levels were not exceeded on the site and it is impractical to manage post development pollutants relating to flooding.

An amendment was made to section 9.14 'Stormwater Management' to remove a section reading "*the stormwater management system may include pollutant removal devices to detain and deactivate petroleum hydrocarbons and other pollutants*". This requirement is unnecessary as stormwater management is to be in accordance with contemporary water sensitive design policies and guidelines. This will ensure that any potential pollutants are managed appropriately and provide consistency in the application of water sensitive design requirements.

Section 9.15 'Matters to be addressed in development applications' was removed following exhibition. The list is provided below. The list provided only general matters and did not provide detail or site specific requirements. The section is unnecessary as the matters listed are legislative requirements under existing development controls or are provided in separate sections of the draft DCP.

9.15 Matters to be addressed in Development Applications

In addition to the matters prescribed by the Regulation for inclusion in Statements of Environmental Effects and those matters noted above, the subdivision development application is to contain:

- a management plan for contaminants
- detailed design for sewer provision and augmentation works
- detailed design for water provision
- landscaping plan to comply with Council's requirements
- stormwater management plan demonstrating, amongst other requirements noted above, that no additional stormwater impacts will be experienced on adjoining properties.

Development applications for use of individual lots should also address:

- energy and water efficiency measures to be adopted
- building design and materials
- proposed location and level of fill, if any, and source of fill
- other matters required by the Lismore Development Control Plan
- any noise, air, odour and water pollutants that may be emitted from the premises; full details of any emissions are to be included in the Statement of Environmental Effects to be submitted with the Development Application

- any other matters required under the Environmental Planning and Assessment Act and Regulation.

A copy of the proposed revised Amendment No.6 to the DCP, including modifications as outlined above is included as a separate Attachment to this report.

Public consultation

The draft amendment was exhibited from August 27 to September 24, 2009. One submission was received in response to the public exhibition. The issues raised in the submission were discussed in an earlier section of this report. If the amendment to the DCP is adopted it will be notified as required by the Environmental Planning and Assessment Regulation 2000.

Comments

Financial Services

No required.

Other staff comments

Council's Development Engineer and Environmental Health section had input into the preparation and review of the DCP amendment.

Conclusion

Council resolved to defer the consideration of the adoption of draft Amendment No.6 to the DCP to allow the additional matters outlined in this report to be addressed. The DCP amendment was amended to include the additional matters and was publicly exhibited from 27 August to 24 September 2009. One submission was received during the public exhibition period. A number of issues raised in the submission have been addressed in draft Amendment No.6 to the DCP. Minor changes to assist in the interpretation of the DCP were also made.

LEP Amendment No.37 rezoned land at North Lismore to 4(a) Industrial. The supporting DCP amendment contains site specific controls relating to building and site design, traffic management, storm water management, landscaping and flood related issues. Such controls will apply at the subdivision stage as well as to future applications for development of individual lots. The DCP amendment will provide for the orderly development of the North Lismore Industrial Estate. It is recommended that the attached amendment to the Lismore DCP is adopted by Council.

Recommendation

That:

1. Council adopt Amendment No.6 to the Lismore Development Control Plan as attached incorporating the amendments made in response to the submission and by staff for the reasons outlined in the report.
2. Council give public notification of its adoption in accordance with the Environmental Planning and Assessment Regulation 2000.

Report

Subject	Public exhibition of draft Local Environmental Plan 2010
File No	EF09/1957:ED10/5803
Prepared by	Strategic Planning Coordinator – Integrated Planning
Reason	To allow the public exhibition period for the draft Local Environmental Plan 2010 to commence
Objective	To present Community Engagement Plan and seek additional funds to allow the Plan to be achieved
Strategic Plan Link	Provide Sustainable Land Use Planning
Management Plan Project	Exhibit Draft LEP/LES

Overview of Report

Council has now received the certificate from the Department of Planning certifying that the draft Local Environmental Plan 2010 may be publicly exhibited in accordance with section 66 of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*, subject to conditions as outlined in this report. This report and the attachment outline the proposed Community Engagement Plan for the Draft Local Environmental Plan 2010 for Council endorsement.

Background

At the ordinary meeting of 12 August, 2008 Council resolved that:

- “1. Council forward the draft Lismore Local Environmental Plan and environmental study to the Department of Planning with a request that the Director-General issue a certificate certifying that the draft plan may be publicly exhibited in accordance with section 66 of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*.
2. Council forward copies of the draft LEP and accompanying environmental study to relevant government agencies and public authorities pursuant to section 62 of the *EP&A Act 1979*, inviting them to provide further comment.
3. a further report be presented to Council following receipt of the exhibition certificate from the Department of Planning prior to the draft LEP and environmental study being placed on public exhibition.”

The draft LEP and environmental study were subsequently forwarded to the Department of Planning (DoP). Six Council workshops have been held since August 2008, the final one being held 1 December, 2009. At the 1 December, 2009 workshop staff provided an overview of the entire draft LEP including the changes that had been made to the draft LEP since August 2008 as a result of state government policy direction or Council decisions, for example, land reclassifications.

Since the December workshop, further changes have been made to the draft LEP as a result of internal proposals or Department of Planning requirements. These changes were made prior to the documentation being forwarded to the Department of Planning for their final review and approval of the exhibition certificate. The changes are as follows:

Internal changes

- The Enterprise Zone has been extended to include land located south of Bunnings on the Bruxner Highway, currently zoned 1(r) Riverlands Zone. The land will also be identified as an urban release area. The land has been included in the Enterprise Zone to allow Council to respond to recent increased demand for sites to accommodate bulky goods retailing. Such uses require good vehicular access and high exposure to passing traffic.

The land is identified in the Lismore Urban Strategy (LUS) as potential commercial land and in the Far North Coast Regional Strategy as 'employment lands' and is located within the town and village growth boundary. It comprises two (2) properties, one that has historically been used for caravan sales and servicing and one that is vacant.

An application to rezone the vacant property under the existing LEP was submitted a number of years ago but has not progressed due to lack of agreement (from Council and the RTA) about acceptable vehicle access to and from the Bruxner Highway. The existing LEP is considered to contain inadequate mechanisms to ensure that these issues are resolved prior to submission of a development application.

However, the land's identification as an urban release area will ensure that development can only occur in a logical and coordinated manner after a Development Control Plan for the land is approved. This will allow the issues related to vehicle access to be resolved prior to a development application being submitted.

While an application to rezone the property that has been used historically for caravan sales and servicing has not been made, its inclusion in the Enterprise Zone reflects the use of the land for commercial/industrial purposes and represents a logical limit to commercial/industrial development. It will also allow the planning and development of the area to occur in a holistic manner.

- At the ordinary meeting of 9 February, 2010 Council resolved to reclassify the land on which the Rochdale Theatre is located, 603 Ballina Road, from 'community' to 'operational' in the new Local Environmental Plan.
- The Height of Buildings Map for the CBD was amended to reflect discussions held at the 1 December, 2009 workshop. This map was circulated to Councillors on 18 December, 2009. The Floor Space Ratio Map was also amended as a consequence of the amendment Height of Buildings Map.

Department of Planning changes

Council staff had two meetings with the Department of Planning subsequent to the December 2009 workshop. These meetings resulted in the following changes being made:

- Removal of the Riparian Lands Map
- Insertion of a clause that will apply to development in riparian lands and waterways
- Removal of clause requiring assessment of impacts of subdivision in the Large Lot and Village Zones
- Removal of clause requiring consideration of land use conflicts between potentially incompatible uses
- Insertion of a clause that requires that essential services must be able to be provided for new development
- Removal of maximum lot yield on the Lot Size map for the Large Lot zone
- Replacement of Council's proposed flood clause, which was partly based on the existing Lismore LEP clause, with the Department's preferred clause.

Section 65 Certificate

The Department of Planning issued the certificate on 30 March, 2010 certifying that the draft LEP may be publicly exhibited, subject to specified amendments. The majority of these amendments are minor, for

example, requiring the insertion of reference notes or changing the font colour. The other required amendments are as follows:

- Removal of Clause 7.4 – ‘Protection of landscape values’;
- Removal of Clause 7.8 – ‘Rural tourist facilities’;
- Removal of items in Schedule 1 – ‘Additional permitted uses’. Schedule 1 is similar to the existing Schedule 4 in the current LEP. The items in Schedule 1 are properties on which a person could carry out (with Council consent) specified development that would otherwise be prohibited in the zone. The Department considers this unnecessarily complicates the LEP. The land affected and the zone in which it is included is as follows:
 - The southern side of Ballina Road between Keen Street (excluding the Council park) and Wyrallah Road, Girard’s Hill – R1 General Residential – the additional permitted use was Office Premises;
 - Part of Union Street, South Lismore – R2 Low Density Residential. The additional permitted use was Office Premises. This part of Union Street contains a relatively intact housing precinct with dwellings in good condition. It is considered that, due to their location on Union Street the houses could also accommodate offices without loss of the buildings. The depth and size of the lots would make them difficult to develop for the range of commercial and industrial uses possible in the Enterprise Corridor Zone, which adjoins the residential zone to the north and south.
 - The land on which the Lakeside Motel is located, Bruxner Highway, Loftville – RE2 Private Recreation. In the draft LEP sent to the Department of Planning the zone was Rural Landscape and the additional permitted use was Hotel or Motel Accommodation. It is not clear why the zone change is required and this will be further discussed with the Department during the consultation period. The use of the land for a motel will not be affected.
 - 254 Keen Street, Girard’s Hill – R1 General Residential. The additional permitted use was the storage and retail sale of second hand building materials. The use of the land for this purpose will not be affected.

The above amendments have been made and, further to point 2 of the August 2008 Council resolution, the ‘final’ draft Local Environmental Plan 2010 and Local Environmental Study have been forwarded to relevant government agencies and public authorities pursuant to section 62 of the *EP&A Act 1979*.

Community Engagement Plan

Attached is the Community Engagement Plan for the Draft LEP. The Community Engagement Plan has been prepared in accordance with Council’s Community Engagement Procedure and shows that the Draft LEP requires widespread notification along with sufficient opportunities for the community to obtain information and make submissions.

Public exhibition period

A three month public exhibition period is proposed commencing 29 April, 2010 and closing 29 July, 2010. The *EP&A Act 1979* requires a minimum of 28 days. The public exhibition period is the time in which the community is able to make submissions. This is followed by a Public Enquiry, which is required to be held in relation to Council land reclassifications/rezonings. The following is a summary of the community engagement program, a copy of which is attached to this report along with a more detailed timetable:

- At the start of the exhibition period an advertisement will be placed in the Northern Rivers Echo and a ‘highlighted banner’ will appear on Council’s web site directing people to links to all relevant material, information sheets and a submission form that will allow electronic submissions to be made. The web site will include interactive mapping that will allow land owners to query the system in relation to their land.
- A series of Information Sheets on a range of topics written in plain English will be available at Council’s Corporate Centre, CBD Centre and on Council’s web site. A copy of these Information Sheets will be available at the Council meeting.
- Staff will be available to take enquiries by phone, at the counter and by email at Council’s Corporate

Centre, Goonellabah. A Strategic Planner will also be located at the CBD Centre as required (no more than one day a fortnight) to answer questions.

- Articles and advertisements will be placed in the Northern Rivers Echo.
- Articles will be placed in local newspapers i.e. Dunoon Gazette, Nimbin Good Times, Rosebank VJ, Clunes Clues about the Draft LEP and its potential impacts on the Villages and surrounding rural areas. The article will seek submissions from the community and advertise when strategic planning staff will be available in the Villages to provide information.
- Strategic planning staff will attend some Village Halls (Dunoon, Wyrallah, Clunes, Nimbin and Caniaba) for defined periods of time (4.00pm – 7.00pm), Lismore Shopping Square and the Library (CBD) with displays to answer questions and provide submission forms. A laptop/s will be available to allow individuals to query the particulars of their land and the potential impact of the draft LEP.
- Owners of land where significant zone changes are proposed will receive a letter along with residents of areas adjoining urban release areas. These letters will advise of the proposed zone changes and invite submissions. Letters will also be sent to community/interest groups advising them of the public exhibition period and offering staff to attend a meeting of the group.
- Strategic planners will attend Public Advisory Group (PAG) meetings and, upon request, meetings of community/interest groups to give presentations and provide information, for example, Environmental Defenders Office, Council watch, Developers Forum, Chamber of Commerce.

Public Hearing

Following the close of the public exhibition period, a Public Hearing will be held in relation to Council land reclassifications and rezoning. The Public Hearing is required to be conducted by a person that is independent of Council. It allows submitters on the reclassification of land to present their case to the Public Hearing and a report is subsequently compiled and presented to Council.

Council Briefings

It is anticipated that staff will report to the November 2010 Council meeting on the submissions to the Draft LEP, the Public Hearing and recommended amendments to the Draft LEP as a result of submissions. Prior to this Council meeting at least two Councillor briefings (August and September) are scheduled to allow Council to review the submissions, issues arising from the submissions and possible responses to these issues. While the briefings will not make a decision, they will provide direction to staff for the purposes of preparing the final report to Council on the adoption of the LEP.

It is suggested that these briefings could include public access to allow submitters the opportunity to make a verbal presentation to Councillors prior to the November Council meeting.

Comments

Financial Services

The total estimated cost for the consultation program is \$17,500. This will be funded from within the recurrent 2009/10 and 2010/11 Strategic Projects budget.

Other staff comments

The Executive Committee (ExCom) has endorsed the Community Engagement Plan.

Public consultation

This report details the proposed public consultation program for the Draft Local Environmental Plan 2010.

Conclusion

The Department of Planning has issued Council the certificate certifying that the draft Local Environmental Plan 2010 may be publicly exhibited in accordance with section 66 of the *Environmental*

Planning and Assessment Act 1979 (EP&A Act 1979). This report and the attachment outline the proposed Community Engagement Plan for the Draft Local Environmental Plan 2010 for Council endorsement. It is recommended that Council approve the attached Community Engagement Plan.

Recommendation

That Council endorse the Community Engagement Plan for the Draft Local Environmental Plan 2010.

Report

Subject	Draft Section 94 Contributions Plan – Complying Development
File No	EF09/829:ED10/2560
Prepared by	Strategic Planner
Reason	Close of public exhibition of amendment to the Contributions Plan
Objective	Council's adoption of the Contributions Plan incorporating proposed amendments
Strategic Plan Link	Provide Sustainable Land-use Planning
Management Plan Project	Review and update planning controls

Overview of Report

This report advises of the outcome of public exhibition of the draft amendment to the Contributions Plan. The aim of the draft amendment is to introduce two new sections into the Lismore Contributions Plan. The first section outlines the requirement for accredited certifiers to impose a condition under Section 94 for Complying Development certificates that require contributions to be levied in accordance with the Contributions Plan. The second section outlines the responsibility of accredited certifiers in relation to issuing Construction Certificates and the payment of monetary contributions. No submissions to the draft plan were received during the public exhibition period.

Background

At its meeting of 8 September 2009, Council considered a report on the draft amendment to the Contributions Plan. Under S94EC of the *Environmental Planning and Assessment Act 1979*, a Contributions Plan must specify whether or not an accredited certifier is to impose a condition under Section 94 of the Act. The existing Contributions Plan does not require an accredited certifier to impose a condition under Section 94 of the Act for a Complying Development certificate. The purpose of the amendment is to include a provision in the Contributions Plan, requiring accredited certifiers to impose a condition under Section 94 for Complying Development certificates that require contributions to be levied in accordance with the Contributions Plan.

The amendment will also outline the responsibility of accredited certifiers in relation to issuing Construction Certificates and the payment of monetary contributions. The draft amendment states that a certifier must not issue a Construction Certificate unless it has been verified that any condition requiring the payment of monetary contributions has been satisfied.

Comments

Financial Services
Not required.

Other staff comments

Not required.

Public consultation

A draft contributions plan must be publicly exhibited for a period of at least twenty eight days. The draft Contributions Plan was exhibited from 15 January 2010 to 15 February 2010. No submissions to the draft plan were received during the period of public exhibition.

Conclusion

The amendment to the Contributions Plan will ensure that private certifiers impose conditions under S94 of the Act for Complying Development certificates that require contributions to be levied. The draft Contributions Plan will also outline the responsibilities of private certifiers in relation to the payment of monetary contributions prior to the issue of a Construction Certificate. A copy of the amendment to the Lismore Contributions Plan is attached to this report as Attachment 1.

Recommendation

That Council adopt the Section 94 Contributions Plan incorporating the recommended amendments as attached to this report and give notification of its decision in accordance with clause 31 of the *Environmental Planning and Assessment Regulation 2000*.

LISMORE CONTRIBUTIONS PLAN 2004**DRAFT AMENDMENT NO. 2****Citation**

1. This draft amendment to the Lismore Contributions Plan 2004 may be cited as Lismore Contributions Plan, Amendment No. 2.

Land to which this amendment applies

2. This amendment applies to all land within the Lismore Local Government Area.

Objectives

3. This aim of the draft amendment is to introduce two new sections into the Lismore Contributions Plan. The first section provides for accredited certifiers to impose a condition under section 94 for complying development certificates that require contributions to be levied in accordance with the Contributions Plan. The second section outlines the responsibility of accredited certifiers in relation to issuing construction certificates and the payment of monetary contributions.

Amendment of Lismore Contributions Plan

4. The Lismore Contributions Plan is amended as set out in Schedule 1.

Schedule 1 Amendments

[1] Insert after section 5 -- How does this Plan operate?

This Plan requires an accredited certifier, when issuing a complying development certificate relating to development to which this Plan applies, to impose a condition under section 94 of the EP&A Act requiring the payment of monetary contributions in accordance with this Contributions Plan.

[2] Insert after section 10 - When are contributions payable?

10.1 Construction certificates and the obligation of accredited certifiers

In accordance with section 94EC of the EP&A Act and clause 146 of the EP&A Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has been verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt (or receipts) confirming that contributions have been paid and copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to this requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by the Council or where the applicant has entered into a planning agreement with the Council. In such cases, Council will issue a letter confirming that an alternative payment arrangement has been agreed with the applicant.

Report

Subject	Development Assessment Panel Review
File No	EF09/135:ED10/5669
Prepared by	Manager Development and Compliance
Reason	To enable in principle support for process change to be developed in consultation with key staff members, and enable refinement of operating procedures
Objective	To address specific recommendations arising from the Best Planning Practice Review prepared by Pamela Westing, and commence implementation of best planning practice in the Development Assessment team
Strategic Plan Link	Best Practice Corporate Governance
Management Plan Project	Development and Compliance

Overview of Report

The Best Planning Practice Review by Pamela Westing identified the need for a review of the Development Assessment Panel (DAP) role and operation which is currently subject to a Council Policy. The DAP Policy specifies many procedural matters which are inflexible, and make it difficult to change procedural matters without reference back to the elected Council. It is recommended that this DAP Policy be replaced with a simplified Policy statement and, procedural matters documented in an appropriate manual to enable adaption to changes in legislation and practice more effectively and efficiently.

The process of implementing new roles and procedures to accord with current best planning practice would involve developing the new processes in consultation with key staff, implementing these processes, reviewing the processes and refining the procedural documentation, and reporting the results back to the Executive Committee (ExCom) in July 2010 for final endorsement.

Background

Council's "Development Assessment Panel – Role, Constitution and Operation" Policy (Attachment 1) was originally adopted in 1988, and has been subject to periodic review over the last 10 years. The broad objective of the Development Assessment Panel (DAP) under the policy is stated as "*To consider all aspects of development applications submitted to the Planning Services Section.*"

The current DAP is generally acknowledged as serving the following purposes:

1. *Provide coordinated, interdisciplinary pre-lodgement advice to prospective applicants, upon payment of the appropriate fee;*
2. *Provide coordinated initial assessment of new planning and land use development applications to identify issues and ensure they are addressed in referrals;*
3. *Provide a coordinated overview of the determination of applications, including conditions of consent to promote consistency. This includes applications that are determined by Council.*

Preliminary review of the DAP in operation in the three areas above indicates that item 3 above currently

receives the most attention from the DAP.

The Best Planning Practice Review conducted by Pamela Westing in 2009 included comment on the operation of Council's Development Assessment Panel. The review noted that the availability of pre-lodgement advice from the DAP was not widely known, and the mechanism for arranging a meeting was not readily available. The Westing Review also makes comment and concludes with recommendations in relation to the following:

13.2.2 *That Council should consider in reviewing Policy 5.2.2 to:*

- a) *clarify the three purposes of the DAP,*
- b) *clarify that the delegations to determine applications remains with the authorised officers,*
- c) *formalise the role of DAP in reviewing "building" development applications where objections are received or variations requested*

and

13.2.3 *Operational improvements to DAP be considered, such as:*

- a) *Reviewing whether DAP should meet more than once a week;*
- b) *reducing the number of staff attending DAP to the minimum necessary;*
- c) *increasing the time between reports being provided to staff and the DAP meeting, to ensuring adequate time for DAP to fully review the applications;*
- d) *reviewing whether DAP Minutes are meeting the needs of Councillors or whether there is a more efficient way to circulate information about new applications to Councillors, e.g. a memo or computer printout of new applications;*
- e) *reviewing how DAP can promote consistency in the development assessment process in a more structured way; e.g. with a database, use of "planning principles" such as used by the Land and Environment Court, or a record of variations with reasons.*

The Westing Review notes that the operation of similar panels to DAP at other Councils have differing functions, which will change over time to respond to changes in legislation and best practice improvements.

It is important to recognise that Policy direction from Council in operational areas is best provided in broad terms, and the implementation detail including administrative process, roles, responsibilities, delegations, and accountability are preferably contained within documented operational procedures to enable some ability to modify operational procedures in response to emerging issues without the need for formal policy change through the elected Council, to ensure efficient use of staff resources.

The review of the DAP Policy is part of shifting the focus of the development assessment process to front end with a view to reducing requests for additional information and eliminating issues being raised at the back end.

The draft Policy attached to this report will enable the development application determination process to be managed by senior management rather than a panel, with the objective of ensuring there is an appropriate level of review for applications to be determined under delegated authority.

Comments

Financial Services

Not required.

Other staff comments

At present, a review has been initiated to determine the future operation of the DAP. Staff are involved in this review process to determine the implications and best methods for implementing the proposals outlined in this report.

Subject to Council determining its position regarding a new draft policy for DAP operation and roles as recommended in this report, the necessary changes would be identified to enable process change to

occur as soon as possible.

It is proposed that the current operation of the DAP be split into three defined roles as follows:

Role 1

Provide coordinated, interdisciplinary pre-lodgement advice to prospective applicants, upon payment of the appropriate fee;

Comment: This level of preliminary assessment information generally provided by Councils at pre-lodgement meetings enables a dialogue between parties including possible negotiation of issues and confirms a firm intention to submit a DA.

The provision of pre-lodgement advice is being removed from the DAP role, and is to be managed independently by documented procedures.

Role 2

Provide coordinated initial assessment of new planning and land use development applications to identify issues and ensure they are addressed in referrals

Comment: Effective post lodgement coordination will be essential to the successful implementation of DA tracking on line via Council's website. In order to ensure the efficient and effective implementation of DA tracking online, it is essential that a panel composed of multidisciplinary professionals review applications upon lodgement to ensure consistency.

This function sits comfortably with the current staff composition of the DAP. The future operation of the DAP will be focussed on this role, and this should be reflected by a documented operational procedure rather than contained within a Policy.

Role 3

Provide a coordinated overview of the determination of applications, including conditions of consent to promote consistency. This includes applications that are determined by Council

Comment: The Westing Review identified that the operation of the DAP "performs an important quality control function, and it should be retained, with some improvements to its processes". Elsewhere it is suggested that the number of staff attending the DAP should be no more than three people in order to ensure cost savings and greater efficiency. The determination role of the DAP could be limited to three people to improve efficiency.

The DAP currently has no delegation to determine applications, and such delegation currently rests with individual staff, subject to DAP concurrence. It is proposed that a new panel be established to perform this peer review role.

The nature of applications referred to this new panel would be clearly spelt out within documented procedures, cross referenced to reviewed delegations of authority. This would ensure that a review of applications is undertaken relative to the complexity or assessment issues associated with the proposal, in accordance with best practice recommendations made by the ICAC.

Public consultation

It is not proposed that the new Policy would be subject to public consultation, as it will only reiterate existing policy and implement improved determination practice for delegated determinations.

Conclusion

The current DAP Policy is inflexible and impedes reform in implementing best practice in development assessment, and the recommendations of the Westing Review. It is recommended that the procedural aspects of the current DAP Policy be replaced with documented operational procedures, which will be subject to regular review to ensure they are achieving measurable outcomes. The current DAP Policy would be replaced by a simplified policy statement to ensure an appropriate level of review of applications prior to determination. A copy of the draft DAP Policy is attached to this report, in order to ensure existing provisions relating to call up or referral of development applications to a Council meeting for determination are preserved.

The pre-lodgement advice, post lodgement review of applications and determination review functions will be established and be subject to a review period to refine operational issues. This will require flexibility outside of the current DAP Policy provisions.

Upon the new roles being established, their operation and documented procedures will be the subject of report ExCom for endorsement.

Recommendation

That:

1. the current Council Policy 5.2.2 – Development Assessment Panel – Role, Constitution and Operation be revoked by Council.
2. Council adopt the draft policy “Determination of development applications under delegated authority” attached to this report.

Attachment 1 – Existing Policy 5.2.2



POLICY MANUAL

POLICY NO: 5.2.2	DEVELOPMENT ASSESSMENT PANEL - ROLE, CONSTITUTION AND OPERATION
OBJECTIVE:	To consider all aspects of development applications submitted to the Planning Services Section.
STRATEGIC PLAN LINK:	Economic Development, Quality of Life, Infrastructure, Natural Environment
SECTION RESPONSIBLE:	Planning Services
AUTHORISED: 9/8/88	REVIEWED: January 2001, 9/7/02, 12/8/03, 9/3/04, 10/8/04 , 14/2/06

Role:

- 1 The Development Assessment Panel is to consider from a corporate and Directorate viewpoint all aspects of planning and land use development applications, including compliance with current legislation and Council policy and practice.
- 2 In light of these considerations, to concur or refuse to concur with recommendations of the Development & Governance assessment officers regarding the determination of such applications.
3. The DAP will not determine:
 - Any application for which two Councillors have made a request in writing to the General Manager that the application is to be submitted to Council for consideration and determination;
 - Any Development Application generating objections of a significant nature, being those which, while valid under S79C of the Environmental Planning & Assessment Act, cannot be addressed by means such as conditions of consent, negotiated alterations to the proposal, mediation or by other means.

Prior to finalization of the report to Council on these matters, the Panel will review recommendations and proposed conditions.
4. Consents determined at a Council meeting shall not be amended under delegated authority unless:
 - authorised specifically by the Council; or
 - the amendment is inconsequential and minor; or
 - the amendment does not address issues considered significant in submissions received during the original assessment of the development application
5. The Development Assessment Panel may also provide an opportunity for a review of building development applications.

Constitution:

- 1 The DAP should have a membership of fully qualified professional staff representing Council's Directorates of Development & Governance and Infrastructure Services, preferably not below the third level of seniority in each technical Section.
2. The Executive Director Infrastructure Services and Executive Director Development & Governance may nominate appropriately delegated officers to represent the following technical functions required in development assessment:
 - Land use planning
 - Building
 - Environmental Health
 - Engineering – roads and traffic
 - Water and sewer

If nominated officers are absent from work Section Managers may nominate a substitute.

A Chairperson and Secretary will be nominated by the Executive Director, Development & Governance.

The Executive Directors may also nominate an attendee from a Section not included above if the expertise of that attendee is considered relevant to determination of particular applications (for example, regarding flooding, community services and facilities, parks and recreation).

3. A quorum shall comprise a representative of each of the above technical sections. All members present shall be properly briefed in respect of all matters dealt with at each meeting.

Operation

1. The DAP shall meet weekly unless otherwise determined by the Executive Directors.
2. Minutes shall be kept of each meeting, signed by the Chairperson and countersigned.
3. Lists of applications received in the Planning Services Section, and their status, shall be circulated to Councillors weekly and include the number of submissions and the number of signatures on petitions.
4. When development proponents attend the Panel to receive pre-lodgement advice, the Panel's advice will be minuted. The pre-lodgement minutes will be provided to the Manager-Planning Services who will document the comments in a letter to the proponent(s).
5. Where a decision as to whether or not to give concurrence is not unanimous, the application shall be referred to the Executive Director Development & Governance.

Attachment 2 – Proposed Policy

POLICY MANUAL

POLICY NO:	Determination of development applications under delegated authority
FUNCTION:	Sustainable Development
ACTIVITY:	Development Application Assessment & Determination
OBJECTIVE:	To ensure that Lismore City Council's development assessment system and decision making processes are transparent and that all development application assessments are subject to an appropriate level of review prior to determination.
SECTION RESPONSIBLE:	Development and Compliance
AUTHORISED:	REVIEWED:

Preamble

The implementation of best practice in the development assessment process is important to ensure that Council's consent authority function can be exercised in a cost efficient and effective manner which ensures consistency and transparency in the determination of applications.

Policy Statement**Determination of Development Applications under Delegated Authority**

- a) Any development application generating objections of a significant nature, being those which, while valid under S79C of the Environmental Planning & Assessment Act, in the opinion of the General Manager or their delegate cannot be addressed by means such as conditions of consent, negotiated alterations to the proposal, mediation or by other means must not be determined under delegated authority.
- b) Development applications determined under delegated authority must be subject to a documented review process, which comprises either peer review, auditing, counter signing or a combination of these.
- c) Any application for which two (2) Councillors have made a request in writing to the General Manager that the application is to be submitted to Council for consideration and determination must not be determined under delegated authority.

Report

Subject	Social Impact Assessment (SIA) Policy and Guidelines
File No	EF09/80:ED10/3181
Prepared by	Social Planner
Reason	To seek Council endorsement of the SIA Policy and Guidelines
Objective	To improve Social Impact Assessment processes and reporting
Strategic Plan Link	Sustainable Economic growth and development
Management Plan Project	Community Services

Overview of Report

The report seeks Council endorsement of the draft Social Impact Assessment Policy and Guidelines. The documents have previously been on public exhibition with no changes required.

Background

In 2007 Council requested that the Social Impact Assessment (SIA) policy be reviewed. Guidelines were developed to assist proponents to improve the SIA process and to ensure consistency and transparency across SIA's. The Guidelines outline the SIA process, triggers, content, format, data sources and other information to assist development proponents in the SIA process.

The draft Guidelines and Policy have been workshopped with Council (16 October 2007 and 16 February 2010). Please note that the trigger for a SIA for residential development has been clarified in both the policy and guideline to be 20 or more dwellings or lots. The draft Guidelines and Policy were placed on public exhibition for a period of 28 days in 2008. During this period of public exhibition one response was received with no amendments required.

Comments

Financial Services

No comment required.

Other staff comments

Manager, Integrated Planning

The draft SIA Guidelines will be an essential tool for developments requiring an SIA. The Integrated Planning team and the Manager, Development and Compliance have had input into the draft guidelines.

Public consultation

The draft SIA Guidelines and Policy were developed using current evidence and expert opinion. They have been reviewed by Lismore City Council staff and Councillors and were put on public exhibition for a period of twenty eight days in November 2007. That period of public exhibition yielded one positive response requiring no change to the draft policy and guidelines. It is not recommended to re-advertise these documents for another round of exhibition.

Conclusion

The draft SIA Guidelines and Policy are an easy to read reference for proponents of development to assist in the SIA process and to encourage consistency and transparency in the process.

Recommendation

That Council endorse the draft Social Impact Assessment Policy and Guidelines as attached.

Report

Subject	Electricity Supply Procurement
File No.	ED10/6099; EF09/2049
Prepared by	Assets Engineer
Reason	To advise Council of a process to be implemented to secure the best result for electricity supply to Council.
Objective	To obtain approval from Council to engage an external consultant to conduct a reverse auction tender for electricity supply.
Strategic Plan Link	Efficient Use of Council Resources
Management Plan Project	Asset Management

Overview of Report

Council has been approached to consider participating in purchasing electricity by means of a reverse auction tender process. Separate auctions will be run for street lighting, large sites (a site consuming greater than 160 MWhs per annum) and small sites (a site consuming less than 160 MWhs per annum). The process will test the markets with a view to obtaining the best possible results. This process will also give Council an option of assessing the economic impacts and environmental benefits of increasing the percentage of GreenPower that is purchased by Council.

Background

There are two major components in the supply of electricity to any property, being the distribution network and retail supply. When electricity is generated it is distributed via network operators (e.g. Energy Australia), that same electricity can then be purchased from any licensed retail electricity supplier. Since 1 January 2002, all electricity customers in NSW have had the option to choose their retail electricity supplier and enter into a negotiated retail supply contract, or to remain with their standard retailer on a regulated tariff.

Council currently purchases electricity for street lighting and large sites via the NSW State Contract 777. This contract will expire on 30 June 2011 if Council does not extend the term. Council does not currently have a contract to purchase electricity for small sites. All of the electricity for Council's small usage sites (under 160 MWhrs/annum) are currently supplied from a range of retailer suppliers.

Council's electricity consumption cost for street lighting in 2009/2010 is estimated to be \$340,000. Similarly the cost for Council's eight large sites this year is estimated to be \$950,000. The cost for the remaining 158 small sites is estimated to be \$200,000 per annum.

The retail energy market is very dynamic with a range of factors affecting the price of electricity. Factors which tend to increase market prices include weather patterns, drought, reduced generation, and instances when there are significant levels of business seeking renewal of energy contracts at the same time. Pre-purchasing energy up to 18 months in advance enables retail suppliers to take advantage of when the market is at an optimum level which in turn helps to even out market volatility.

Regional Procurement (a division of Hunter Councils Inc) has approached Council to consider participating in purchasing electricity by means of a reverse auction tender process.

Regional Procurement in Partnership with Energy Action (a specialised energy procurement company), will run the street lighting and large sites processes immediately upon Council's approval so that the results can be compared to those of the Local Government Procurement – Request for Tender (RFT) process and a decision made at the May Council meeting. The process of a reverse auction and the LGP RFT is discussed in greater detail later in this report.

Energy Action has offered to run a reverse auction for small sites at no direct cost to Council so long as Council subscribes to Energy Action's electricity monitoring service for one large site (effectively free as Council currently pays for monitors of two large sites). Council would also be required to pay for the mandatory advertising of the reverse auction for small sites.

Tender Process

Regional Procurement has a formal partnership agreement with Energy Action, an independent energy retailer which utilises an online reverse auction platform and its knowledge of the volatile energy market, to ensure the best competitive price for the supply of electricity to its client.

Separate reverse auctions will be run for street lighting (unmetered), the following eight large sites (metered) and the combined electricity requirements for all of Council's small sites:

1. East Lismore Sewage Treatment Works
2. Blakebrook Quarry
3. Dawson Street Sewage Pump Station
4. Goonellabah Administration Centre
5. Ross Street Pump Station
6. Lismore City Library
7. Lismore Memorial Baths
8. Goonellabah Sports and Aquatic Centre (GSAC).

In a reverse auction, the role of buyer and seller is reversed, with the buyer driving the auction, as opposed to the seller. Typically, a buyer contracts with a market intermediary, in this case Energy Action, to conduct all the necessary preparations to conduct the reverse auction. This includes finding suppliers, organising the auction, managing the auction event, and providing auction data to buyers to facilitate decision making.

The proposed contract for street lighting and large sites will commence 1 July 2011 (when the extended 777 Contract expires), and will run for a two (2) year period with a further one (1) year option.

Due to the nature of the electricity market, tender prices can only be held for a short time, needing formal acceptance within 5–7 days of tender closure, hence providing insufficient time to follow the normal reporting regime of Council. As such a streamlined reporting process would be required in order for Council to take advantage of the potential savings that could be achieved from this process.

The suggested process for street lighting and large sites would be:

- Step 1: Consideration of this report and agreement from Council to engage Regional Procurement to conduct the tender process on behalf of Council.
- Step 2: Notify Regional Procurement of the outcome of this report (Wednesday, 14 April 2010).
- Step 3: Participate in the reverse auction tender process undertaken by Energy Action (closing date – Wednesday, 5 May 2010).

- Step 4: Regional Procurement to provide the General Manager with the tender evaluation report with recommendations (Thursday, 6 May 2010). This report will be distributed to Councillors on Friday, 7 May 2010 as supplementary information to a report that will be listed for consideration at the Council meeting of 11 May 2010.
- Step 5: If Council is satisfied with the outcomes the General Manager is delegated authority at the May Council meeting to sign the Client Service Agreement with the successful energy retailer.

A two stage process is to be undertaken to obtain the tender outcome:

1. Non-price tender submissions are to be submitted to Regional Procurement from potential energy retailers by a specified date and time. Energy retailers must demonstrate compliance with a range of non-price criteria, including licensing with the NSW Government and registration with IPART to entitle them to bid on the reverse auction.
2. Pricing is then obtained from conforming energy retailers via the reverse auction process to be conducted by Energy Action at the given date and time. All tendered pricing information will be benchmarked against the NSW State Contract 777 pricing applicable from 1 July 2010.

Tenders will then be evaluated against pre-determined criteria and weightings (currently in preparation).

The proposed contract for small sites will likely commence on 1 July 2010. A similar tender process will be adopted for small sites and a report will be prepared for the June Council meeting.

LGP Electricity Tender Project

Council is participating in the Local Government Procurement (LGP) electricity Request for Tender (RFT) for street lighting and large sites. This RFT closes at 2.00pm on Friday, 9 April 2010 and will be assessed by an evaluation panel over the following 10 days.

A confidential tender evaluation report will be produced and distributed to participating councils. This report will NOT be presented to a Council meeting and the LGP will use its 'Prescription' status under the Local Government regulations to achieve the best outcome for councils. Councils will have 48 hours to respond if they wish to make a comment on the report and the LGP will consider all feedback before making a tender determination. Participation in the LGP electricity RFT is at no cost to Council.

Financial Risk and Legal Implications

Participation in this process is free for Regional Procurement member councils. Lismore City Council has declined the opportunity to become a member council due primarily to the initial joining fee of between \$9,000 and \$12,000 and ongoing annual subscription costs. Regional Procurement is offering non member councils the opportunity to participate in the street lighting and large sites electricity procurement process for a non refundable fee of \$1,500. This cost is significantly less than what it would cost Council if it were to run its own tender process (advertising in major newspapers, administration, etc).

Regional Procurement advises that Energy Action has called over 2,000 reverse auctions with proven results and guarantees that the outcome will be equal to or better than the current (2010 - 2011) NSW 777 Contract rates.

GreenPower

Council is currently not contracted to purchase any GreenPower. The tender processes will provide an opportunity for Council to include a component of GreenPower purchase, however the financial implications of such an increase will be dependent on the tender prices submitted.

If Council purchases a minimum of 10% GreenPower it is eligible to apply to use the GreenPower Customer logo and may choose to be listed on the GreenPower website under 'Proud Supporters of

GreenPower'.

Options

The three main options presented for Council's consideration are as follows:

1. Council declines to participate in the Regional Procurement reverse auction tender process for all sites.
2. Council participates in the Regional Procurement tender process for all sites and compares the results and recommendations for street lighting and large sites with those of the LGP evaluation report.
3. Council participates in a reverse auction tender process for small sites as conducted by Energy Action. If Council does not participate in this process then it would need to conduct its own tender process for small sites.

Comments

Financial Services

The recommendations to conduct a reverse auction tender for electricity supply for street lighting, large usage sites and the combined total of low usage sites are supported. It is anticipated that this process will deliver the most competitive price for electricity supplies.

Other staff comments

Nil received.

Public consultation

Not required.

Conclusion

Council is currently reviewing its electricity procurement arrangements with a view to securing the best prices and services for the future. Council has been approached to participate in a reverse auction tender process in addition to its participation in the LGP RFT. If Council is to participate in the reverse auction tender process then a resolution of Council is required.

As part of this electricity procurement review, there is an opportunity to investigate the cost of purchasing GreenPower and increase consolidated billing to all small sites.

Recommendation

That:

1. Council proceed to engage Regional Procurement and Energy Action to conduct a reverse auction tender for electricity supply for street lighting, large usage sites and the combined total of low usage sites.
2. The specification for the supply of the electricity includes an option for 10% GreenPower to all sites.
3. The General Manager be authorised to negotiate and finalise relevant matters with Regional Procurement and Energy Action to conduct the tender process on behalf of Council.
4. The outcome of the reverse auction tender processes is reported back to Council for a decision once the procurement processes have been completed.

Report

Subject	Application for Closure of Road – Two Sections of Bouyon Street, North Lismore
File No.	R6206: ED10/6116
Prepared by	Property Officer
Reason	To boundary adjust two properties due to building encroachments.
Objective	To seek Council's support in principle, by resolution, for the road closure application.
Strategic Plan Link	Best-Practice Corporate Governance
Management Plan Activity	Roads

Overview of Report

This report proposes to close two areas of Bouyon Street, North Lismore, being a Council road, to allow two boundary adjustments to be effected due to building encroachments.

Background

It is proposed to close two areas within the Bouyon Street road reserve due to two separate building encroachments. The adjoining landowners of Lot 12, DP830362 (150 Terania Street, North Lismore) and Council are the joint applicants for this proposed part road closure.



Access to Other Lots and the River

The part closure of the road does not inhibit public access to the river or to other lots along Bouyon Street or to nearby (unformed) New Street.

Lot 1

The area of encroachment upon the road reserve is approximately 82m². The encroachment consists of a rock retaining wall, concrete pad and fence. If closure of the road is approved, this area will be required to be consolidated with the adjoining lot.

As a joint applicant, the adjoining landowners shall contribute 50% of all costs related to the road closure. All costs related to the respective surveying of Lot 1, as well as respective consolidation costs shall be borne by the adjoining landowner.

Upon closure, Lot 1 will vest in Council as it adjoins a constructed portion of Bouyon Street. Upon transfer, the adjoining landowner shall compensate Council for the area of land at market value.

No water or sewer services are affected by this closure.

Lot 2

An initial enquiry with the Land and Property Management Authority (LPMA) regarding Lot 1 revealed that a further encroachment (Lot 2) exists on the road reserve. The LPMA has requested Council to include this area in the same application.

The Great Eastland Archery clubhouse has existed in this location since 1982. A development application was not lodged with Council to erect the building at this time. Advice has been received that the Club was under the impression that this area of land was part of Arthur Park, however, it is road reserve. It is noted that the Club also uses all of Lot 2 in its archery activities on the land.

As a joint applicant, Council shall contribute 50% towards all costs related to the road closure. All costs related to the respective surveying of Lot 2, as well as respective consolidation costs shall be borne by Council.

No water or sewer services are affected by this closure.

Upon closure, Lot 2 will vest in the Crown as it adjoins a portion of Bouyon Street that is not constructed. LPMA has advised that if Council undertakes to consolidate the portion of closed road with the adjoining community land (Arthur Park), the Crown would not require compensation as the land is for community use.

An indication of the cost to rebuild the clubhouse in another location within Arthur Park is approximately \$55,000; and relocation costs are also expected to far exceed the road closure costs of approximately \$7,000.

An approach to the Club has revealed that it is not in a financial position to contribute to Council's portion of the costs of the road closure. Due to the expected timeframe to complete the road closure process (two to three years), if approved, funding will be required to meet these costs in 2012/13.

Comments

Financial Services

The estimated net cost for the road closure, consolidation and property sale is \$5,500. As Council will be required to meet all costs associated with the Great Eastland Archery Club land, it is proposed that this be funded from the Urban Sports Facilities Fund in 2012/13.

Other staff comments

Manager - Works

As public access to the river will not be restricted by this proposed road closure, the Works Section has no objections.

Parks Coordinator

The Parks and Recreation area approves of the road closure for this purpose. It does not affect any operational matters. Funds for the process will be highlighted for the 2012/13 financial year budget preparations.

Strategic Planning Co-ordinator

The land in this area is mapped as Floodway or High Risk and therefore has limited potential for future development. The proposed closure also allows access to the river via the road reserve to be retained. The proposed road closure has no strategic planning implications.

Public consultation

If the proposed road closure application is supported by Council, LPMA takes responsibility for consulting with all adjoining landowners and the placement of a public notice giving 28 days for interested parties to make submissions on the proposal.

Conclusion

The proposed road closure will enable boundary adjustments to be effected due to two separate building encroachments.

The closure will have no impact on Council's existing infrastructure or services and will not affect access to other nearby landowners. The adjoining applicant and Council are to share costs related to the road closure and pay their own costs in relation to consolidation.

The road closure application is the most cost effective way of dealing with the clubhouse building encroachment and the Archery Club's use of the road reserve.

Recommendation

That:

1. A joint Application to Close a Public Road for the two portions of Council road, being land adjoining Lot 12 DP830362 (Lot 1) and Lot 188 DP758615 (Lot 2), as shown on the plan included in this report, be endorsed by Council and lodged with the Land and Property Management Authority.
2. Upon formal notification of the road closure and gazettal as Council land, Lot 1 (adjoining Lot 12 DP830362) will automatically be classified as operational land in accordance with Section 43 of the *Roads Act 1993*.
3. Council sell the land shown as Lot 1 on the plan (82m² approximately) included in this report to the joint applicant (adjoining landowner) at market value and that the land shall be consolidated within the applicant's adjoining land.
4. Upon formal notification of the road closure and transfer from the Crown, Lot 2 (adjoining Lot 188 DP758615) be classified as community land in accordance with Part 2, Division 1 of the *Local Government Act 1993* and be consolidated with the adjoining community land (Arthur Park).

5. All costs associated with the road closure, including any Council and Land and Property Management Authority fees and plan registration shall be shared 50:50 with the adjoining landowner of Lot 1. Surveying of each respective lot shall be borne by the respective applicant. Each party is to pay their respective legal fees and share 50:50 any legal fees jointly incurred.
6. The General Manager and Mayor be authorised to sign and affix the Council Seal to land transfer documents and plans of survey or any other documents deemed necessary to complete this resolution.

Report

Subject	Lease of Old Scout Hall, South Lismore
File No.	P18747:ED10/5678
Prepared by	Assets Engineer
Reason	The Policy for the Leasing of Council Properties requires that before a new lease is issued to an existing lessee, a report to Council be prepared which recommends the issuing of a new lease.
Objective	To gain Council's approval to proceed with issuing a new lease to the Family Support Network Inc. for its occupation of the Old Scout Hall at 41 Wilson Street, South Lismore.
Strategic Plan Link	Efficient Use of Council Resources
Management Plan Project	Properties

Overview of Report

This report considers a new lease to The Family Support Network Incorporated for a Council property at 41 Wilson Street, South Lismore. In accordance with the Policy for Leasing of Council Properties an expression of interest or tender process would usually be undertaken on the expiration of a lease. The alternative to this process is to report the matter to Council for approval to grant a new lease.

Background

The Family Support Network Incorporated (lessee) has leased a Council property (Old Scout Hall) at 41 Wilson Street, South Lismore, since 2002. The current lease has been held over pending the completion of the policy (Policy for the Leasing of Council Properties). The policy (now complete) prescribes that usually when a Council Property becomes available for lease an Expression of Interest (EOI) or Tender process is to be followed. In the event that this process is not perceived to be beneficial, a report to Council for approval to prepare the new lease is required.

Family Support Network Incorporated (FSNI) is a community based organisation providing Family & Children's Services to families with children less than 12 years of age residing in the Lismore local government area. FSNI has been operating since the early 1990s and currently runs eight (8) funded programs.

FSNI is predominately funded from NSW Community Services (formerly DoCs) but also receives funding from the Federal Government via FaHCSIA. Services are targeted at vulnerable and disadvantaged families/ communities and include Supported Playgroups, Parenting Programs, Community development, therapeutic groups, volunteer home visiting, family support and child protection services. FSNI also operates the Nimbin Family Centre.

The South Lismore property is used extensively to operate programs and has become a crucial resource for the delivery of program services.

FSNI has requested a new lease of this property and Council Officers support the issuing of a new lease for the following reasons:

- The lessee has been autonomous in its maintenance of the property and its occupancy has been at no tangible financial cost to Council.
- The lessee has made upgrades and improvements to the property and states that it requires security of tenure to enable the group to plan and make decisions about future upgrades.
- The property is zoned 6A – Recreation Zone which prohibits any commercial activities and therefore limits income opportunities from leasing.

The conditions of the new lease will be in accordance with Council's policy. It is proposed that the lessee be responsible for:

- Paying all fees and statutory charges (rates, electricity and water consumption).
- Minor maintenance of the building and surrounds.
- Servicing, cleaning and security.
- Notifying Council of maintenance issues that may, if not corrected, be detrimental to the longevity of the building or hazardous to occupants.

The lessee has indicated in writing that it is able to pay Council's minimum annual license/ lease fee (currently \$110.00). The period of this lease will be for three years with the option for a further two years. The lease will be required to be registered on the title.

The alternative to entering into a new lease with the existing lessee is either an EOI or Tender process. Both of these processes would require property valuations, advertising and staff time.

Comments

Financial Services

The recommendation to offer a new lease to the Family Support Network Incorporated for the reasons reported is supported.

Other staff comments

Not required.

Public consultation

Not required at this time.

Conclusion

The Family Support Network Incorporated is requesting a new lease of the property that it currently occupies. Conducting an EOI or Tender process with the objective of identifying other community based groups suitable and eligible to occupy this property is not considered necessary. These processes would incur costs to Council and occupy staff time with little likelihood of benefit to Council.

Recommendation

That:

1. Council approve the preparation of a new lease to The Family Support Network Incorporated for its continued occupation of the Old Scout Hall at 41 Wilson Street South Lismore.
2. The Mayor and General Manager be authorised to execute and affix Council's seal to any documentation necessary to implement this resolution.

Report

Subject	Sport and Recreation Policy Advisory Group Membership
File No	EF09/1922:ED10/2481
Prepared by	Manager Corporate Services
Reason	For Council to endorse a new Sport and Recreation PAG Member
Objective	Select a new Sports and Recreation PAG Member
Strategic Plan Link	Engage with the Community

Overview of Report

This report provides details of the nomination/s for Sport and Recreation PAG membership for the current Council term.

Background

Following the resignation of a Sports and Recreation PAG member, nominations were called to fill the vacant position. One application was received. A report on this matter was presented to the February Council meeting at which Council resolved to “readvertise the position for a member of the Sports and Recreation Policy Advisory Group to see if there are more candidates for the position”.

Advertisements for nomination for PAG membership were issued in the Northern Rivers Echo and Council’s Website. The nominations received up until 4.00pm on 19 March, 2010 have been compiled in this report. The appointment will be until the end of the current Council term.

Nominations for Membership

Two nomination for the position was received. The completed nomination form follows this report.

- Steve Mackney
- Laurie McLeod

Comments

Financial Services

NA

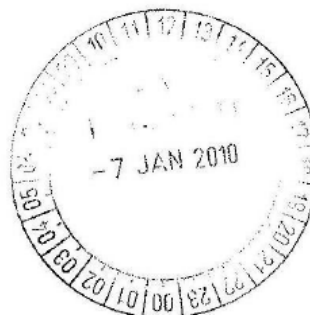
Other staff comments

NA

Recommendation

That Council appoint _____ to fill the vacant position on the Sports and Recreation Policy Advisory Group for the term of this Council.

Attachment – Nomination Forms



Sports and Recreation Policy Advisory Group

NOMINATION FORM

Thank you for your interest in Lismore City Council's Policy Advisory Groups. One position is currently vacant on the SRPAG. Council will choose a PAG member that provides the SRPAG with a broad range of skills and experience.

Name..... STEVE MACKNEY
 Telephone No. Home Mobile 0438 215593
 Email..... soccergm@bigpond.net.au
 Address..... 35 Kruseena Ave
Goonellabah NSW 2480

What contribution could you make to the Sports and Recreation PAG?

More than 30 years of involvement in local sporting organisations as a player and administrator. Currently employed as General Manager Football for North Coast which is the biggest sporting organisation on the FNC. Commitment to sport and the community, including strong relationships with local media and tiers of government.

Do you represent a particular community group or perspective? (Please provide details)

Whilst my employment is with Football FNC, I am still actively involved with cricket, as Treasurer of Lismore Junior cricket and with Lismore Under 12 carnival (annual tournament). My support exists for all sports and my knowledge of a range of facilities and organisations within the community has been clearly demonstrated.

What skills and knowledge can you bring to the Sports and Recreation PAG?

Qualifications include Business Degree, Economics teacher and experience as a lecturer and facilitator. Currently studying for a Masters in International Sports Management at SCU. Broad range of contacts with other sporting groups. Actively involved with Soccer and Cricket but with relationships through hockey, baseball, rugby league and netball plus other sporting contacts. Good understanding of sporting facilities and local issues. Steve Mackney
7.1.10



Sports and Recreation Policy Advisory Group

NOMINATION FORM

Thank you for your interest in Lismore City Council's Policy Advisory Groups. One position is currently vacant on the SRPAG. Council will choose a PAG member that provides the SRPAG with a broad range of skills and experience.

Name. **Laurie McLeod**

Telephone No. Home. **(02) 6624 8553** Mobile. **0401 259 313**

Email. **lauriencemcleod@optusnet.com.au**

Address. **11 Kerrabee Court**
GOONELLABAH, NSW 2480

What contribution could you make to the Sports and Recreation PAG?

I have a keen interest in all sports and facilities within the North Coast region. As part of my role with Lismore Little Athletics I work very closely with council parks and gardens on issues relating to Riverview Park. I have many years experience in sports administration ranging from Roller Skating to Athletics and I am sure that this experience will enable me to bring some fresh ideas and experience to the group.

Do you represent a particular community group or perspective? (Please provide details)

I am currently a member of the sports committee at the North Coast Academy of Sport (NCAHS), the Zone coordinator for Little Athletics in the region from Lismore to Nambucca Heads and president of the Lismore Little Athletics Centre Inc.

What skills and knowledge can you bring to the Sports and Recreation PAG?

I have many years experience in sport and have worked closely with councils as part of my roll as Zone Coordinator in Little Athletics. I am computer literate and can develop policies and reports as this is part of my everyday work for the NCAHS as the Lismore Base Hospital OH&S Coordinator. I have a reasonably good knowledge on the way Council operates and this I believe would hold me in good stead when it comes to the work the Sport and Recreation Policy Advisory group does.

I am sure that my time with the North Coast Academy of Sport will assist me to bring this perspective to the group. I have overseen the preparation of facilities, organisation of a state championships for Little Athletics in Lismore, which I am sure you will agree gives me the type of experience needed to be part of this group.

Should you wish to ask any further questions please feel free to contact me on my Mobile.

Send your Application to: The General Manager

Lismore City Council

Post to: PO Box 23A

Lismore 2480

Or

Email to: council@lismore.nsw.gov.au

Or

Fax to: 02 66250400

Nominations will be received up until Friday March 19, 2010

If you require help completing this form or have any further questions please contact Sue Wade on 1300 87 83 87.

Report

Subject	Council's Code of Meeting Practice – Public Access
File No	EF09/631:ED10/5398
Prepared by	Corporate Compliance Coordinator
Reason	Report required as per Council resolution 8/10.
Objective	To facilitate involvement of the public in the open and transparent decision making process of Council
Strategic Plan Link	Best Practice Corporate Governance
Management Plan Project	Corporate Services

Background

Council at its meeting held on 9 February 2010 resolved that:

“Public access session at Council meetings, Section 63, Part 2 of Lismore Council's Code of Meeting Practice, be changed to read: ‘Public access sessions slots be limited to five minutes’.”

In accordance with the requirements of the Local Government Act the proposed amendment was advertised calling for public submissions. At the time of printing this report no submissions had been received. The advertising period closes on the 9 April 2010 and should any submissions be received these will be forwarded to Councillors.

Public consultation

The proposed change was advertised in accordance with the legal requirement.

Recommendation

That Council's Code of Meeting Practice be amended by changing Section 63, Part 2 to read: Public Access session time slots be limited to five minutes.

Report

Subject	Investments – March 2010
File No	EF09/2209: ED10/6441
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's Investments
Strategic Plan Link	Best-Practice Corporate Governance
Management Plan Project	Financial Services

Overview of Report

Investments as at 31 March 2010 are estimated to be \$28,618,644 subject to final market valuations typically provided after month end.

The interest rate reported for March 2010 is estimated to be 4.43% which is above the Bank Bill Swap Rate for the period of 4.26%. The final interest return may vary due to actual returns achieved on investments advised after month end.

Torquay, one of the distressed CDO's has suffered another default with the impact being the total loss of principal. Torquay was reporting a current market value of \$59,400.

The High Court has dismissed an appeal by Lehman Australia and Lehman Brothers Asia Holdings that would limit creditor's ability to make further claims and potentially share in any improved returns from the assets of Lehman Australia.

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 – 28 February 2010</i> | <i>\$28,067,434</i> |
| • <i>Estimated Investments – at Market Value – 31 March 2010</i> | <i>\$28,618,644</i> |

The current rate of return on investments for March 2010 is estimated to be 4.43% which is above the Bank Bill Swap Rate for the period of 4.26%. 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.

There are still a number of investments not paying coupons. These include investments in Blackrock

Care & Maintenance Fund, 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. A coupon payment has not been recognised as a return on investment this month. A distribution was however received late February, after the report to Council had been prepared. The proceeds of the distribution had a capital component of \$243,193 and interest component of \$170,753.

AMBAC Assurance Default

On 26 March, 2010 the ISDA's, America's credit Derivative Determinations Committee, voted that the seizure by regulators of part of AMBAC Assurance (the main bond insurance unit of AMBAC Financial) would constitute a credit event. Following the credit event, some of Council's CDOs (Omega (Henley), Corsair (Kakadu), Herald Limited (Quartz) and Corsair (Torquay)) have experienced some loss of subordination. In Torquay's case, it is expected that total loss of principal (previously reported as a current market value of \$59,400) will result. This has been reflected in the attachments.

Lehman Brothers

The High Court has dismissed an appeal by Lehman Australia and Lehman Brothers Asia Holdings that would limit creditor's ability to make further claims and potentially share in any improved returns from the assets of Lehman Australia. As Council is a member of the class action, it will share in any return after all legal costs.

Information on expectations will be sent to Council from the liquidator and legal advisor in the near future.

Richmond Tweed Regional Library

To meet compliance requirements associated with being the Executive Council for Richmond Tweed Regional Library, Council must report on investments held by the Library each month. For the month ended 31 March, 2010 the estimated total value of investments held by Richmond Tweed Regional Library is \$1,591,349. The current rate of return on the library's investments for March 2010 is estimated to be 5.60%.

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 High Court's decision to dismiss the appeal from Lehman Brothers referred to above is considered good news with a better return now expected. As there will have been significant legal costs incurred, it is not possible to reliably assess the likely return.

In regards to the total principal loss for Torquay, this is not unexpected. The loss of a further \$59,400 will need to be factored into Council's market value adjustment at June 30, 2010.

Other staff comments

N/A

Public consultation

N/A

Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. For March 31, 2010, investments total \$28,618,644 and the annualised rate of return was 4.43%.

Due to the default of AMBAC Assurance, Council has experienced a loss in subordination of four CDOs with a total loss of principal expected for Torquay.

This report includes investment information for the Richmond Tweed Regional Library. As Council is the Executive Council for the Richmond Tweed Regional Library, this information must be reported to Council monthly.

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 March, 2010**

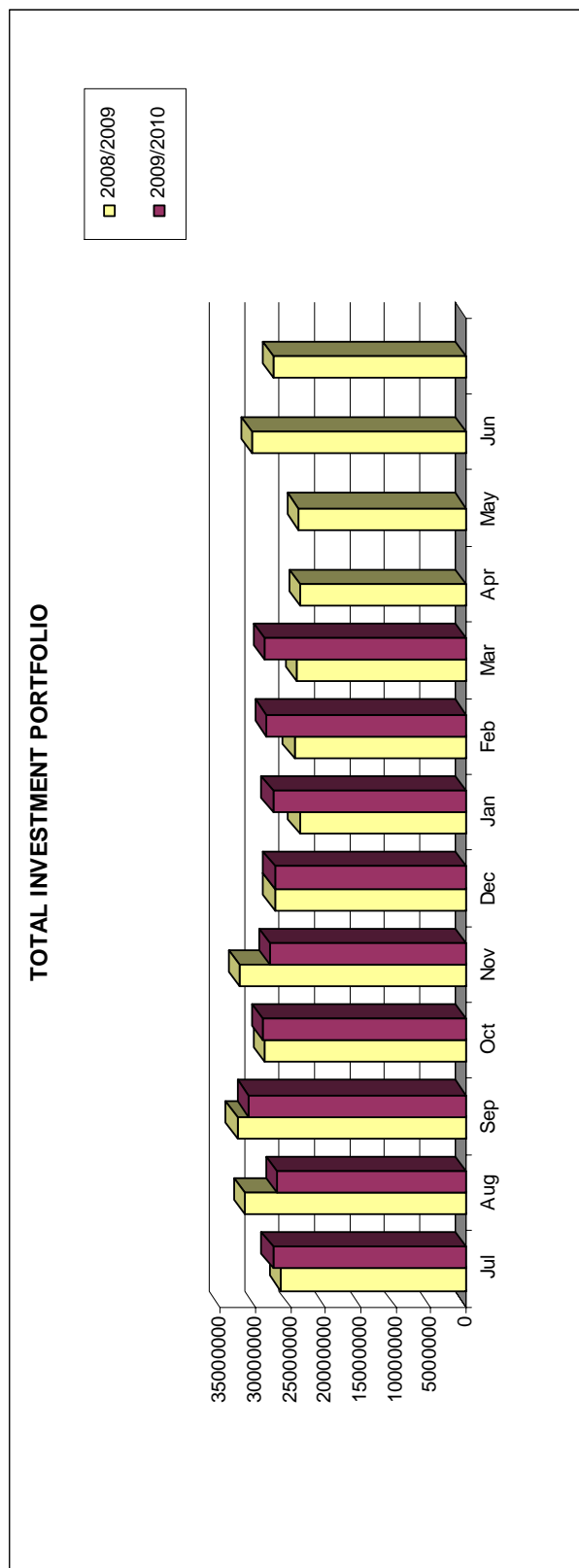
Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)
Cash Based Returns								
Blackrock Care & Maintenance Fund	Managed Fund	A	High	15/10/2008	N/A	29/03/2010	\$ 1,999,857	\$ 2,216,790
CBA Business On Line Banking A/c	Cash Management Account	Cash	High	N/A	N/A	29/03/2010	\$ 4,313,500	\$ 4,313,500
Macquarie Cash Management Trust	Cash Management Account	Not Rated (Note 7)	High	1/9/2006	N/A	29/03/2010	\$ 250,671	\$ 250,671
ANZ High Yield Cash Account	Cash Management Account	AA	High	N/A	N/A	29/03/2010	\$ 1,506,991	\$ 1,506,991
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	5/2/2010	6/4/2010	5/02/2010	\$ 2,000,000	\$ 2,000,000
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	8/3/2010	8/4/2010	8/03/2010	\$ 2,000,000	\$ 2,000,000
Suncorp Bank	Term Deposit	A-1	High	8/2/2010	9/4/2010	8/02/2010	\$ 2,000,000	\$ 2,000,000
SGE Credit Union	Term Deposit	Not Rated (Note 7)	High	12/2/2010	13/4/2010	12/02/2010	\$ 2,000,000	\$ 2,000,000
Newcastle Permanent	Term Deposit	A2	High	18/2/2010	19/4/2010	18/02/2010	\$ 1,000,000	\$ 1,000,000
IMB Banking & Financial Services	Term Deposit	A2	High	19/3/2010	18/5/2010	19/03/2010	\$ 2,000,000	\$ 2,000,000
Westpac Banking Corporation	Term Deposit	AA	High	4/12/2009	4/12/2010	4/12/2009	\$ 2,000,000	\$ 2,000,000
Newcastle Permanent	Term Deposit	A2	High	18/12/2009	20/12/2010	18/12/2009	\$ 1,000,000	\$ 1,000,000
Summerland Credit Union	Term Deposit	Not Rated (Note 7)	High	17/1/2010	17/1/2011	17/01/2010	\$ 1,000,000	\$ 1,000,000
Merrill Q A/A FRN / CBA	Floating Rate Note	A+	High	22/3/2005	8/6/2010	26/02/2010	\$ 949,250	\$ 995,890
Bishopegate (Wentworth)	Floating Rate CDO	AA	High	1/9/2006	20/9/2010	30/06/2009	\$ 435,100	\$ 435,100
Herald Limited (Quartz)	Floating Rate CDO	B+	Low	1/9/2006	20/12/2010	30/06/2009	\$ 13,572	\$ 13,572
Cypress (Lawson)	Floating Rate CDO	BBB+	Low	1/9/2006	30/12/2010	30/06/2009	\$ 379,500	\$ 379,500
Deutsche Bank CG Yield Curve Note	Euro Bond	Not Rated (Note 7)	High	1/9/2006	18/10/2011	30/06/2009	\$ 247,500	\$ 247,500
BELO (Kalgoorlie)	Commodity Backed Security	AA+	High	1/9/2006	27/2/2012	30/06/2009	\$ 580,440	\$ 580,440
Magnolia (Flinders)	Floating Rate CDO	BB+	Low	1/9/2006	20/3/2012	30/06/2009	\$ 210,000	\$ 210,000
Omega (Henley)	Floating Rate CDO	CCC	Low	1/9/2006	22/6/2012	30/06/2009	\$ 126,200	\$ 126,200
Beryl (Esperance 2)	Floating Rate CDO	BB+	Low	1/9/2006	20/3/2013	30/06/2009	\$ -	\$ -
Corsair (Torquay)	Floating Rate CDO	CCC-	Low	1/9/2006	20/6/2013	30/06/2009	\$ 59,400	\$ -
Zircon (Merimbula)	Floating Rate Note	C	Low	1/9/2006	20/6/2013	30/06/2009	\$ -	\$ -
Corsair (Kakadu)	Floating Rate CDO	CCC	Low	1/9/2006	20/3/2014	30/06/2009	\$ 124,550	\$ 124,550
Longreach - Series 25	Equity Linked Investment	AA-	High	2/4/2007	4/4/2014	30/06/2009	\$ 662,600	\$ 666,140
Helium (Scarborough)	Floating Rate CDO	CCC-	Low	1/9/2006	23/6/2014	30/06/2009	\$ 2,200	\$ 2,200
Beryl (Global Bank Note)	Floating Rate Note	C	Low	1/9/2006	20/9/2014	30/06/2009	\$ -	\$ -
Zircon (Coolangatta)	Floating Rate CDO	C	Low	1/9/2006	20/9/2014	30/06/2009	\$ -	\$ -
Aphex (Gieneig)	Floating Rate CDO	CCC+	Low	1/9/2006	22/12/2014	30/06/2009	\$ 60,900	\$ 60,900
Bendigo Bank FR Sub Debt	Subordinate Debt	Not Rated (Note 7)	Medium	1/9/2006	14/12/2015	28/02/2010	\$ 440,100	\$ 487,900
Elders Rural Bank Sub Debt	Subordinate Debt	Not Rated (Note 7)	Medium	1/9/2006	16/3/2016	28/02/2010	\$ 864,000	\$ 1,000,800
Zircon (Miami)	Floating Rate CDO	C	Low	1/9/2006	20/3/2017	30/06/2009	\$ -	\$ -
Investment on Hand							\$ 28,226,331	\$ 28,618,644
Investments Redeemed during period (Note 6)								
IMB Banking & Financial Services	Term Deposit	A2	High	18/1/2010	19/3/2010	18/01/2010	\$ 2,000,000	\$ 2,000,000
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	6/1/2010	8/3/2010	6/01/2010	\$ 2,000,000	\$ 2,000,000

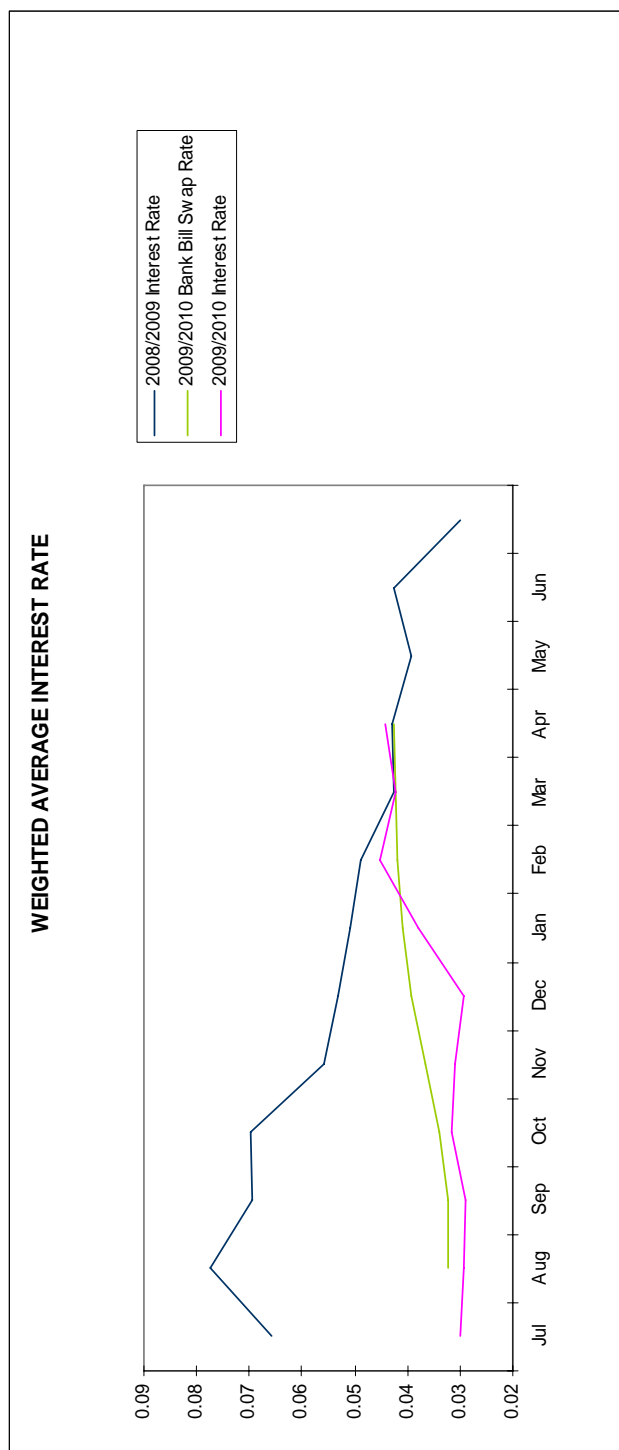
\$ 32,226,331 \$ 32,618,644

Note 1: Balance Sheet Valuation is the value reported in Council's Financial Report as at 30 June, 2009 or the purchase price for investments purchased post 30/06/09
Note 2: Capital Guaranteed note if held to maturity
Note 3: The Balance sheet Valuation 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.

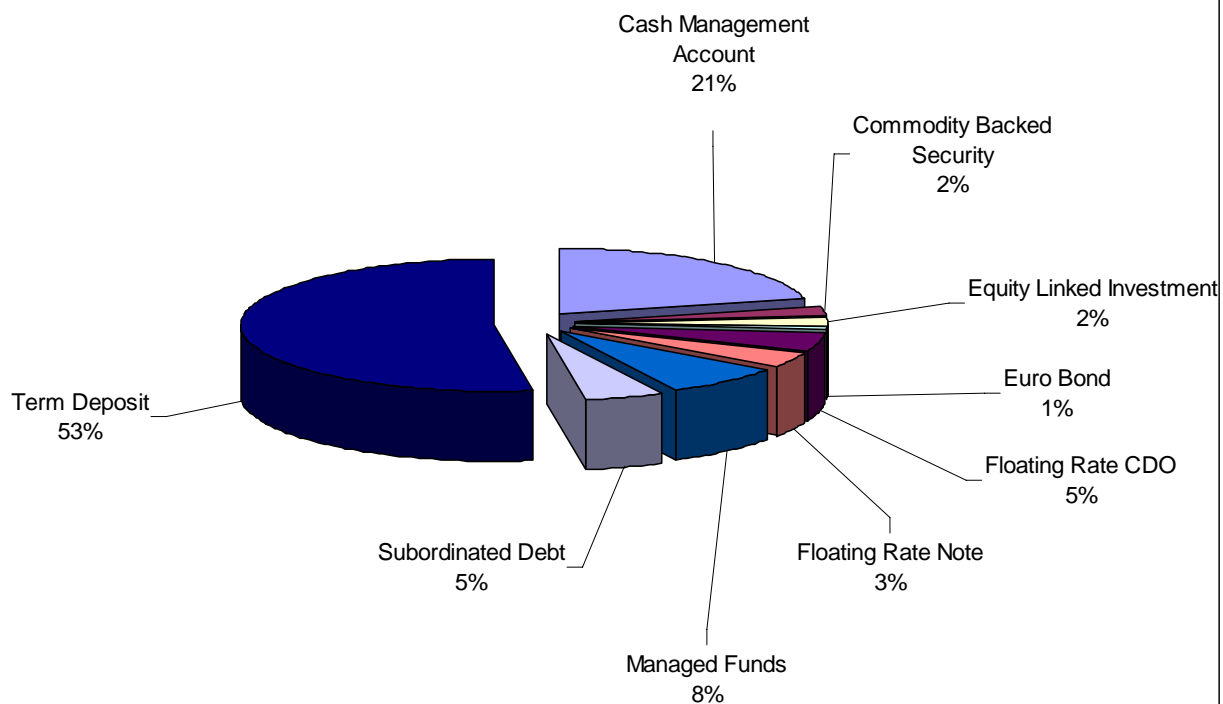
"Indicative" Source of Funds

Externally Restricted	22,663,104
Internally Restricted	5,955,540
	<u>\$ 28,618,644</u>

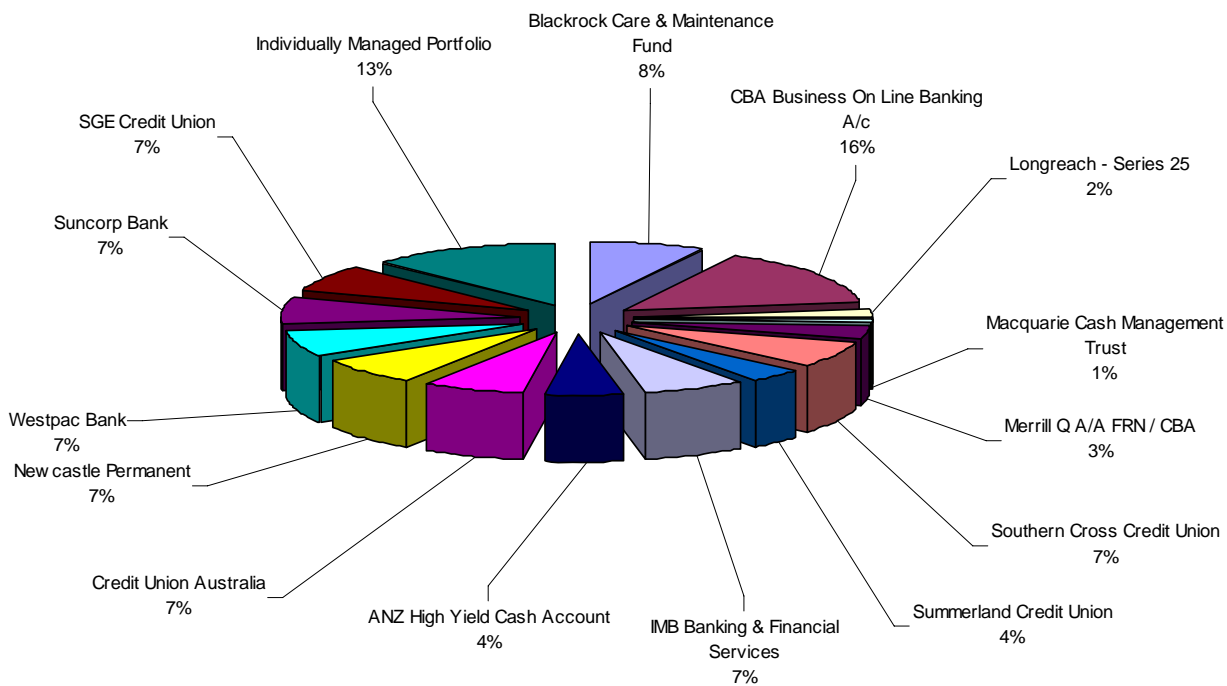




INVESTMENT BY TYPE



Investment by Institution



**MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING
HELD ON 17 MARCH 2010 AT 10.00AM.**

(EF09/1963:ED09/6237)

	Present	Councillor Jenny Dowell (<i>Chairperson</i>), Bronwyn Mitchell on behalf of Thomas George, MP, Frank Smallman (<i>RTA</i>), Snr Const Rob Clarke (<i>Lismore Police</i>).
	In Attendance	Garry Hemsworth (<i>Executive Director-Infrastructure Services</i>) and Bill MacDonald (<i>Traffic & Emergency Services Coordinator</i>).
TAC13/10	Apologies	An apology for non-attendance on behalf of Thomas George MP was received and accepted.
TAC14/10	Minutes	The Committee was advised that the minutes of the Traffic Advisory Committee meeting held on 17/2/10, were confirmed by Council on 9/3/10.

Disclosure of Interest

Nil

Part 'A' – Committee Recommendations

Summerland Credit Union - Glasgow Lane South, Lismore CBD

The Summerland Credit Union has raised concern regarding the number of near misses between motorists and pedestrians using the footpath along the northern side of Magellan Street where it meets Glasgow Lane.

Glasgow Lane South services the Kirkland Riviera Carpark and a number of offices with onsite parking. Whilst speeds would generally not be excessive there are significant sight distance issues where Glasgow Lane South crosses the footpath on the northern side of Magellan Street, largely due to the levee gates and wall in this area.

The installation of a speed hump just north of the levee gates would ensure all motorists slow down sufficiently when negotiating this area.

TAC15/10 Recommendation: That a speed hump be installed in Glasgow Lane South, north of the levee gates. (R7311)

National Aboriginal and Islander Day of Celebration (NAIDOC) 2010

Lee-Ann Emzin, Council's Aboriginal Community Development Officer, has provided a Traffic Management Plan and event description for consideration of approving associated road and carpark closures associated with the NAIDOC event to be held on 1 July 2010.

This year's event will be held on Thursday, 1 July 2010 with anticipated numbers attending being approximately 1,500-2,000 people. It is proposed to close Victoria Street between the southern side of the Ballina Road Bridge and the skate park and also the carpark beside the Visitor Information Centre from 7.30am to 3.30pm.

The event has been held at this location for the past several years without incident.

TAC16/10 Recommendation: That approval be granted for the proposed closure of Victoria Street and the Heritage Park Carpark in accordance with the information provided.

Part 'B' – Determined by Committee

Janine Zambelli - Request for Pedestrian Crossing - Ballina Road, Goonellabah

Janine Zambelli has drawn attention to the need for a pedestrian crossing on Ballina Road (SH16), between the James Road and Holland Street roundabout.

A pedestrian refuge exists close to the intersection of Ballina Road and James Road, and it would appear that this is the location where the majority of pedestrians would cross the highway. Results of a traffic count tabled at the meeting showed that although numbers of vehicles were high, only 5 pedestrians crossed in the morning between 8.15am and 9.15am and 10 in the afternoon between 3.15pm and 4.15pm. Mr Smallman confirmed that the RTA would not allow the installation of a marked pedestrian crossing across a multi lane road due to dangers this created for pedestrians with multiple vehicles travelling in the same direction. Although not ideal, the existing pedestrian refuge was considered the most appropriate facility in the circumstances.

TAC17/10 It was agreed: That the results of the counts and the RTA's guidelines be conveyed to the writer and that under these circumstances the existing pedestrian refuge is considered the most appropriate facility. (CI10/5049:R6408)

Lismore City Council OH&S Committee - Quarry Entrance on James Gibson Road, Corndale

The Lismore City Council Occupational Health & Safety Committee has requested consideration be given to reducing the speed limit on James Gibson Road in the vicinity of the Corndale Quarry.

James Gibson Road is bitumen sealed and a double white centre line exists for the majority of its 4.9km length from Corndale Road up to the 50kph speed limit at the start of the Clunes Village.

Corndale Quarry has a number of warning signs on both approaches to the quarry. However, they require cleaning and the vegetation needs clearing to improve their visibility. Centre line marking is also faded and requires repainting.

There are 24 vehicular accesses along this part of James Gibson Road and three intersections, including the quarry intersection which has a protected right-turn bay.

Police have indicated that there is a growing accident history on this road and for the majority of its length it is not possible to travel at the general State rural speed limit of 100kph. An assessment of the road to determine the appropriate speed limit would seem warranted.

TAC18/10 It was agreed: That –

1. The issue of improving the visibility of existing signage near Corndale Quarry on James Gibson Road and the repainting of the line marking be referred to Council's Roads area for maintenance.
2. The RTA be requested to assess the appropriate speed limit for James Gibson Road.

(R3902)

Guide Dogs NSW/ACT / Lismore Vision Impaired Support Group

Drawing attention to difficulty being experienced by clients crossing the Bruxner Highway around the location of Molesworth Street and requesting a marked pedestrian crossing with traffic lights be installed.

A plan was tabled at the meeting showing a proposal to install a pedestrian refuge in Ballina Road in front of the City Hall. Mr Smallman advised that the RTA would not allow a marked pedestrian crossing on a multi lane road and that experience had shown that pelican crossings had their own inherent dangers and in fact one such crossing had been removed in Ballina due to concerns for the safety of users, particularly those with a visual impairment. The current plan includes kerb blisters and a wider centre median.

TAC19/10 It was agreed: That the plan for a pedestrian refuge on Ballina Road in front of the City Hall be forwarded to the RTA for approval and consideration of funding the facility.
(C110/4448,C110/6188:EF09/2168,R6408)

Robert Bou-Hamdan

Outlining difficulties being experienced in gaining access to his property in Weaver Street as a result of vehicles being parked on both sides of the road and close to driveways.

On street parking in both Weaver Street and Fermoy Avenue has increased as a result of the recent introduction of paid parking in Uralba Street. These streets are now used predominately by hospital staff who require long term parking. It was noted that a shuttle bus service was currently being investigated with a view to the introduction of a service that would include the needs of both staff and visitors to the hospital. In the short term, it was suggested that a white line be painted on the road either side of the driveways to better define the extent of any on street parking.

TAC20/10 It was agreed: That a white line be painted out from the kerb, either side of the driveways in Weaver Street.

Councillor Jenny Dowell, Mayor

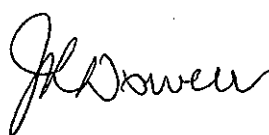
Advising results of a meeting this morning held with residents of Ross Street, University management and Police.

Residents had raised concerns of ongoing problems being experienced as a result of University students who traverse Ross Street, on foot and in vehicles, causing noise and safety concerns generally for the residents. A number of measures had been identified at the meeting that it is hoped will assist in reducing residents concerns. Police have noted vehicle related issues and will endeavour to include this area in ongoing patrols.

TAC21/10 It was agreed: That the above be noted.

Closure

This concluded the business and the meeting terminated at 10.40 am.



Chairperson



**Traffic and Emergency
Services Coordinator**

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, 9 MARCH 2010 AT 6.00PM.

Present

Mayor, Councillor Dowell; Councillors Battista, 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; Corporate Compliance Coordinator and the Personal Assistant to the General Manager.

41/10 **Apologies/
Leave of
Absence**

RESOLVED that a leave of absence be granted for Councillor Clough from 14-16 April 2010.

(Councillors Marks/Chant)

42/10 **Minutes**

The minutes of the Ordinary Meeting held on 9 February 2010 were confirmed.

(Councillors Chant/Marks)

Confirmation of the minutes of the Extra Ordinary Meeting held on 23 February 2010 were held over to the next meeting.

At this juncture Councillor Graham arrived at the meeting.

Disclosure of Interest

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

Report – Nielson Park Turfing

Nature of Interest: Current Director of Football Far North Coast.

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

Financial Assistance – Section 356

Nature of Interest: Current Director of Football Far North Coast.

Public Access Session

Richard Wake, Regional General Manager, Far North Coast Country Energy – Notice of Motion – Energy Efficient Street Lighting

Mr Wake spoke to plans by Country Energy to upgrade street lighting to a more efficient technology. He advised that tentatively Lismore was scheduled for the program in June – August 2011. He looked forward to working with Council on this program.

Carlo Borra – Report – Nielson Park Turfing

Mr Borra, Vice President of the Lismore Richmond Rovers Football Club advised that his club was willing to assist with the turfing of the field in terms of cash and labour. He spoke to past failures in seeding attempts and stressed the importance of the field being playable during the winter season.

Notice of Motions

Outdoor Areas – Smoke Free Policy

- 43/10 **RESOLVED** that Council prepare a comprehensive report on adopting a ‘smoke free public outdoor areas’ policy. The report should contain recommendations on; the scope of such a policy, signage requirements, enforcement, including possible penalties, community engagement processes and cost implications.

(Councillors Clough/Smith)

Voting against: Councillors Marks, Meineke, Chant and Graham.

(EF09/631:ED10/3084)

Energy Efficient Street Lighting

- 44/10 **RESOLVED** that Council write to the Chief Executive of Country Energy (Council’s Network Service Provider) requesting that negotiations between Council and his organisation regarding the installation of the most energy efficient street lighting be expedited.

(Councillors Clough/Yarnall)

(EF09/631:ED10/3515)

Reports

Nielson Park Turfing

- 45/10 **RESOLVED** that Council approve the transfer of funds from existing capital savings from both the Parks Projects Budget and the Urban Sports Facilities Fund to the sum of \$10,800 toward the turfing of Nielson Park Field E2.

(Councillors Chant/Marks)

(EF09/1031:ED10/3403)

Draft Access and Inclusion Plan 2010-2014

46/10 **RESOLVED** that:

1. Council endorse the exhibition of the draft Lismore City Council Access and Inclusion Plan, 2010 – 2014 for a period of 28 days.
2. At the conclusion of the public exhibition period that the draft Lismore City Council Access and Inclusion Plan, 2010 – 2014 be reported back to Council for final adoption.

(Councillors Houston/Battista)

(EF09/95:ED10/3176)

Goonellabah Sports and Aquatic Centre Energy Efficiency

47/10 **RESOLVED** that:

1. The report be received and noted.
2. Council access its CCP Implementation Fund to provide the capital cost of \$37,000 to expand the solar heating system at the Goonellabah Sports and Aquatic Centre.
3. Council investigate the provision of a photovoltaic cell system on the Goonellabah Sports and Aquatic Centre as part of the delivery plan and 2010/11 budget process.

(Councillors Ekins/Clough)

EF09/1801:ED10/3326

Tender T2010-22 – Recyclables Transport and Processing

A MOTION was MOVED that Council:

1. In accordance with Clause 178(1)(b) of the Local Government (General) Regulation, Council decline to accept any tenders for T2010-22 – Recyclables Transport and Processing.
2. In accordance with Clause 178(3)(e) of the Local Government (General) Regulation, Council resolve to enter into negotiations with Visy Pty Ltd to for T2010-22 – Recyclables Transport and Processing.
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:
 - (a) Council has already conducted a tender process and received an adequate response;
 - (b) The respondents to that process are capable of delivering the services that Council requires;
 - (c) 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;
 - (d) Those matters are not of a nature that the content or requirements of the tender would alter;

(e) A satisfactory outcome can be achieved through a negotiation process and there is no need to call for fresh tenders.

4. Authorise the General Manager be to enter negotiations and finalise a contract on behalf of Council.
5. Authorise the Mayor and General Manager to execute the Contracts, once finalised, on Council's behalf and attach the common seal.

(Councillors Graham/Smith)

An AMENDMENT was MOVED that prior to finalisation of Tender T2010-22 that Council approach adjoining neighbouring Councils through the North East Waste Forum to explore a larger regional collaboration.

(Councillor Clough)

The amendment lapsed due to want of a seconder.

48/10 **RESOLVED** that:

1. In accordance with Clause 178(1)(b) of the Local Government (General) Regulation, Council decline to accept any tenders for T2010-22 – Recyclables Transport and Processing.
2. In accordance with Clause 178(3)(e) of the Local Government (General) Regulation, Council resolve to enter into negotiations with Visy Pty Ltd to for T2010-22 – Recyclables Transport and Processing.
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:
 - (a) Council has already conducted a tender process and received an adequate response;
 - (b) The respondents to that process are capable of delivering the services that Council requires;
 - (c) 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;
 - (d) those matters are not of a nature that the content or requirements of the tender would alter;
 - (e) A satisfactory outcome can be achieved through a negotiation process and there is no need to call for fresh tenders.
4. Authorise the General Manager to enter negotiations and finalise a contract on behalf of Council.
5. Authorise the Mayor and General Manager to execute the Contracts, once finalised, on Council's behalf and attach the common seal.

(Councillors Graham/Smith)

Voting against: Councillor Clough

(T10/22:ED10/3267)

A FORESHADOWED MOTION was MOVED that that Council approach adjoining Councils through the North East Waste Forum to explore the possibility of establishing a regional MRF.

(Councillors Clough/Ekins)

The Mayor ruled the FORESHADOWED MOTION out of order.

Dissenting Vote

Councillors Clough and Ekins requested that their dissenting vote be recorded against the ruling of the Mayor.

Tender T2010-16 – Organics Shredding

49/10 **RESOLVED** that:

1. Council enter into a contract with Mulching Matters Pty Ltd for the supply of organics shredding services for the tendered price of \$17.30 per tonne for a period of two (2) years, with an option at Council's absolute discretion, to extend the contract for a further two (2) years.
2. The Mayor and General Manager on behalf of Council be authorised to execute the contract and attach the Common Seal of the Council.

(Councillors Meineke/Graham)

Voting against: Councillors Clough.

(T10/16:ED10/3296)

Tender T2010-21 – Supply of Mobile Crane

50/10 **RESOLVED** that Council:

1. Purchase from Terex Cranes a Franna AT-20 mobile crane at a cost of \$394,000 plus GST.
2. Sell by auction Plant No. 204, being a Franna AT-14 mobile crane.

(Councillors Chant/Marks)

(T10/21:ED10/3399)

Investments – February 2010

51/10 **RESOLVED** that 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.

(Councillors Smith/Yarnall)

(EF09/2209:ED10/3471)

At this juncture Councillor Smith left the meeting.

Committee Recommendations

Traffic Advisory Committee – 17 February 2010

52/10 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted.

(Councillors Graham/Marks)

(EF09/1963:ED10/3131)

At this juncture Councillor Smith 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 is hereby approved.

(Councillors Graham/Chant)

a) Representative Selection – Policy 1.4.10 (GL390.735.15)

Budget: \$1,100 Spent to date: \$1,068.00

Kalen Petrie of Richmond River High School has been selection to represent NSW/Australia at the 2010 Tokyo Youth Football Tournament on 22 April 2010 and is seeking financial assistance with the cost of his trip (C110/5716).

In accordance with policy.

\$356.00

b) Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (GL390.965.15)

Budget: \$11,000 Spent to date: \$9,087.94

Animal Right & Rescue \$22.73

Challenge Foundation \$202.36

Five Loaves \$164.73

Friends of the Koala \$34.18

Lismore Soup Kitchen \$6.36

LifeLine \$280.00

Saint Vincent De Paul \$74.18

Westpac Life Saver Helicopter \$33.64

Total \$818.18

In accordance with policy.

c) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)

Budget: \$300 Spent to date:\$751.45

Dunoon and District Sports & Recreation Club Limited requesting Council waive 100% of the development application and construction fees (\$2,007.80) associated with the ground improvements and installation of floodlighting at Balzer Park, Dunoon (C110/654, EF09/544).

Comment: The total project cost is estimated at \$70,000 of which \$20,000 has come from Council's Rural Sports Facilities Fund and \$30,000 from the State Government's Building Community Partnerships. The balance has been raised by the local community. In accordance with policy, a donation of 100% should apply, but considering Council has already donated \$20,000 to this project, a variation to policy in this situation is recommended.

Recommendation: In accordance with clause A2 of the policy, but acknowledging a sustainable contribution to this project has already been made, a reduced donation of 100% of the development application and construction fees apply to be funded from the Rural Sports Fund.

\$2,007.80

d) Miscellaneous Donations

Lismore City Library – Room Hire Charges

MISA Lifestyle Support Program requesting Council waive or radically reduce the room hire charges (\$302.50) for their use of a meeting room at the Lismore City Library for two hours per fortnight from 1 February to 30 June 2010 to facilitate lifestyle support groups.

Comment: If Council were to treat this request the same as regular community based hirers of the Lismore City Hall not charging an entrance fee, then in accordance with Policy 8.4.2 – Section 356 Donations, City Hall Rentals, a 25% reduction in hire charges would apply (C110/5034).

Recommendation: A donation of 25% of the rental charges apply.

\$75.63

Lifeline Northern Rivers is requesting Council waive hire fees at Oakes Oval for one day, Saturday, 5 June 2010, to hold their Charity Football Cup. Hire fees would total approximately \$790 for the event including Oval, Gordon Pavilion and Canteen hire (C110/4344).

Recommendation: It is recommended that hire fees be waived subject to the event organiser cleaning the Gordon Pavilion and removing all litter and waste from the facility. The lighting fee of \$144 per hour will still apply.

\$790.00

Ordinary Council Minutes

9 March 2010

Southern Cross Deaf Rugby Union is requesting Council waive hire fees of \$370 for Crozier Field plus lighting fees for a match with SCU Gold Coast on 20 March 2010 (C110/547).

Recommendation: It is recommended that the hire fees be waived subject to the event organiser cleaning the facility and removing all litter and waste. The lighting fee (\$51.50) will still apply.

\$370.00

An AMENDMENT was MOVED that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed is hereby approved.

(Councillors Clough/Ekins)

a) Representative Selection – Policy 1.4.10 (GL390.735.15)

Budget: \$1,100 Spent to date: \$1,068.00

Kalen Petrie of Richmond River High School has been selection to represent NSW/Australia at the 2010 Tokyo Youth Football Tournament on 22 April 2010 and is seeking financial assistance with the cost of his trip (C110/5716).

In accordance with policy.

\$356.00

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

Budget: \$11,000 Spent to date: \$9,087.94

Animal Right & Rescue \$22.73

Challenge Foundation \$202.36

Five Loaves \$164.73

Friends of the Koala \$34.18

Lismore Soup Kitchen \$6.36

LifeLine \$280.00

Saint Vincent De Paul \$74.18

Westpac Life Saver Helicopter \$33.64

Total \$818.18

In accordance with policy.

c) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)

Budget: \$300 Spent to date: \$751.45

Dunoon and District Sports & Recreation Club Limited requesting Council waive 100% of the development application and construction fees (\$2,007.80) associated with the ground

improvements and installation of floodlighting at Balzer Park, Dunoon (C110/654, EF09/544).

Comment: The total project cost is estimated at \$70,000 of which \$20,000 has come from Council's Rural Sports Facilities Fund and \$30,000 from the State Government's Building Community Partnerships. The balance has been raised by the local community. In accordance with policy, a donation of 100% should apply, but considering Council has already donated \$20,000 to this project, a variation to policy in this situation is recommended.

Recommendation: In accordance with clause A2 of the policy, but acknowledging a sustainable contribution to this project has already been made, a reduced donation of 50% of the development application and construction fees apply to be funded.

\$1,003.90

d) Miscellaneous Donations

Lismore City Library – Room Hire Charges

MISA Lifestyle Support Program requesting Council waive or radically reduce the room hire charges (\$302.50) for their use of a meeting room at the Lismore City Library for two hours per fortnight from 1 February to 30 June 2010 to facilitate lifestyle support groups.

Comment: If Council were to treat this request the same as regular community based hirers of the Lismore City Hall not charging an entrance fee, then in accordance with Policy 8.4.2 – Section 356 Donations, City Hall Rentals, a 25% reduction in hire charges would apply (C110/5034).

Recommendation: A donation of 25% of the rental charges apply.

\$75.63

Lifeline Northern Rivers is requesting Council waive hire fees at Oakes Oval for one day, Saturday, 5 June 2010, to hold their Charity Football Cup. Hire fees would total approximately \$790 for the event including Oval, Gordon Pavilion and Canteen hire (C110/4344).

Recommendation: It is recommended that hire fees be waived subject to the event organiser cleaning the Gordon Pavilion and removing all litter and waste from the facility. The lighting fee of \$144 per hour will still apply.

\$790.00

Southern Cross Deaf Rugby Union is requesting Council waive hire fees of \$370 for Crozier Field plus lighting fees for a match with SCU Gold Coast on 20 March 2010 (C110/547).

Recommendation: It is recommended that the hire fees be waived subject to the event organiser cleaning the facility and removing all litter and waste. The lighting fee (\$51.50) will still apply.

\$370.00

On submission to the meeting the AMENDMENT was DEFEATED.

Voting against: Councillor Clough.

53/10 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed is hereby approved.

(Councillors Graham/Chant)

a) Representative Selection – Policy 1.4.10 (GL390.735.15)

Budget: \$1,100 Spent to date: \$1,068.00

Kalen Petrie of Richmond River High School has been selection to represent NSW/Australia at the 2010 Tokyo Youth Football Tournament on 22 April 2010 and is seeking financial assistance with the cost of his trip (C110/5716).

In accordance with policy.

\$356.00

b) Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (GL390.965.15)

Budget: \$11,000 Spent to date: \$9,087.94

Animal Right & Rescue \$22.73

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Friends of the Koala \$34.18

Lismore Soup Kitchen \$6.36

LifeLine \$280.00

Saint Vincent De Paul \$74.18

Westpac Life Saver Helicopter \$33.64

Total \$818.18

In accordance with policy.

c) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)

Budget: \$300 Spent to date:\$751.45

Dunoon and District Sports & Recreation Club Limited requesting Council waive 100% of the development application and construction fees (\$2,007.80) associated with the ground improvements and installation of floodlighting at Balzer Park, Dunoon (C110/654, EF09/544).

Comment: The total project cost is estimated at \$70,000 of which \$20,000 has come from Council's Rural Sports Facilities Fund and \$30,000 from the State Government's Building Community Partnerships. The balance has been raised by the local community. In accordance with policy, a donation of 100% should apply, but considering Council has already donated \$20,000 to this project, a variation to policy in this situation is recommended.

Recommendation: In accordance with clause A2 of the policy, but acknowledging a sustainable contribution to this project has already been made, a reduced donation of 100% of the development application and construction fees apply to be funded from the Rural

Sports Fund.

\$2,007.80

d) Miscellaneous Donations

Lismore City Library – Room Hire Charges

MISA Lifestyle Support Program requesting Council waive or radically reduce the room hire charges (\$302.50) for their use of a meeting room at the Lismore City Library for two hours per fortnight from 1 February to 30 June 2010 to facilitate lifestyle support groups.

Comment: If Council were to treat this request the same as regular community based hirers of the Lismore City Hall not charging an entrance fee, then in accordance with Policy 8.4.2 – Section 356 Donations, City Hall Rentals, a 25% reduction in hire charges would apply (C110/5034).

Recommendation: A donation of 25% of the rental charges apply.

\$75.63

Lifeline Northern Rivers is requesting Council waive hire fees at Oakes Oval for one day, Saturday, 5 June 2010, to hold their Charity Football Cup. Hire fees would total approximately \$790 for the event including Oval, Gordon Pavilion and Canteen hire (C110/4344).

Recommendation: It is recommended that hire fees be waived subject to the event organiser cleaning the Gordon Pavilion and removing all litter and waste from the facility. The lighting fee of \$144 per hour will still apply.

\$790.00

Southern Cross Deaf Rugby Union is requesting Council waive hire fees of \$370 for Crozier Field plus lighting fees for a match with SCU Gold Coast on 20 March 2010 (C110/547).

Recommendation: It is recommended that the hire fees be waived subject to the event organiser cleaning the facility and removing all litter and waste. The lighting fee (\$51.50) will still apply.

\$370.00

Closure

This concluded the business and the meeting terminated at 8.05pm.

CONFIRMED this Thirteenth day of April 2010 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, 23 FEBRUARY 2010 AT 6.00PM.

Present

Mayor, Councillor Dowell; Councillors Battista, Clough, Ekins, Graham, Houston, Meineke, Smith and Yarnall, together with the General Manager; Executive Director Infrastructure Services; Executive Director Sustainable Development; Manager Finance; Strategic Planning Coordinator; Strategic Engineer Water and Sewer, Development Assessment Engineer, Corporate Compliance Coordinator and Communications Coordinator.

- 33/10 **Apologies/
Leave of
Absence** **RESOLVED** that an apology be received and accepted on behalf of Councillors Marks and Chant.
(Councillors Graham/Houston)

Disclosure of Interest

Councillor Graham Meineke declared a pecuniary conflict of interest in the following item:

Report – Draft Lismore LEP Amendment No. 38 and Planning Agreement -237 Gungas Road, Nimbin

Nature of Interest: Report relates to my client's development.

At this juncture Councillor Meineke left the meeting.

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:

Geoff Shearman – Report – Draft Lismore LEP Amendment No. 38 & Planning Agreement – 237 Gungas Road, Nimbin

Mr Shearman the owner of 237 Gungas Road spoke on the planning agreement with emphasis on the road works and the requirement for a bond. He requested a review on how the road works were to be calculated, preferring a per lot formula and a review of the bond and the form it could take.

At this juncture Councillor Meineke returned to the meeting.

Altering Order of Business

34/10 **RESOLVED** that the order of business be altered to debate the following matters raised during Public Access:

Draft Lismore LEP Amendment No. 38 & Planning Agreements – 237 Gungas Road, Nimbin.

(Councillors Yarnall/Battista)

At this juncture Councillor Meineke left the meeting.

Reports

Draft Lismore LEP Amendment No. 38 & Planning Agreement – 237 Gungas Road, Nimbin

Suspension of Standing Orders

35/10 **RESOLVED** that Standing Order be suspended to allow a Councillor briefing on this issue.

(Councillors Houston/Clough)

Resumption of Standing Orders

36/10 **RESOLVED** that standing orders be resumed.

(Councillors Clough/Smith)

37/10 **RESOLVED** that the terms of the draft Planning Agreement associated with draft LEP Amendment 38 for 237 Gungas Road, Nimbin remain unchanged, with the exception of the amendments agreed to by staff and the land owner and as detailed in points 3, 4 and 5 under the heading Land Owner Concerns in this report.

Section 375A Voting Record

Voting For: Councillors Dowell, Houston, Clough, Yarnall, Ekins and Smith.

Voting Against: Councillors Graham and Battista.

(EF09/1794:ED10/1933)

At this juncture Councillor Meineke returned to the meeting.

Southern Trunk Main Wastewater Project

A MOTION was MOVED that:

1. Council enter into a loan agreement with the State Government, providing \$6.0 million in interest free loans towards financing of the proposed Southern Trunk Main, in accordance with the Local Infrastructure Fund Program.
2. In accordance with Section 55 (3) of the *Local Government Act*, Council enter into a contract with NSW Public Works to provide project management services for pre-construction activities related to the Southern Trunk Main project.
3. The 2009/10-2012 Management Plan be amended to include a \$6.0 million loan from the Local Infrastructure Fund for the Southern Trunk Main.
4. The Division of Local Government be advised of the additional borrowing.
5. Council amend its *Strategic Business Plan for Wastewater Services* to increase the estimate for the proposed Southern Trunk Main.
6. The Mayor and General Manager be authorised to sign and affix the Council Seal to the loan agreement or any other documents deemed necessary to complete this resolution.

(Councillors Graham/Smith)

Suspension of Standing Orders

38/10 **RESOLVED** that Standing Order be suspended to allow to a Councillor briefing on this issue.

(Councillors Yarnall/Houston)

Resumption of Standing Orders

39/10 **RESOLVED** that standing orders be resumed.

(Councillors Graham/Yarnall)

40/10 **RESOLVED** that:

1. Council enter into a loan agreement with the State Government, providing \$6.0 million in interest free loans towards financing of the proposed Southern Trunk Main, in accordance with the Local Infrastructure Fund Program.
2. In accordance with Section 55 (3) of the *Local Government Act*, Council enter into a contract with NSW Public Works to provide project management services for pre-construction activities related to the Southern Trunk Main project.
3. The 2009/10-2012 Management Plan be amended to include a \$6.0 million loan from the Local Infrastructure Fund for the Southern Trunk Main.
4. The Division of Local Government be advised of the additional borrowing.
5. Council amend its *Strategic Business Plan for Wastewater Services* to increase the estimate for the proposed Southern Trunk Main.

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6. The Mayor and General Manager be authorised to sign and affix the Council Seal to the loan agreement or any other documents deemed necessary to complete this resolution.

(Councillors Graham/Smith)

Voting against: Councillors Battista and Ekins.

(EF09/2511:ED10/2869)

Closure

This concluded the business and the meeting terminated at 8.33pm.

CONFIRMED this Ninth day of March 2010 at which meeting the signature herein was subscribed.

MAYOR