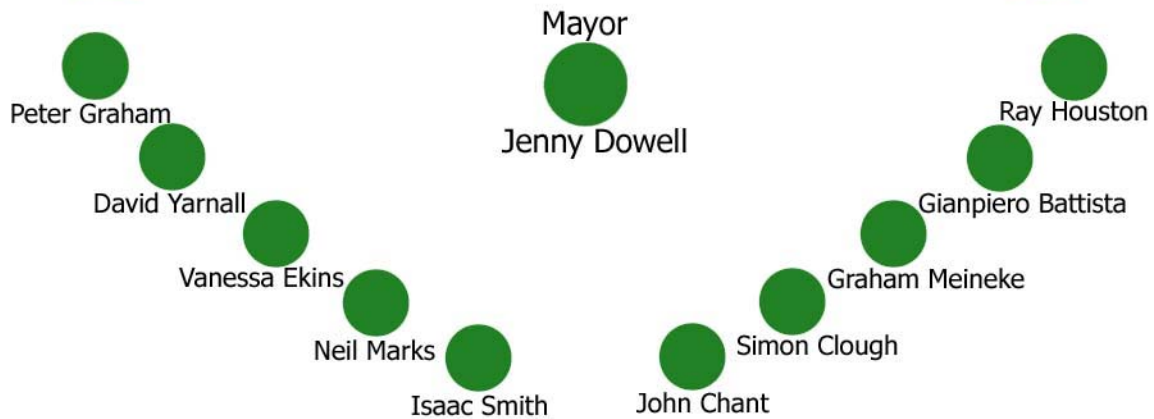


# Notice of Council Meeting



## Council

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, 43 OLIVER AVENUE GOONELLABAH on Tuesday, 12 October 2010 at 6.00pm.

Members of Council are requested to attend.

Paul O'Sullivan  
General Manager

5 October 2010



# Agenda

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1. Opening of Meeting and Prayer (Mayor)
2. Apologies and Leave of Absence  
Councillor Gianpiero Battista  
Councillor Graham Meineke
3. Confirmation of Minutes  
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4. Disclosure of Interest
5. Public Access Session  
Ms Gail Griffani - Report - DA2009/10 - Proposed Extractive Industry at 107 Mollys Grass Road, Tregeagle  
  
Ms Jan Pearson & Ms Jenny McInnes- Report - DA2009/10 - Proposed Extractive Industry at 107 Mollys Grass Road, Tregeagle
6. Public Question Time
7. Condolences
8. Mayoral Minutes
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9. Notice of Rescission Motions
10. Notice of Motions
  - 10.1 Hollingworth Creek Bridge ..... 6
  - 10.2 Renaming the Lismore Airport ..... 7
11. Altering Order of Business (Consideration of altering the order of business to debate matters raised during Public Access)
12. Reports
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  - 12.2 Draft Local Environmental Plan (LEP) ..... 45
  - 12.3 DA2010/316 - Nimbin Skate Park ..... 70
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  - 12.7 Tender No. T2010-26 - Lease of Cafe at Lismore Regional Art Gallery ..... 109
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# Lismore City Council Community Strategic Plan 2008 - 2018



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

Corporate Foundations	Outcomes
<b>Efficient Use of Council Resources</b>	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
<b>Engage With the Community</b>	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.
<b>Promote a Constructive Corporate Culture</b>	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.
<b>Whole of Council Corporate Planning</b>	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.
<b>Providing Excellent Customer Service</b>	That our primary focus is to understand and respond to the needs of the community we serve.

# Mayoral Minutes

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## Mayoral Minute

**Subject**                      **Position of General Manager**

**TRIM Record No**            BP10/549:EF10/4

That Council:

1. Acknowledges receipt of the General Manager's letter of 30 September 2010 (attached) in which he advises the Mayor that he will not seek a renewal of his contract that expires on 30 June 2011.
2. Delegate to the Mayor, responsibility for preparing a report for the November Ordinary meeting on options for recruitment of a new General Manager.

### Background

Paul O'Sullivan commenced as General Manager of Lismore City Council in August 2002. His current five year contract expires on 30 June 2011.

In accordance with that contract, the General Manger was asked to advise the Mayor by 30 September 2010, nine months prior to expiry, if he wished to seek a renewal of that contract.

Mr O'Sullivan advised the Mayor by letter on 30 September 2010 that he had decided not to seek a renewal. He also provided reasons related to his current good health and the need for recruitment and a period of adjustment of a new General Manager at a time that does not coincide with the election of a new Council.

A report on options for recruitment is an appropriate first step in planning for a new General Manager for this Council.

### Mayoral Comment

Mr O'Sullivan has been serving this Council with integrity, skill and commitment for the past eight years. He has undertaken to continue to do so for the remaining nine months of his contract. In that period, he has also offered to assist with the process of recruitment for his replacement. I appreciate that offer, and know that Mr O'Sullivan will continue to perform his duties with his usual diligence while assisting Council to undertake its most important function, the appointment of its General Manager.

It is important for Council to examine options for recruitment of a new General Manager and to determine the most appropriate process before the end of this year. I would anticipate that the recruitment process will commence early in 2011.

In my role as Mayor, I have a strong and positive working relationship with the General Manager. I deeply value the professionalism Mr O'Sullivan exhibits in all aspects of his role. His advice is appreciated as is the opportunity I have to discuss a wide range of Council interests.

At an appropriate time, I look forward to an occasion when Council can wish Mr O'Sullivan a very happy retirement, but in the interim, there are nine months of the challenges of Council to be met and managed with commitment and expertise. I have every confidence that Mr O'Sullivan will continue to fulfill his role with the high standards we have come to expect of him.

### Attachment/s

1. Paul O'Sullivan's Contract - 30 June 2011

30<sup>th</sup> September 2010.

Councillor J Dowell,  
Mayor,  
Lismore City Council.

Dear Councillor Dowell,

My 5 year contract of employment with Lismore City Council expires on 30<sup>th</sup> June 2011 and the terms of that contract puts the onus on me to inform Council of my future intentions. The relevant contract clause is expressed thus –

*5.1 At least 9 months before the termination date (or 6 months if the term of employment is for less than 3 years) the employee will apply to Council in writing if seeking re-appointment to the position.*

Having given the matter deep consideration I have concluded that for a number of reasons I will not seek a renewal of my appointment. Those reasons include that I would not contemplate working on for 5 years, I value my current good health and in my family's interests I wish to take full advantage of that precious status. With consideration for the Council's position, I recognise that the recruitment of a new General Manager in 2011 will impose a period of adjustment for the organisation as a whole. Being mindful of that impact and with the Council term concluding in 2012, now is an appropriate time for Council to appoint a General Manager for the longer term.

I readily acknowledge the benefits of employment with Lismore City Council and the supportive professional environment I have experienced as General Manager here since August 2002. Accordingly, the recruitment process will undoubtedly attract a wide choice of suitable candidates and any advice or assistance I can provide in that regard will be gladly given. It goes without saying that over the next 9 months I will continue to devote myself to the task of fulfilling my current role, as expected by the Council.

I look forward to another occasion when I will be able to express my personal thanks to all those who have helped me do my job.

Yours faithfully,



Paul G. O'Sullivan  
General Manager

## Mayoral Minute

**Subject**                    **Telstra Call Centre Closure**

**TRIM Record No**        BP10/546:EF10/4

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That Council:

1. Write to David Thodey, Telstra CEO, condemning the decision to close the Grafton Call Centre and seeking assurance that the Lismore Call Centre will be maintained.
2. Request the General Manager to prepare a report reviewing our telecommunication accounts and available alternative providers.
3. Support a recommendation by Clarence Valley Council to the next meeting of NOROC encouraging NOROC members to review their telecommunication accounts.

### Background

On Tuesday, 14 September 2010, Telstra announced plans to close the Grafton Call Centre resulting in a loss of 108 jobs from the Clarence Valley. All three spheres of Government, Grafton businesses and the community lobbied Telstra to review and reverse this decision.

The closure is predicted to have a \$1 million impact on the Clarence Valley, one of the most disadvantaged areas of Australia. The decision to relocate the 108 jobs to Brisbane and Sydney will directly affect 250 residents and may result in further job losses and community impacts.

Telstra confirmed on Tuesday, 28 September that it will close the Grafton Call Centre in November.

### Mayoral Comment

The relocation of these 108 Call Centre jobs is counter to all efforts to decentralise services and support regional Australia especially in telecommunications, a service readily delivered by experienced staff in regional areas.

As a member of NOROC, Lismore City Council should support Clarence Valley Council in its condemnation of Telstra's decision. The Lismore Call Centre in Goonellabah employs approximately 180 people. This community would be greatly affected if our Call Centre was to close. Council needs to seek assurance from the Telstra CEO that our Call Centre will be maintained.

A review of this Council's telecommunications accounts would allow Council to examine the cost-benefits of selecting an alternative provider.

It is expected that Clarence Valley Council will recommend to NOROC that member Councils review their telecommunication accounts. This Council is encouraged to support that recommendation.



# Notice of Motions

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## Notice of Motion

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

That Council takes vigorous action to encourage the Roads and Traffic Authority to rectify the major traffic congestion caused by the Hollingworth Creek Bridge including:

- Letters to State and Federal members as well to the Minister and shadow Minister for Transport;
- Delegations by Council to the RTA Regional Manager, Grafton; and
- If necessary delegations to NSW Minister for Transport, the RTA Head Office, and the shadow Minister for Transport.

### Councillor Comment

As one of the major gateways to the regional centre of Lismore, Hollingworth Creek Bridge is hardly welcoming for those unlucky enough to arrive during the morning or afternoon peak period.

Hollingworth Creek Bridge is on SH16 Bruxner Highway and is the responsibility of the NSW Roads and Traffic Authority. Council has been discussing this issue with the RTA for many years involving delegations to the RTA by at least three Mayors. I believe it's again time to clearly and strongly make the community's case for the upgrade or replacement of this bridge.

### Staff Comment

#### **Executive Director – Infrastructure Services**

The RTA has commissioned Council to undertake considerable preconstruction planning for this project including; traffic studies and survey work. However, there is no definite funding commitment to undertake construction work at this time.

Therefore this Notice of Motion is fully supported.

(BP10/500:EF10/4)

## Notice of Motion

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

That Council investigate the option of renaming Lismore Airport: Lismore-Nimbin Airport.

### Councillor Comment

I believe renaming the airport Lismore-Nimbin would be a win-win outcome. Nimbin is the second most visited destination in regional NSW and any visitors we can attract through Lismore would be of benefit to the city. Nimbin will also benefit from having a higher profile and the acknowledgement that it is a major tourist attraction.

### Staff Comment

#### **Tourism Services Coordinator**

There are both positive and negative implications from a tourism perspective. Traditionally the Lismore Regional Airport is primarily a corporate or business airport with less than 10% of its passengers identified as tourists or visitors. This contrasts with the Ballina/Byron Airport where the majority of its passengers would be considered tourists or visitors.

Renaming the airport could be seen as a positive for tourism branding purposes due to Nimbin's iconic destination status, together with creating more awareness and opportunities for closer links between Lismore and Nimbin.

The negatives include the relatively small number of tourists flying into Lismore, the distance to Nimbin (30 minute drive) and lack of public transport available for visitors from the airport to Nimbin.

An alternative to renaming the airport could be to write to Regional Express Airlines requesting for the name Lismore (Nimbin) to be applicable in online searches for flights. This would be a positive and generate more awareness to visitors that Lismore airport is the gateway to Nimbin.

(BP10/547:EF10/4)

# Reports

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# Report

<b>Subject</b>	<b>DA2009/10 - Proposed Extractive Industry at 107 Mollys Grass Road, Tregeagle</b>
<b>TRIM Record No</b>	BP10/416:DA09/10-02
<b>Prepared by</b>	Development Assessment Officer (Planning)
<b>Reason</b>	Request by Council that the matter be brought to Council for determination
<b>Community Strategic Plan Link</b>	Provide Sustainable Land-use Planning

## Overview of Report

A Development Application (DA) has been lodged with Council for the proposed extractive industry (basalt column) at 107 Mollys Grass Road, Tregeagle. The application has been called up to Council by two Councillors for determination in accordance with Council policy. The main issues arising from the assessment of the proposal relate to potential noise and traffic impacts, and the extent to which these matters comply with Council's planning controls. Numerous submissions have been received which have been considered as part of the assessment of this application. The application is recommended for approval subject to appropriate conditions of consent.

## Background

The development site is at 107 Mollys Grass Road, Tregeagle, Lot 2 in DP 626717. The site is on an existing agricultural property. The development application is designated development under the EP & A Act and Regulations, and was lodged on 8 January 2009 and subsequently notified and advertised in accordance with Lismore Development Control Plan (DCP) Part A Chapter 10 – Notification and Advertising of DAs. The application was re-notified to all adjoining owners and submitters in July 2010 as a courtesy to advise that additional information was available to view relating to the application. This was not a re-exhibition as the proposed development had not changed in any way.

The application has been the subject of several requests for information from the applicant in order to enable appropriate responses to the matters arising from submissions and the detailed assessment of the proposal.

On 25 November 2009 requests by two Councillors were received in writing to the General Manager that the application be submitted to Council for consideration and determination, the matter is now reported to Council in accordance with Council policy.

## Description of proposal

The application proposes the land use of 107 Mollys Grass Road, Tregeagle as an "extractive industry".

*Extractive industry* means:

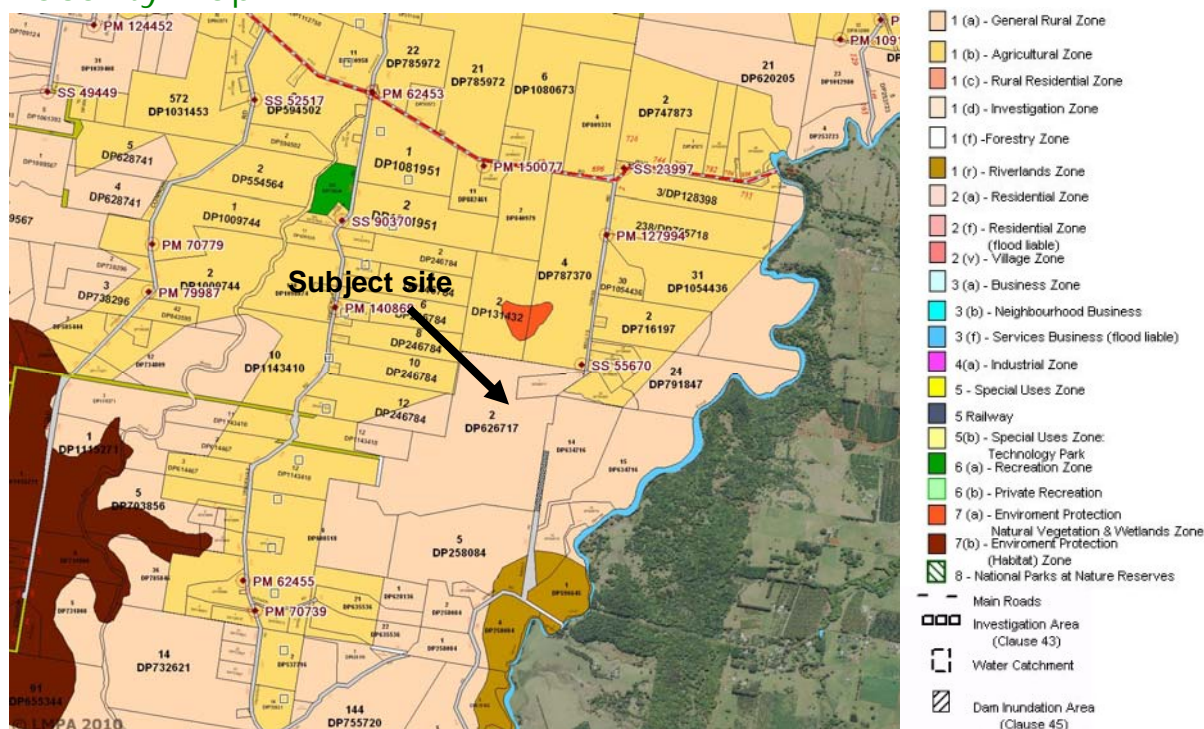
- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

The extractive industry proposes to extract basalt column blocks for use in rock retaining wall works and general landscaping. Generally, the proposal includes the following works:

1. Removal of negligible overburden material and weed species;
2. Removal of basalt columns using an excavator and rock grab;
3. Transport of columns to project site using a 9 cubic metre tip truck;
4. Erosion and sedimentation control works
5. Progressive site rehabilitation involving establishing finished quarry face levels

It is proposed to extract a maximum of 2,500m<sup>3</sup> of basalt column per annum for a period of seven (7) years by the owner as sole operator of the quarry. The extraction and haulage of the material is to be limited to a maximum of 5 truck movements per day on week days only between the hours of 7.30am to 4.00pm and limited to 300 truck movements per annum.

## Locality map



**Map 1 - Locality Plan shows subject site and the town planning zones.**

## Statutory controls

Lismore LEP 2000

- Zoning – 1(a) General Rural
- Item of Heritage – No
- In vicinity of Heritage Item – No
- Conservation Area – No

Draft Lismore LEP 2010

Environmental Planning & Assessment Act 1979

Designated Development

SEPP No. 33 – Hazardous and Offensive Development

SEPP No. 44 – Koala Habitat Protection

SEPP No. 55 – Remediation of Land

SEPP (Mining Petroleum and Extractive Industries) 2007

Lismore City Council

Meeting held 12 October 2010 - DA2009/10 - Proposed Extractive Industry at

107 Mollys Grass Road, Tregagle

North Coast REP  
S94 Contributions Plan – Nil

## Policy controls

Lismore Development Control Plan

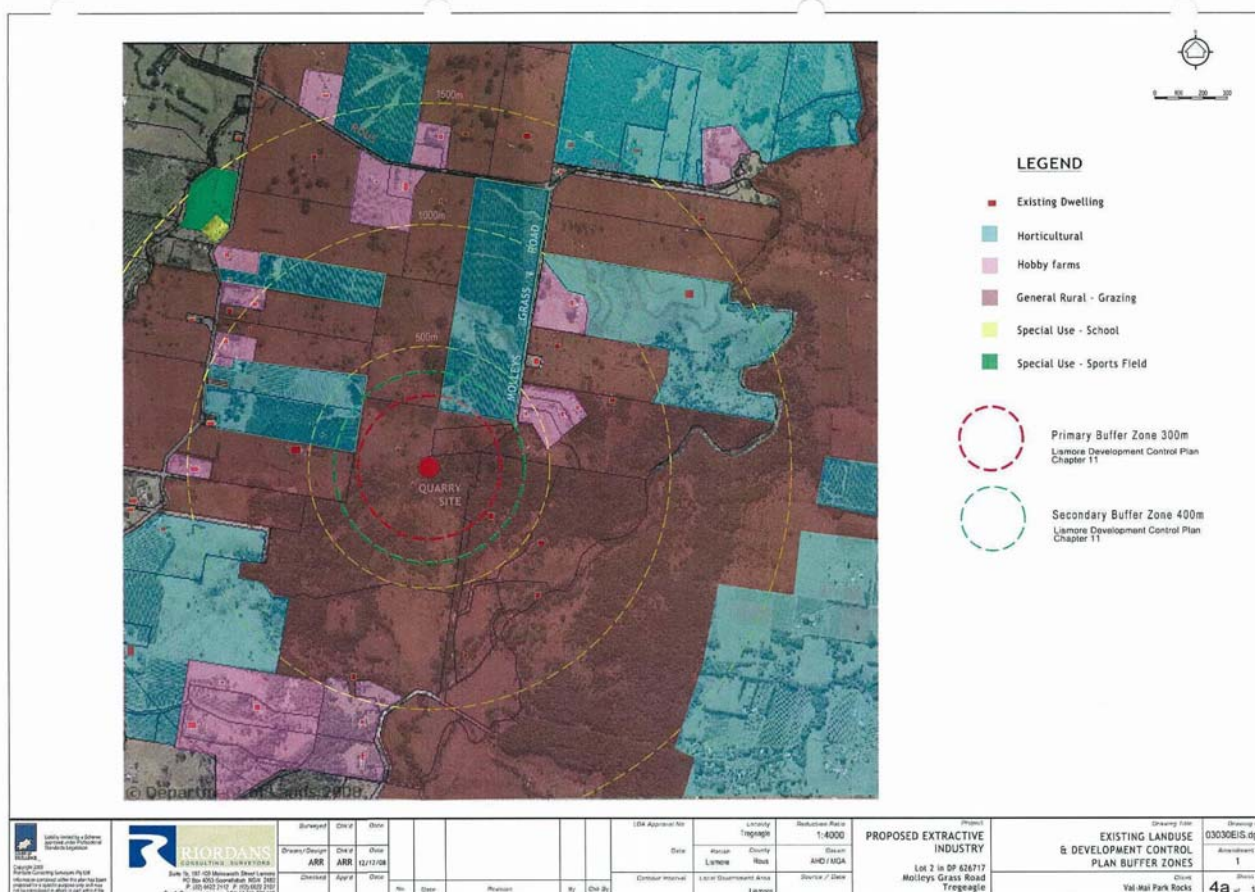
5.17.8 Sustainability, Viability & Amenity of Rural & Urban Land.

## Description of locality

The proposed quarry site forms part of an existing agricultural property with an area of 57.51ha, used for cattle grazing and intensive horticulture with the planting of NSW Christmas bush. The site is surrounded by other grazing properties, macadamia plantations and small rural lots with dwellings on the eastern side of Mollys Grass Road.

Within 1km of the existing quarry the surrounding landuses are (refer Map 2):

Direction	Zoning	Surrounding land use within 1km
<b>North</b>	1(a) General Rural, predominantly 1(b) Agriculture & 7(a) Environment Protection	<ul style="list-style-type: none"> <li>▪ Macadamia plantation surrounding the Davis Scrub rainforest remnant</li> <li>▪ Small rural holdings with dwellings</li> <li>▪ Small rural holdings with dwellings either under grazing or macadamia plantings.</li> </ul>
<b>South</b>	1(a) General Rural and 1(r) Riverland	<ul style="list-style-type: none"> <li>▪ Small rural holdings with dwelling, currently under grazing and/or dwellings on concessional allotments</li> <li>▪ Larger rural holdings used for grazing.</li> </ul>
<b>East</b>	1(a) General Rural and 1(b) Agriculture	<ul style="list-style-type: none"> <li>▪ Small rural holdings with dwellings, currently under grazing and/or dwellings on concessional allotments</li> <li>▪ Larger rural holdings used for grazing</li> <li>▪ Boundary of LGA with Ballina Shire Council.</li> </ul>
<b>West</b>	1(a) General Rural and 1(b) Agriculture	<ul style="list-style-type: none"> <li>▪ Small rural holdings with dwelling, currently under grazing and/or dwellings on concessional allotments</li> <li>▪ Larger rural holdings used for grazing or macadamia / horticultural plantings.</li> </ul>



Map 2 – Surrounding land uses

### Relevant Development History

Development history applying to the subject land is as follows:

DA/BA No.	Proposal	Approved/Refused/Withdrawn
DA82/2001	Rural consolidation	Approved 5 February 1982
BA92/237	New building	Approved 8 May 1992
DA92/132	Detached house	Approved 6 April 1992
BA97/169	Dwelling first-storey addition	Approved 7 April 1997

Relevant history of activity on the subject site is as follows:

- 5 February 2003 response to report of unauthorised land use at 107 Mollys Grass Road, Tregear of extraction industry for the removal of columnar rock from the property by site visit and interview by Council’s planning staff.
- 7 February 2003 issue of a Notice of Intention to give an Order No. 1 to cease using the premises for the purpose specified.
- 10 February 2003 response by Solicitors for the owner advising that their clients would not remove any further rock and a development application would be prepared.



Council has received and dealt with complaints over the last two years in relation to activities on the subject property. In summary, these complaints related to noise, vehicle movements from the site and activities being undertaken by the property owner. Investigation of these complaints were undertaken, and identified the need for further action to be taken by Council at the time. The property owner has undertaken removal of camphor laurel trees and weeds, and as well as rock removal for in preparation for agricultural planting. Rocks from the surface of the ground were stockpiled within the site and subsequently removed. This activity was not related to the quarry. The property owner grows Christmas bush for commercial purposes, and also undertakes contracting works with his truck.

## Internal Referrals

### Building

No objections have been raised to the proposed development and there are no building issues to be addressed.

### Environmental Health

#### Noise

The Addendum for Internal Haulage Route Noise Impact Assessment dated 23 May 2010 and the updated Noise Impact Assessment dated 15 June 2010 (NIA), both prepared by Ambience Audio Services, have been considered. The report identifies the existing background noise level in this locality as being 32dBA.

The NIA has been prepared in accordance with the principles contained within the NSW Industrial Noise Policy. The report advises that the quarry will be a one person operation only. The hours of operation are to be day time hours and 7:30am to 4:00pm Monday to Friday only. The NIA sets a Project Specific Noise Level (PSNL) of 36dBA at sensitive users which can, except for some haulage activities near 109 Mollys Grass Road (MGR) (4.3dB(A) above PSNL), be complied with following the implementation of the recommended noise control measures. These measures include the construction of noise attenuation bunds in two locations along the internal haulage road. The general compliance with the PSNL is predicated amongst other things on the use of the Hitachi ZX120 excavator with rock grabber and other matters that are detailed in the NIA and in the reports recommendations. The NIA advises that the *Environmental Criteria for Road Traffic Noise* (ECRTN) criteria are also satisfied.

There is some difference (~7dB(A)) between actual Laeq15 measurements of operational quarry noise at measured receivers and noise estimations from measurements taken near quarry operations with distance attenuation applied. This discrepancy between the two (2) measurements suggests that the extensive vegetation that exists between the worked quarry operation area and the residential receivers provides some attenuation of the quarry noise. For the purpose of this application the calculation used in the NIA to estimate the noise reduction due to the extensive vegetation is considered to be reasonable. This reduction may also be conservative.

From the Traffic Assessment Report there are proposed to be 300 rock carting return trips per year and 6 float shifts. This equates to an average of ~6 trips per week on an annualised basis. The proponent proposes a maximum of five (5) loads on any one day but has not stipulated a maximum number per week. The NIA includes an assessment of noise impacts from truck haulage movements on the internal road system and entering Mollys Grass Road (MGR). The measurements indicate that with attenuation works installed that noise levels due to truck haulage activities at 109 MGR will be 4.3dB(A) above the PSNL. The consultant states that "*other receivers are not likely to be exposed to significant noise levels*". When the truck enters MGR it will satisfy the ECRTN traffic noise criteria which are a much less onerous standard.

This increase of 4.3dB(A) is for laden truck haulage movements and is not excessive and will occur infrequently (proposed to be a maximum of 5 return haulage trips per day). In isolation of intrusive noise considerations the INP in *Table 2.1 Amenity Criteria* sets an acceptable noise level of 50dB(A) for day time hours for residential receivers in rural noise amenity areas. This 50dB(A) is significantly higher than the PSNL of 36dBA. The number of truck haulage movements is not to exceed five (5) laden loads on any one day.

The EIS information discusses the extractive industry as a small scale proposal around a one person operation. The truck movements are of limited duration and the potential exposure above the PSNL would be for several minutes per load only and most audible in the area immediately adjoining the access to MGR. As discussed earlier the truck haulage noise will comply with the standards for road traffic noise once the truck accesses MGR. This increase in noise level would likely be below other typical agricultural noise levels that could be expected from agricultural activities that can be lawfully carried out without consent in the neighbourhood.

For these reasons it is considered that this increase above the PSNL for truck haulage movements in the vicinity of 109 MGR should be accepted. The key impact of this noise will be at no. 109 MGR with considerably reduced or no impact at other receivers. The owner of 109 MGR has submitted a letter of support for the development.

In order to keep the quarry operations at a small scale operational level maximum haulage limits will need to be set in the conditions of any development consent.

From the details contained in the NIA it appears that noise from the development can be managed to have minimal impact on receivers. Recommendations have been included in the NIA and appropriate conditions will be imposed on any consent to ensure noise is managed to meet the requirements of the NIA.

### **Dust suppression**

The main potential for dust impacts on neighbouring premises is from haulage activities. This may be particularly so in vicinity of 109 MGR. This matter can be adequately addressed through the imposition of appropriate conditions.

### **On-site sewage management**

The application information has been reviewed and advises that the operation of the quarry is to be a one person operation. This person is the owner occupier of the land so the amenities in the existing dwelling are to be used. This is considered to be satisfactory for this one person operation.

### **Waste management**

Minimal waste will be generated and will be disposed of properly. Appropriate conditions will be nominated for any development consent.

### **Other matters**

A Extractive Industry Management Plan (EIMP) will need to be prepared to manage the quarry operations and can include noise management and including the implementation of the recommendations of the NIA, erosion and sediment controls, dust management, protection of large figs and associated native vegetation, quarry rehabilitation and environmental monitoring information. This matter is a requirement of Lismore Development Control Plan – Chapter 18 and can be taken up conditionally and has been alluded to in the application (EIS).

### **Conclusion**

From the information provided it would appear that the proposed extractive industry can operate within acceptable environmental health parameters. Appropriate conditions will be nominated to incorporate relevant compliance provisions into any consent.

## Social Planner

While the proposed quarry will no doubt affect the amenity of some local residents by way of increased noise and traffic, the proponents have considered mitigating strategies for noise, traffic movements and road safety. The overall potential Social Impact therefore is medium in intensity and duration (7 years) for local residents and low for the Local Government Area.

## Water and Sewer

No objections raised to the proposed development and no water and sewer issues need to be addressed.

## Ecology

Further information and detail was requested from Greenloaning Biostudies Pty Ltd on flora and fauna issues to determine the potential impact from the proposed quarry operations. This information was submitted by the applicant and proposed conditions on consent subsequently recommended. The conditions relate to a detailed Vegetation Management Plan, retention of trees and weed management plans.

The assessment by Greenloaning Biostudies Pty Ltd adequately demonstrated that the removal of one mature and a number of smaller individuals of Arrow Head Vine on the disturbed bench along the top of the proposed quarry will not have a significant impact on the local population of the species. Similarly, for the lowland rainforest EEC and koala habitat, the assessment demonstrated there would be no significant impact. A Species Impact Statement is therefore not required for the proposed development.

The proposed quarry activity will have no detrimental impact on the Davis Scrub as the macadamias planted around this area provides a buffer to the property / quarry and there will be no significant or adverse impact on this forest from the proposal such as changes to light levels, noise, vibration or dust emissions or weed dispersal, due to the nature of the proposed quarrying activity

There is no core koala habitat affected by the proposal and Greenloaning Biostudies Pty Ltd has established that the proposal will not have any other impacts and no further assessment is required. It is acknowledged that additional traffic movement increases the potential for koalas to be injured on roads in the area, however, koalas move mainly at night when the quarry truck will not be operating. No Koala food trees will be removed by the proposal with vegetation removal restricted to relatively recent re-growth dominated by weeds of the quarry floor and face.

The removal of rocks from the site will have minimal impact on reptile species in the vicinity as they are likely to seek refuge in adjoining areas during disturbance and the assessment determined there are no threatened reptile species likely to be affected. The quarry site itself is already highly disturbed with isolated vegetation remaining on the top shelf of the quarry which is to largely be protected under the requirements of the Vegetation Management Plan.

Migratory birds such as signatory species under the JAMBA (Japan-Australia Migratory Bird Agreement) and CAMBA (China-Australia Migratory Bird Agreement) agreements are unlikely to be impacted by the quarry as they are generally birds associated with wetlands and inter-tidal areas.

## Engineering/Traffic/Stormwater Drainage

Stormwater drainage, sedimentation and erosion issues can be addressed by the imposition of appropriate conditions of consent to ensure no detrimental impact occurs from the proposed quarry operation.

The issue of the intersection of Mollys Grass and Rous Road was discussed with the applicant and concern expressed with regard to sight distance at this location. The applicant proposed that vehicles exceeding 4.5 tonnes be required to make left turn in / left turn out only at this intersection and that a merge lane from Mollys Grass onto Rous Road would be constructed by the owner should consent be granted for the proposal. The matter was referred to the Traffic Committee for their consideration and the following Minute referred to Council for its ratification at the Ordinary Meeting of 13 October 2009:

“Council’s Development Engineer Mike Perkins was present for this item. Council has received an application for a proposed small quarry operation off Mollys Grass Road. As a result of safety concerns at the intersection of Mollys Grass Road and Rous Road and proposed treatments which include the provision of left in left out, the matter has been referred to the Committee for comment. Whilst it would be unreasonable to expect that all traffic entering or leaving Mollys Grass Road should be left in left out, regulatory signage specifically for heavy vehicles limiting their movements to left in and left out is seen as imperative largely due to the poor alignment of Rous Road on the approach from the east. Part of the proposal also includes the provision of a left turn slip lane onto Rous Road and this would be supported, however in the absence of any further earthworks to improve sight of oncoming vehicles from the east the proposal in general should not be supported unless further works are carried out. The attached report from a consultant indicates that with minor benching of 20m of the verge of Rous Road, sight distance would be improved to a more acceptable level. It was suggested that if Council was to approve the proposal then a heavy vehicle management plan should be developed by the quarry owner as part of any conditions of operation. The RTA has advised that a ‘Left turn only’ with a supplementary plate ‘Vehicles over 4.5 tonnes’ erected on Mollys Grass Road and a ‘No right turn’ with a supplementary plate ‘Vehicles under 4.5 tonnes Excepted’ erected on Rous Road for east bound traffic would ensure heavy vehicle movements operated as intended. The actual weight of 4.5 tonnes could be varied to target a higher quarry vehicle weight.

**B09-9:5 It was agreed:** that the Committee support the proposed quarry provided the above conditions are part of any approval. (C109/14101:DA09/10:R5302)

As expressed by numerous submissions it is acknowledged that this intersection has been constructed with inadequate sight distance. With the additional heavy truck haulage to a total of 300 truck movements per annum the question arises as to whether it would be considered reasonable to require the upgrading of this intersection as a condition of consent. The proposed “left turn in / left turn out” with construction of a merge lane was considered to be an appropriate compromise in the circumstances, as referred to in the Traffic Committee minutes above.

However, the RTA in a letter to Council dated 26 July 2010 (in response to Council’s notification the proposed traffic arrangements reflecting the left turn in/left turn out arrangement at the Rous Road intersection) have recommended consideration be given to the intersection being upgraded for both left and right-turning traffic.

Having consideration of the above options for intersection improvements required to deal with quarry traffic movements, it is clear that the left turn in/left turn out requirement could be undertaken at considerably less cost than the full intersection upgrade recommended for consideration by the RTA. These comparative costs are not a relevant consideration for this DA. The issue that must be addressed is what standard would be reasonably required to ensure that the intersection can safely cope with quarry traffic movements.

The scale of this quarrying activity is relatively small, and the number of truck movements reflects this scale of operation. It is important to note that the quarried material is transported to the Gold Coast region and locally for processing/sale.

Council's Development Engineer advises that the applicant can achieve the objectives of the Traffic Committee and the issues raised within the RTA recommendations by requiring the applicant to construct an intersection complying with the RTA "Road Design Guide" with the following inclusions:

- No right turn signs be erected on Rous Road for vehicles under 4.5t excepted
- Acceleration and deceleration lanes to be designed and constructed in accordance with RTA "Road Design Guide"
- Site benching to be provided in accordance with the consultant's recommendations.

The crest located at chainage 650 on Mollys Grass Road (i.e. the crest of the hill) has inadequate sight distance. To allow for the safe passing of trucks and vehicles the applicant would be required to widen Mollys Grass Road to two lanes for a total distance of approximately 300 metres across this crest. This section of road must be line marked with a double line and signed appropriately.

Following the consideration by the Traffic Committee to the change in traffic arrangements the applicant commissioned further additional information relating to the pavement of Mollys Grass Road, which was received in May 2010. This information showed that the pavement was capable of coping with the additional haulage traffic generated by the quarry. Further information was requested from the applicant relating to the pavement width and particularly in relation to the crest referred to previously from the intersection with Rous Road.

The subsequent information received and reviewed shows that the formed pavement width varies from 3 metres to 5.5 metres and that the shoulders with gravel covered with grass have an average width of 1.0 metre. On most of Mollys Grass Road this gives adequate area for traffic to pull over onto the verges and allow passing. The applicant has proposed works on the crest approximately 500 metres from the intersection with Rous Road and additional works (as referred to previously) will be required in addition to those proposed by the applicant as a condition on consent to ensure an adequate and reasonable level of safety for all road users.

Lismore Development Control Plan Chapter 18 – Extractive Industries does not give specific standards for secondary haulage routes for quarries extracting less than 5000m<sup>3</sup> per annum. However, given the scale of the quarry and the existing sealed road pavement it is considered appropriate to accept Mollys Grass Road as a secondary haulage route. Quarries of a similar annual extraction rate have been approved in the past on roads such as Back Creek Road, Borton Road and Whitney Road that are narrow gravel roads.

Council's Development Engineer advises that although the applicant has provided evidence that the road is of adequate width and structural capacity, Mollys Grass Road will be subject to heavy loads on the outer edge of the pavement.

As this part of the pavement is often subject to higher moisture contents, heavy loads can result in wheel rutting and edge breaks. In the event of increased road maintenance costs associated with the increase in heavy traffic resulting from this development it is suggested that Council require the applicant to maintain Mollys Grass Road to the current pre-developed standard for the duration of the operation of the quarry.

Furthermore, to ensure compliance, it has also been recommended that Council require the developer to lodge an existing condition report on Mollys Grass Road prior to commencing quarrying activities, and an unconditional bank guarantee to the value of \$20,000, which if not called up by Council, shall be returned to the applicant upon cessation of quarrying activities.

In relation to the concerns raised by residents regarding the need for traffic to pass on Molly's Grass Road being a single lane road, the following comments are provided:

- The bitumen pavement is supported by grassed gravel shoulders (Carriageway Investigation – Stephen P McElroy and Assoc)
- Total daily traffic on Molly Grass Road is 98 vpd or 50 vpd excluding Macadamia traffic (Traffic Assessment report – Stephen P McElroy and Assoc)
- On the average the quarrying operation will amount to 1 truck per day traffic out of the site. (Traffic Assessment report – Stephen P McElroy and Assoc). This amounts to 1% of the traffic volume.
- The nut farm contributes 48 vpd during harvest traffic (Traffic Assessment report – Stephen P McElroy and Assoc). 1 truck per day (quarry) amounts to 2% increase in heavy vehicles (during harvest).
- The crest has been identified as an area of concern. This will be conditioned to be widened either side of the crest. The crest is located at chainage 650.
- Table 4.1 “Traffic Lane Widths for Undivided Sealed road” (Carriageway Investigation – Stephen P McElroy and Assoc) states for 1-150 design traffic volume a single lane of 3.5m is required
- A risk assessment for a vehicle having to take evasive action while passing a truck reveals a low risk.

As a result of the above matters, it is concluded that subject to appropriate conditions of consent, road safety matters can be adequately addressed by appropriate conditions.

## External Referrals

### RTA

The application was referred to the RTA for comment in accordance with the provisions of the SEPP (Mining Petroleum Production and Extractive Industries) 2007. The RTA has provided comments regarding pavement width for Mollys Grass Road, intersection standard at Mollys Grass Road with MR555- Rous Road, and swept turning paths. These matters have been addressed within this report.

### Department of Primary Industries

The application was referred for comment on the basis the proposal was designated development and they may wish to provide comment. Provided positive support for satisfying community demand for the intended product and on balance considered proposal would be of benefit to the community.

### Department of Water & Energy

The application was referred for comment on the basis the proposal was designated development and they may wish to provide comment, and they advised in reply that any works proposed within 40 metres of the watercourse should be notified to the Department. No such works are proposed as part of this application.

### Department of Environment and Climate Change

The application was referred for comment and in response advice was provided that the proposal is an “Unscheduled” quarrying activity and therefore Council is the Appropriate Regulatory Authority (ARA), and that the Aboriginal Cultural Heritage assessment was undertaken in accordance with DECCW’s ACH Assessment guidelines. Their brief review of the Flora and Fauna Study suggests that the interests of DECCW are unlikely to be affected by the proposed development.

## Notification/ Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Northern Rivers Echo in accordance with the provisions of Chapter 10 of the Lismore DCP for the Notification and Advertising of Development Applications. As a result of the notification and advertising, 31 submissions were received in the first round of exhibition and an additional 12 submissions from the second round as well as further submissions from 14 original objectors, which are summarised as follows:

Name of Submitter	Issues raised
Gwen Morrow	<ul style="list-style-type: none"> <li>• Road paid for by Mollys Grass residents in 1980 for single lane, light traffic only</li> <li>• Illegal quarry operation damaged road</li> <li>• Road safety on Mollys Grass Road including three crests</li> <li>• Road safety on the crest at the intersection of Mollys Grass Road &amp; Rous Road</li> <li>• Environment &amp; wildlife including Davis Scrub Nature Reserve</li> <li>• Birds at her home and in the vicinity and trucks close to her home</li> <li>• Koalas and trucks close to her home</li> <li>• Removal of basalt rocks and effect on fauna in vicinity</li> <li>• Quality of life and devaluation of properties</li> <li>• Community consultation</li> <li>• Incorrect information in traffic assessment report – 11 houses, proper traffic count, knowledge of macadamia industry, road width for merging lane at intersection</li> <li>• Grass verges are non-existent and road varies in width</li> <li>• Spring opens up in road after heavy rain</li> <li>• Suitability of Mollys Grass Road for quarry haulage</li> <li>• Poor farming management</li> <li>• Accuracy of report by Greenloading Biostudies Pty Ltd</li> <li>• Cattle grids are even noisier than air brakes</li> <li>• Who would enforce “no right hand turn” for heavy vehicles</li> <li>• Safety of school children getting on the bus</li> <li>• No prepared plans of proposed change to intersection arrangements.</li> </ul>
Brad & Leesa Creamer	<ul style="list-style-type: none"> <li>• Loss of income from renting out second dwelling – tenants will leave because of noise</li> <li>• Noise / illegal quarry</li> <li>• Fragility of the landscape, old growth rainforest, flora and fauna</li> <li>• Koalas</li> <li>• Water supply from the creek for their home.</li> </ul>
Mr E Jones	Letter of support from neighbour advising no objections to the proposed quarry.
Craig Borley	Petition form in support of submission prepared by other families in the area.
Debbie Baker	<ul style="list-style-type: none"> <li>• Traffic concerns – narrow road, crests in road, trees and scrub close to the road and macadamia trees on other side of road, trees overhanging</li> <li>• Amenities concerns – damage to the road by continual use of heavy trucks, springs under the road, deep gutters on side of the road</li> <li>• Disputes information in additional Traffic Impact assessment report</li> <li>• Macadamia trees planted close to the road.</li> </ul>
Mr & Mrs W D Bryant	Letter of support from neighbour advising no objections to the proposed quarry.
Mr J Ritchie	Letter of support from neighbour advising no objections to the proposed quarry.
Keith King	<ul style="list-style-type: none"> <li>• Noise – was significant during illegal operation and generally quiet</li> </ul>

	<p>background ambience</p> <ul style="list-style-type: none"> <li>• Potential pollution of waterway – quarry within 100m of creek – sediment control in heavy downpour?</li> <li>• Breaching of 18° slope code</li> <li>• Loss of property values</li> <li>• Disruption of wildlife corridor – records of birds in area, koalas linking with a colony on Grennans Road ridge</li> <li>• Amenity - Quarry development incompatible.</li> </ul>
Geoff & Jan Pearson	<ul style="list-style-type: none"> <li>• Resource or economic basis for development</li> <li>• Geotechnical information on slopes exceeding 18° – risk of movement, OH&amp;S</li> <li>• Geological survey does not mention lava bench</li> <li>• Illegal operation of quarry and noise complaints in past</li> <li>• Impact on the creek and downstream users</li> <li>• Noise reports only relate to Mollys Grass Road</li> <li>• Condition of the road for heavy haulage</li> <li>• Legal buffer zone &lt; 500 metres from 2 Randle Road</li> <li>• Tone of the EIS trivialises problems for surrounding neighbourhood</li> <li>• Use of an existing quarry within 500 metres of previous site in conflict with EPA Act Schedule 3</li> <li>• Criteria for “designated development”</li> <li>• EPA Act Schedule 3 (see page 4 of objection) area of development</li> <li>• Native flora and fauna</li> <li>• Soil and slope stability</li> <li>• Watercourse and drainage patterns</li> <li>• Drinking water supplies</li> <li>• Existing landscape values</li> <li>• No response to letters in February 2010</li> <li>• Further work required due to the degree of public opposition</li> <li>• Viability of operation due to control recommendations</li> <li>• Past use of the site as a quarry</li> <li>• Freedom of information request</li> <li>• Tone of Council’s letter relating to submissions</li> <li>• Offensively noisy machinery</li> <li>• Environmental diversity and koala habitat</li> <li>• Objections to the objectives and purposes of the EIS</li> <li>• Objections to the road network</li> <li>• Objection to noise levels.</li> </ul>
L & D Strong	Petition form in support of submission prepared by other families in the area.
K & P Williams	<ul style="list-style-type: none"> <li>• Safety of children using Mollys Grass Road</li> <li>• Heavy vehicle use of road / damage, safety</li> <li>• Intersection Mollys Grass Road / Rous Road</li> <li>• Validity of information in traffic assessment report</li> <li>• Map of Mollys Grass Road showing driveways</li> <li>• Macadamia harvest season lasts from April to September each year</li> <li>• Spring in Mollys Grass Road</li> <li>• Bus stop where children catch the school bus each day.</li> </ul>



M & S Mansfield	<ul style="list-style-type: none"> <li>• Amenity – peace and serenity of 1(b) agricultural area, lifestyle</li> <li>• Noise pollution – having to be indoors</li> <li>• Koala habitat</li> <li>• Sediment in waterway</li> <li>• Davis Scrub / flora &amp; fauna</li> <li>• Rudwick Road / Tregeagle Road intersection</li> <li>• Mollys Grass Road / Rous Road intersection</li> </ul> <ul style="list-style-type: none"> <li>• Letter of support from Mrs Griffani (mother of owner)</li> <li>• Increase traffic and subsequent risk of accidents.</li> </ul>
S & R Parmiter	Petition form in support of submission prepared by other families in the area.
J & D Cowan	Petition form in support of submission prepared by other families in the area.
Tina Pierce	Petition form in support of submission prepared by other families in the area.
C & D De Nardi, H Lum	Petition form in support of submission prepared by other families in the area.
Crawford family	Petition form in support of submission prepared by other families in the area.
Julie Couch	<ul style="list-style-type: none"> <li>• Safety of road users</li> <li>• Damage to the road</li> <li>• Environment (Davis Scrub Nature Reserve)</li> <li>• Flora and fauna assessment</li> <li>• Property zoned RU2 Rural Landscape</li> <li>• Key threatening processes – bush rock removal, clearing of native vegetation, invasion, establishment and spread of exotic vines and scramblers</li> <li>• Attached letter from the Environmental Defender’s Office Ltd giving advice relating to: Arrow head vine and EEC, whether a species impact statement (SIS) is required, requirement for Council to consider impacts on biodiversity and principles of ecologically sustainable development</li> <li>• “Supposedly” updated Traffic Assessment report and validity of information</li> <li>• Validity of Noise impact Assessment by Ambience Audio Services when measurements carried in almost windless conditions</li> <li>• Noise complaints from illegal use of quarry</li> <li>• Inconsistency as to the number of workers</li> <li>• Draft Lismore Local Environmental Plan (currently on public exhibition)</li> <li>• Lismore City Council Policy 5.17.3 Biodiversity – Flora and Fauna 2007</li> <li>• Loss of amenity – Council approved rural residences on small acreages</li> <li>• No plans of proposed change to traffic arrangements</li> <li>• How does Council plan to police the proposed “no right turn in or out” road rule.</li> </ul>
B & J McInnes	<ul style="list-style-type: none"> <li>• Davis Scrub Nature Reserve close proximity to quarry</li> <li>• Rous Road / Mollys Grass road intersection</li> <li>• Koalas, fauna and flora</li> <li>• Re-advertise proposal when further info received</li> </ul>

	<ul style="list-style-type: none"> <li>• NPWS Plan of Management</li> <li>• Sediment and erosion control – effect on creek downstream</li> <li>• Truck traffic on Rous Road</li> <li>• Noise Report</li> <li>• Illegal removal of sandstone and bush rock</li> <li>• Transport of Fire Ants from Qld</li> <li>• Destroy residents' rural lifestyle</li> <li>• Reply to all questions</li> <li>• No community consultation</li> <li>• Road network – separate doc</li> <li>• LEP General objectives, zone objectives</li> <li>• Comment from Fisheries, Northern Rivers Catchment Management Authority</li> <li>• Sediment control and rehabilitation plan should be supplied now as site adjacent to Environment Protection Natural Vegetation and Wetland zone</li> <li>• REP Sustainability criteria</li> <li>• SEPP 44 Koala Habitat</li> <li>• Incorrect info in traffic report</li> <li>• DCP Buffers</li> <li>• Rural Residential lifestyle</li> <li>• Deception of Ngulingah Local Aboriginal Land Council</li> <li>• Potential for 1300 truck movements per annum</li> <li>• Pavement investigation factually incorrect</li> <li>• Noise impact assessment measurement procedures and results</li> <li>• Previous noise complaints</li> <li>• No respect shown to neighbours</li> <li>• Request to employ a consultant to carry out their own Noise Assessment to obtain unbiased and accurate data</li> <li>• EP &amp; A Regulation Schedule 3 Designated Development.</li> </ul>
S & W Palmer	<ul style="list-style-type: none"> <li>• Road narrow, blind crests, trees and vegetation</li> <li>• Mollys Grass Road/ Rous Road intersection</li> <li>• School children waiting for bus in morning and parents in afternoon</li> <li>• Walking and cycling on Mollys Grass Road / safety</li> <li>• Truck traffic impact on road</li> <li>• Quality of life for residents</li> <li>• Noise from trucks, machinery and explosions</li> <li>• DVD submitted showing road safety objections submitted by W E Palmer</li> <li>• Conflict of interest and unethical conduct in approving change to intersection arrangements prior to assessment of proposed DA for quarry</li> <li>• Council should disclose who is funding the proposed road changes</li> <li>• Did Stephen Fletcher &amp; Associates write LDCA Chapter 18 – Extractive Industries?</li> <li>• Heritage, amenity, cultural significance, environmental noise, reduced land values and traffic safety</li> <li>• Inaccuracies in the original DA and subsequent responses by the applicant / consultants</li> <li>• Obstruction of roadway due to the movement of an excavator</li> <li>• Section 8 of the Local Government Act 1993 Council's obligations</li> <li>• Traffic Assessment Report holds no credence</li> <li>• Council's duty of care to ensure the safety of road users</li> </ul>

	<ul style="list-style-type: none"> <li>• Traffic issues</li> <li>• Road safety issues</li> <li>• Under road spring</li> <li>• Amenity issues.</li> </ul>
Karen Powell	<ul style="list-style-type: none"> <li>• Mollys Grass Rd / Rous Rd issues</li> <li>• Noise</li> <li>• Dust</li> <li>• Koala habitat area.</li> </ul>
Wendy Whitney	<ul style="list-style-type: none"> <li>• Roads – Mollys Grass &amp; Rous</li> <li>• Environment and wildlife</li> <li>• Trucks crossing watercourse polluting it</li> <li>• Quality of life from noise, traffic and dust</li> <li>• Accuracy of Stephen P McElroy &amp; Associates Traffic Assessment report</li> <li>• Amenity of area</li> <li>• Proposed road changes a band-aid solution at the intersection Mollys Grass / Rous Roads.</li> </ul>
Jane Hewetson	Petition form in support of submission prepared by other families in the area.
Friends of the Koala	Koala habitat area, trucks dangerous to koalas, major koala habitat restoration project nearby.
Ballina Shire Council	Visual impact on 7(d) Scenic Escarpment zone and protection of Marom Creek catchment.
Ngulingah Local Aboriginal Land Council	Request for Aboriginal Cultural Heritage assessment to be done.
Steve Sleep Excavations	Letter of support for the basalt rock extraction as a highly sought after product.
Conlan Bros Pty Ltd	Letter of support for the basalt rock extraction as a highly sought after product.
New submissions received after notification to advise additional information available to view	
John T Gibson	<ul style="list-style-type: none"> <li>• Enforcement of the 4.5 tonnes weight limit</li> <li>• Council's rangers cannot enforce dog laws after hours, police could not care less.</li> </ul>
Vicki Clark	<ul style="list-style-type: none"> <li>• Concerns about correctness of the Traffic Assessment report</li> <li>• Road is very dangerous, sight distance is poor, grass verges</li> <li>• Truck driving past in the early hours of the morning.</li> </ul>
Julie Philpott	<ul style="list-style-type: none"> <li>• Voices anger at reading the information submitted in the Traffic Assessment report</li> <li>• Dangerous crest section of road approximately 400metres down the road</li> <li>• Rain makes it dangerous to leave the road surface with grass giving way and tyres slipping</li> </ul>

	<ul style="list-style-type: none"> <li>• Questions the Pavement Investigation report as there are springs which continually break up the road surface.</li> </ul>
Pamela Smith	<ul style="list-style-type: none"> <li>• Valued native fauna population will be further threatened</li> <li>• Tregeagle is zoned rural / rural residential</li> <li>• Current road system is unsafe let alone further heavy traffic</li> <li>• Several quarries already in Lismore and there are enough difficulties managing these</li> <li>• Safety, noise, dust, traffic, wildlife, management issues that negate the viability of the proposed quarry.</li> </ul>
Ann and Rob Simon	<ul style="list-style-type: none"> <li>• Quarry totally inappropriate for a rural / residential area and serious safety concerns</li> <li>• Intersection of Rous / Mollys Grass Roads</li> <li>• Mollys Grass Road is only one lane</li> <li>• Noise disrupting peaceful neighbourhood – not only quarry (blasting and heavy machinery)</li> <li>• Negative impact on neighbouring properties</li> <li>• Charm of area ruined by a mining development.</li> </ul>
Terry Whitney	<ul style="list-style-type: none"> <li>• Conflict of interest in approval by Traffic Committee to proposed change to traffic arrangements</li> <li>• Intersection of Rous and Mollys Grass Roads is dangerous.</li> </ul>
Vicki Lawrence	<ul style="list-style-type: none"> <li>• Voice total disapproval of the proposed basalt quarry</li> <li>• What person decided that one of the most beautiful areas of Lismore should have a great big unsightly hole dug in it.</li> </ul>
Nancy Warburton	<ul style="list-style-type: none"> <li>• Mollys Grass Road is dangerous with large washout areas on the edges of the road, grass areas are very slippery.</li> </ul>
Ian and Jane Cappe	<ul style="list-style-type: none"> <li>• Doubtful economic viability</li> <li>• Council will have difficulty effectively monitoring extraction rates and increased traffic flows</li> <li>• Rous Road and Tregeagle Road are not suitable thoroughfares for heavy trucks</li> <li>• Region is already well serviced by quarries</li> <li>• Visual blight on the landscape lasts generations.</li> </ul>
Peter and Fran Fitzpatrick	<ul style="list-style-type: none"> <li>• Sound levels transmitting to our residence</li> <li>• Concern at extra workers being employed and production increasing without consent</li> <li>• Deterioration of Rous Road due to extra truck movements</li> <li>• Possibility of quarry expansion</li> <li>• Devaluation of our property due to unsightly quarrying activities.</li> </ul>
Dr David Townend	<ul style="list-style-type: none"> <li>• Noise, particularly on weekends.</li> </ul>

Bruce and Kay Hawthorn	<ul style="list-style-type: none"> <li>• Alphadale Road is narrow, dangerous and not well maintained</li> <li>• Koala in the area that use the road as a corridor</li> <li>• Locals exercise along the roadside and passing of trucks and cars could prove fatal to pedestrians</li> <li>• Increased noise and dust for all residents.</li> </ul>
J & B Bus Services	<ul style="list-style-type: none"> <li>• Support any proposed changes at Mollys Grass / Rous Road intersection that provides a wider area to allow the bus to pick up school students.</li> </ul>

## Consideration

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### Lismore LEP 2000

The proposed development is permissible as “Extractive industry” within the 1(a) General Rural zone under the provisions of the Lismore LEP 2000.

#### 1. **Advertised development (cl. 10)**

Regard to the matters relating to environmental impact specified in Schedule 5 has been given in the assessment of the application, and these are considered to be satisfactorily addressed for the reasons outlined in this report.

#### 2. **Development affecting places or sites of known or potential Aboriginal heritage significance or potential archaeological sites of relics of non-Aboriginal heritage significance (cl 16 & 17)**

The Aboriginal Cultural Heritage assessment did not identify any known or potential places of Aboriginal heritage significance or potential archaeological sites of relics of non-Aboriginal heritage significance at the proposed quarry site.

#### 3. **Buffer zones to avoid potential land use conflicts (cl 20)**

Consent is not being sought for residential, rural residential or tourism development (including subdivision for those purposes).

### Zone objectives and zoning control tables

Having regard to the provisions of Lismore LEP 2000, it is considered that:

- (a) The development is in accordance with and promotes the specific aims of this plan, the objectives of the zone and the objectives of the controls, and
- (b) The development, in particular, is consistent with the character of the neighbourhood within which the development is carried out.

As such, consent to the development may be granted.

### Rural zones

#### 4. **Zone No 1 (a) (General Rural Zone) (cl 30)**

Objectives of the 1(a) zone are:

- (a) to maintain and encourage sustainable agricultural activities within the zone, and
- (b) to enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment, and

- (c) to discourage the fragmentation of rural land, and
- (d) to restrict the establishment of inappropriate traffic generating uses along main road frontages, and
- (e) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality.

As extractive industries are permissible within the zone, the consideration of impacts should have regard to what are reasonable impacts arising from such a use. It is considered that the location of the proposed quarry will not be highly visible due to topography and vegetation, and therefore the visual impacts of the proposed quarry are not unreasonable.

In relation to traffic generation, although the proposed quarry will generate traffic, agricultural uses (not requiring consent) also generate levels of traffic over which Council has no control. Routine agricultural activities and associated vehicle movements must be expected in rural zones, which will require farm machinery and trucks to use the existing road network.

It is considered that the proposed truck movements generated by the proposed scale of the quarry is not unreasonable when regard is had to the rural zoning and the range and intensity of uses that could be conducted without the need for development consent from Council (eg. forestry, horticulture, the cultivation of land including crop raising, stock raising, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit & vegetables) under Council's planning controls.

Concerns have been raised in submissions regarding the potential conflict between haulage trucks and passenger vehicles on narrow sections of Molly's Grass Road, and "who has the right of way" in such situations. The Lismore Local Government Area is comprised of a local rural road network with a large proportion of narrow roads, and the need for driver caution on narrow rural roads is an issue that should be borne in mind when sharing the road use. Council's development controls specify minimum widths to ensure appropriate road widths for safety and amenity reasons to address such conflicts, and any assessment must have regard to the traffic generation rates and daily vehicle movements.

The assessment of these issues indicate that the traffic generation rate of the proposed quarry, and the current daily vehicle movements are comparatively low, and as this is a local road, users will generally be familiar with typical traffic movements and drive to those conditions. Whilst passenger vehicles may be required on occasion to give right of way to larger vehicles, it is not considered that this impact is unreasonable or inconsistent with traffic movements that would arise from agricultural activities permitted without consent.

The proposed development of an extractive industry is considered to meet the objectives of the zone and is permissible in the zone with development consent. It is noted that some of the properties in the vicinity of the site are rated as "residential rural" and others rated as "farmland". This can cause confusion and give the impression that the properties are zoned 1(c) Rural Residential, when in fact the primary objective of the zone is for rural activities rather than residential.

## **5. Subdivision and development in rural zones (cl 36)**

No subdivision is proposed by this development application.

## Draft LEP 2010

The proposed development is permissible as *extractive industry* within the *RU1 Primary Production* zone under the provisions of the Draft Lismore LEP 2010. No other provisions are considered to inhibit the proposed development.

## SEPP 44 – Koala Habitat Protection

SEPP 44 – Koala Habitat Protection applies to the site as it is shown on Council's mapping system as potentially containing primary and marginal koala habitat and. Clause 7 of SEPP 44 states:

- (1) *Before a Council may grant consent to an application for consent to carry out development on land to which this Part applies, it must satisfy itself whether or not the land is a potential koala habitat.*

The applicant provided an assessment of development in accordance with the provisions of SEPP 44. The applicant's ecologist advises that no koalas, koala food trees or signs of koalas were observed at the subject site during the site survey, nor are there any historical records of a koala population at the site. Consequently, the subject site does not retain core koala habitat and there is no requirement for preparation of a Plan of Management.

It is noted that concern has been expressed from adjoining owners and Friends of the Koala relating to the koala population in the area, however, to prohibit truck traffic on a public road would be unreasonable.

## SEPP 33 – Hazardous and Offensive Developments

The proposed extractive industry is not a hazardous or offensive development.

## SEPP 55 – Remediation of Land

Clause 7 of SEPP 55 states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Based on an assessment presented by the applicant Council can be satisfied that the land is unlikely to be contaminated and is suitable for the extractive industry use.

## SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The proposed development is considered compatible with approved uses of land in the vicinity of the development and is of public benefit. Measures have been proposed by the applicant to avoid or minimise any incompatibility. Further, conditions will be imposed on consent to ensure minimal impact occurs.

Council consulted with the Roads & Traffic Authority in accordance with the requirements of Clause 16. In accordance with the requirements of Clause 17 the consent will be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.

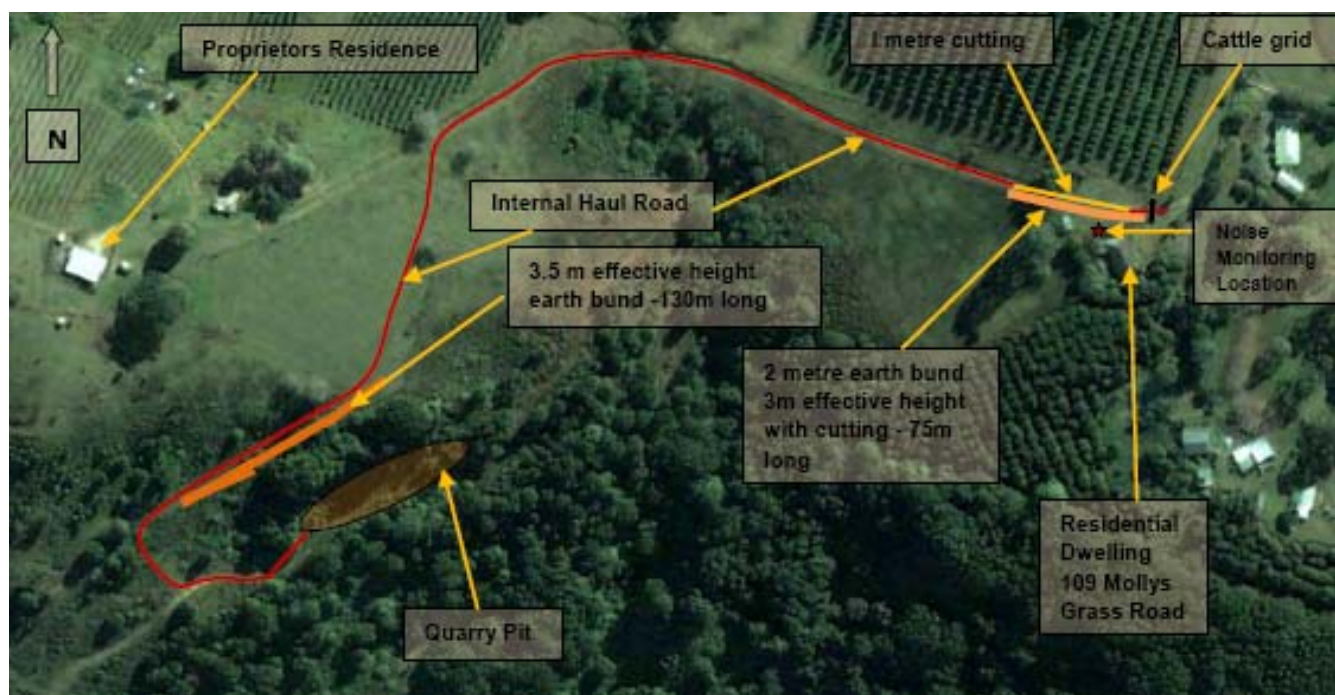
## Lismore Development Control Plan

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.

### 1. DCP 2002 Compliance Table

<b>LISMORE DEVELOPMENT CONTROL PLAN</b>		
	<b><i>complies</i></b>	<b>Comments</b>
<b>Chapter 10 – Notification and Advertising of DAs</b>		
10.4 Notification and Advertising of Development Applications Table	Yes	Notified and advertised in accordance with these requirements.
<b>Chapter 11 – Buffers</b>		
<p>11.3 Extractive Industries</p> <p>Quarrying activities are incompatible with many land uses, particularly those of a residential nature. It is therefore desirable to provide a buffer area around quarries to minimise land use conflicts and safeguard quarry resources which could be sterilised as a result of encroachment by residential land uses. The extent of the buffer requirement depends on the size of the quarry, whether blasting is utilised, the nature of production methods, the extent of crushing and screening operations, topography and site conditions and the intensity of surrounding development and land uses.</p> <p>Minor quarries (&lt;5,000m<sup>3</sup> pa)            Primary buffer = 300 metres            Secondary buffer = 400 metres</p>	Minor variation	<p>Apart from the owner's own dwelling there is one other dwelling within the primary buffer area, being 109 Mollys Grass Road (that is currently owned by the proponent's mother). A letter of support has been received from Mrs Griffani to the proposed development. The owner has also proposed to provide earth mounds to reduce the impact of truck and quarry activity noise on the property. The proposed noise control measures are considered reasonable and appropriate to ensure the amenity of the property is not affected unduly and reduce the potential for conflict in the event of the property changing ownership in the future.</p> <p>There are two other dwellings within the 300 - 400 metre secondary buffer radius at 108 Mollys Grass Road and 2A Randle Road. The proposed noise control measures will ensure minimal impact on the dwellings at this location.</p> <p>All other residential land uses in the vicinity are outside the 400 metre secondary buffer.</p>
<b>Chapter 18 – Extractive industries</b>		
18.4 Extractive Industries – Haulage Routes	Yes	The proposed route for haulage of material meets the requirements of a secondary haulage route with an average sealed road width of 3.7 metres. These provisions relate to quarries extracting >5000m <sup>3</sup> per annum. The seal width reduces to approximately 3.0 metres in some locations but is compensated in other areas by a width of 5.0 metres, and in the circumstances, it is considered that the objectives of the DCP are satisfied by the proposed quarry.





**Map 5: Internal Haulage Route – Noise Control Measures**

### Section 94 Contributions Plan

In accordance with Clause 2.2.3 Discounts Applying to Quarry Developments:

- i. No levy will apply to the first 5,000m<sup>3</sup> per annum of material extracted from quarries.
- ii. Minor Sized Quarries i.e. below 5,000m<sup>3</sup> contributions do not apply to minor quarries with an annual production of less than 5,000m<sup>3</sup> due to small and local haulage distances involved and the threat to the economic viability of the operation.

### Applicable Regulations

Schedule 3 of the Environmental Planning & Assessment Regulation 2000 relating to designated development applies as the proposed quarry is on land that slopes at more than 18 degrees to the horizontal. In accordance with the Regulation, an Environmental Impact Statement (EIS) accompanies the application.

### Council Policies

#### 5.17.8 Sustainability, Viability and Amenity of Rural and Urban Land

The proposed development is in accordance with the intent of this policy.

### Design

The design of the roads to service the proposed quarry and the dams associated with the development is appropriate for the site.

### Materials

The material to be removed from the site is basalt column rock that is used for landscaping purposes and value adding to the raw material.

### Amenity

Given that the site is not visible from adjoining properties due to the topography and vegetation there will be no detrimental impact on visual amenity by the proposed quarry operation. The amenity issue of noise has been dealt with separately in this report.

The proposed quarry is in keeping with the rural nature of the locality and the small scale appropriate for the character of Mollys Grass Road and adjoining rural areas.

## Roads Act Approvals

Section 138 approval under the Roads Act is required for the roadworks required as conditions of development consent.

## Local Government Act Approvals

Not required for this application.

## All Likely Impacts of the Development

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	YES
2. Policy Controls	YES
3. Design in relation to existing building and natural environment	YES
4. Landscaping/Open Space Provision	YES
5. Traffic generation and Carparking provision	YES
6. Loading and Servicing facilities	YES
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	YES
8. Site Management Issues	YES
9. ESD Principles and Climate Change	YES
10. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	YES

## Submitter's concerns

The matters raised in submissions have been addressed in the body of this report. Significant matters that have not been discussed are addressed as follows:

*No plans prepared for proposed change to traffic arrangements*

**Comment** The expense of finalising detailed plans was not justified unless approval was granted for the development but can be conditioned. Draft plans have been considered.

## *Viability of operation*

**Comment** This is not a nominated consideration under s.79C of the EP & A Act and is generally a business decision for the applicant. The viability of the resource is relevant to consider in relation to impacts arising from the proposal, and considering the operation is small in scale, potential impacts are considered minimal subject to the imposition of appropriate conditions of consent.

## *The proposed development does not meet the 500 metre buffer requirement*

**Comment** Primary buffer zone is 500 metres for a **major quarry (>10,000m<sup>3</sup> per annum)** – the purpose of buffer zones is to limit residential development encroaching into non-residential areas that could result in the sterilisation of a resource due to a real or perceived loss of amenity for residents, and prevent land use conflicts arising.

## *Slope of the land is above 18° as specified in Schedule 3 EP & A Regulation 2000*

**Comment** This figure represents one of the criteria that determine whether a development becomes “designated”. The application has been assessed as a *Designated Development* in accordance with the EP & A Act and EP & A Regulations. The rock is predominately sitting on the ground and there will be no unmanaged soil movement as a result of the proposed quarry activities

## *Soil and slope stability*

**Comment** Concerns have been raised regarding the potential for landslip as a result of the quarry. It is acknowledged that quarry activities can result in potential for landslip, particularly on sloping land. Given the nature of the material and proposed quarrying operation, it is considered that the risk for landslip is low. Notwithstanding that conclusion, it is considered appropriate that conditions be imposed to ensure that the potential for landslip is considered as part of the quarry management and operation.

## *Material has previously been removed from the quarry*

**Comment** It is acknowledged that the quarry has operated illegally in the past.

## *Hazardous, light, heavy or offensive industry*

**Comment** The land use is defined as an “extractive industry” which means:

- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

“offensive or hazardous industry” means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings. The proposed quarry does not satisfy the accepted definitions for offensive industries.

## *Effect on water supply*

**Comment** Conditions will be imposed on any consent to ensure no detrimental impact on the creek from the proposed development. It is generally not recommended that water from creeks be used for potable supply purposes for public health reasons.

## *Deception of Ngulingah Local Aboriginal Land Council*

**Comment** The Aboriginal Cultural Heritage Assessment was prepared in accordance with DECCW’s guidelines and in consultation with Ngulingah Local Aboriginal Land Council.

## *Potential for 1300 truck movements per annum*

**Comment** Total truck movements per annum are limited to 300 (from the site and 600 in total) as proposed in the EIS and by imposition of a condition on any consent.

## *Grey-headed Flying Fox colony in the Davis Scrub*

**Comment** The Flora & Fauna Assessment identifies that within 5 km of the subject site 4 of the vulnerable species have been recorded and within 5-10km 710 have been recorded. The EIS also states that they are likely on occasion to be present at the site however, the NSW Scientific Committee have found that *“the main threat to the Grey-headed Flying foxes in New South Wales (NSW) is clearing or modification of native vegetation. This removes appropriate camp habitat and limits the availability of natural feed resources, particularly winter-spring feeding habitat in north-eastern NSW..... The species is also threatened by direct harassment via shooting at roosts, the destruction of camps and by being possible carries for viral pathogens (Lunney and Moon 1997; Tidemann 1999). “*

Given that there is no clearing of native vegetation proposed as part of the quarry activities, nor potential for shooting at roosts or destruction of the camp there is considered to be no threat to the Grey-headed Flying Fox colony in the nearby Davis Scrub from the proposed development.

## *Who would enforce “no right hand turn” for heavy vehicles*

**Comment** This would be enforced by Council, NSW Police, complaint-driven and compliance action, if non-compliance is identified.

## *Safety of school children getting on the bus*

**Comment** The school bus currently collects school children in the morning at Rous Road, travelling from the east and pulling over on to the side of the road next to the macadamia trees. The proponent has proposed to construct an acceleration lane on Rous Road at the intersection with Mollys Grass Road, which will provide a safer stopping point for the bus to collect school children getting on the bus in the morning. Additionally it is proposed in the Traffic Assessment Report that there will be no quarry truck movement between the hours of 7.30 to 8.30am and 3.30 to 4.30pm to ensure there is no conflict between school bus and quarry traffic. This requirement will be included as a condition of any development consent.

## *Rudwick Road / Tregeagle Road intersection*

**Comment** The additional 300 out/300 in truck movements per annum proposed as part of this development is not considered to have a significant impact on this existing intersection.

## *Pedestrian/Cycle use on Mollys Grass Rd*

**Comment** This issue is considered as part of the zone objectives assessment in this report.

## *Spring in Mollys Grass Road*

**Comment** There is no visible evidence of pavement failure as a result of the spring in Mollys Grass Road. However, it is proposed that any damage caused to the road pavement as a result of quarry traffic will be repaired by the proponent and an appropriate condition imposed on consent to this effect.

## *Drinking water supplies*

**Comment** As part of any development consent erosion and sediment control will be required to be put in place to ensure there is no impact on any adjoining waterways. As there are many likely contaminants of creeks from agricultural uses, spraydrift and other sources upstream it is not recommended that water from creeks be used as a potable water supply. There is no likely impact on adjoining tank water supplies from the proposed quarry activity.

## *Legal buffer zone < 500 metres from 2 Randle Road*

**Comment** There are two dwellings within the 400 metre secondary buffer radius that relates to minor quarries with an annual production of less than 5000m<sup>3</sup> at 108 Mollys Grass Road and 2 Randle Road.

Lismore DCP Chapter 18 – Extractive Industries Clause 18.5 relates to **Buffer areas around Extractive Industry sites** and states that:

*“.....it is desirable to identify significant quarries and resources and provide an appropriate buffer to prevent encroachment of residential and other land uses, which may sterilise a resource or lead to community pressures to restrain or cease production.*

*The extent of buffer required depends on the size of the quarry, whether blasting is utilised, nature of production methods, extent of crushing and screening operations, topography and site conditions and the intensity of surrounding development and land uses. A two level buffer standard has therefore been implemented, with a primary and a secondary buffer area established.*

*Urban/village-residential and rural-residential development is excluded from both the primary and secondary buffer area. Farmhouses on agricultural holdings may be permitted in the secondary buffer area (but generally not in the primary buffer area), if no alternative suitable location is available.”*

In this instance the dwelling at 108 Mollys Grass Road appears to have existed on the site for many years and the dwelling on 2 Randle Road was approved in 1986.

However, as this is an existing situation rigorous conditions have been imposed on the consent to mitigate any amenity impacts on the two dwellings within the secondary buffer area. The quarry is not visible from the properties and control measures have been required to reduce any effect from quarry noise.

## *Noise reports only relate to Mollys Grass Road*

**Comment** The noise report presented in the EIS by TTM Consulting (GC) Pty Ltd conducted unattended noise monitoring in a paddock approximately 120m from the quarry and made brief mention of the “worst affected receiver is situated at the western end of Randle Road”.

At Council's request a further noise impact assessment report was required to further address noise issues. The report prepared by Ambience Audio Services on 15<sup>th</sup> June 2010 addressed noise at receiver locations of 108 and 109 Mollys Grass Road, 2A and 4 Randle Road and 707 Tregagle Road. Further technical detail relating to noise is discussed under *Internal Referrals – Environmental Health*.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposed quarry operation provides a primary product for value-adding production of finished product for kitchen benches and other uses such as landscaping. The income generated from the business will boost the local economy.

## Social Inclusion and Participation

The proposal improves the variety of landscaping resources available to the local and wider community. The resource will also provide employment opportunities in the value-added industry of finishing the product for use as bench tops in either kitchen or bathrooms.

## Protect, Conserve and Enhance the Environment and Biodiversity

The proposal will have a minimal impact on the environment and no long term detriment to threatened or vulnerable species or endangered ecological communities. Sediment and erosion controls, vegetation and weed management will ensure the protection of the environment and biodiversity at the proposed quarry operations.

## Best-Practice Corporate Governance

The recommendation of this report supports best practice management principles, and the efficient and proper use of Council's resources. The purpose of this report is for Council's decision on the approval or refusal of the proposed quarry.

## Comments

### Finance

Not applicable

### Public consultation

The public exhibition and submissions to the proposed quarry have been considered and addressed within this report.

## Conclusion

All legislative requirements relating to the proposed quarry development have been dealt with in the body of this report. Apart from a minor variation to the buffer requirements in Lismore Development Control Plan the proposal meets prescribed development standards and all other legislation requirements.

Considerable opposition, as well as some letters of support, has been expressed by adjoining neighbours and the wider community. These submissions have been thoroughly prepared to highlight all possible impacts of the proposed quarry, and generally raise valid issues of concern. The main areas of concern related to noise and traffic safety and these issues have been addressed by the imposition of appropriate conditions on development consent, that will be enforced in accordance with normal practices of Council. The conditions aim to ensure mitigation of any detrimental impacts resulting from the quarry and public safety on roads in the local government area. It is acknowledged that the proposed quarry will result in impacts to local residents, however, it is concluded in planning terms that these impacts are not of a degree that would warrant refusal of the application.

The proposed quarry development at 107 Mollys Grass Road is considered on balance to not result in unreasonable impacts, subject to conditions, that would warrant refusal of the application.

## Attachment/s

1. Proposed plans for approval (Over 7 pages)

## Recommendation

That:

- A. Council as the consent authority, grant development consent on a deferred commencement basis to Development Application No. 2009/10 proposing a basalt quarry at 107 Mollys Grass Road, Tregeagle, subject to the following conditions.

The conditions of consent are set out as follows, and the reasons for imposition of the conditions are shown in brackets at the end of each category:

### **DEFERRED COMMENCEMENT CONDITION(S) PURSUANT TO SECTION 80(3):**

**Note:**

This consent does not become operative until the following Deferred Commencement condition(s) have been fully completed to Council's written satisfaction.

- a) **Prior to activation of this consent and the commencement of any extractive industry operations** an Extractive Industry Management Plan (EIMP) in accordance with the requirements of *Lismore Development Control Plan, Chapter 18 and Annexure 4* and this consent must be submitted to and be approved in writing by Council.

The EIMP must be prepared by a suitably qualified professional and properly address individually all of the matters detailed in the *Lismore Development Control Plan* and the conditions of this consent. The following matters are also to be included in the EIMP:

- Proposed methods of monitoring potential for landslip, including regular inspections by appropriately qualified persons and mitigation measures that may need to be considered.
- The recommendations of the Noise Impact Assessment dated 15 June, 2010 and the Addendum Internal Haulage Route Noise Impact Assessment dated 23 May, 2010. The EIMP must contain appropriate monitoring and auditing practices/procedures;
- Details of fuel storage must be provided with bunding to contain all potentially polluting materials. The bunded area must have a minimum holding capacity of 110% of the volume of the largest fuel storage container. Where flammable and combustible liquids are stored, compliance standards relating to flammable and combustible liquids as specified in AS 1940-1993 *The Storage and Handling of Flammable and Combustible Liquids* must be implemented. Details of location and measures to meet these requirements are to be provided.
- Details including dimensioned site plans and section plans of the proposed earth bund / cutting with an effective height of at least 3 metres on the southern side of the haul road near the residential dwelling at 109 Mollys Grass Road;
- Details of the earth bunds on the eastern side of the haul road from the lower level where the quarry pit is to the top of the hill to be maintained at an effective barrier height of 3.5 metres;
- Details of the travel routes to and from the site for all traffic associated with the operation of the quarry to access the site via routes that do not require a right turn movement at the intersection of Mollys Grass Road and Rous Road;
- Sealing of the internal access road past 109 Mollys Grass Road to ensure there is no impact on the property from dust;
- Management and practices to ensure that no dust leaves the site from any haulage vehicles associated with the development or to be a nuisance to any persons;
- Maintenance schedule of landscape plantings;
- Weed Management procedures;
- Monitoring requirements;
- Reporting and auditing requirements;
- Complaint management procedures including regular letter box drops and advice to properties

- within 400m of the quarry and in Molly's Grass Road advising of contact details for complaints, and maintaining a register of complaints received and actions taken in response.
- Details of the extractive industry rehabilitation plan prepared by a suitably qualified professional with demonstrated experience in quarry rehabilitation. The details must include time lines for outcomes and auditing and compliance/monitoring and maintenance procedures.
  - Details of Soil Erosion and Sedimentation Control Plan of Management" (SESCPM) must be submitted. The plan must outline what measures are proposed, construction detail for proposed treatment and the action that will be taken to manage the operation of the development to minimise any erosion or sedimentation from the site including:
    - maximising the diversion of clean waters, and
    - minimising the extent and duration of site disturbance, and
      - including devices/practices to prevent sediment being carried from the site by vehicle and plant tracks and tyres
      - The plan must be consistent with the "Managing Urban Stormwater-Soils and Construction" (blue book) guidelines; based on the 90<sup>th</sup> percentile five day rainfall event as a design criterion. It must have a summary sheet and in such a manner to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Responsible person/s must be nominated to Council in writing together with contact details for the purposes of the SESCOPM.

The EIMP must incorporate the above and be written in plain English to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the EIMP.

**Reason:** *To protect the environment and to comply with Lismore Development Control Plan and this Consent.*

- b) Prior to activation of this consent and the commencement of any extractive industry operations** a detailed Vegetation Management Plan shall be submitted to Council and approved in writing. The Vegetation Management Plan shall be in accordance with Council's Preliminary Flora and Fauna Assessment Guidelines. Vegetation Management Plan shall indicate;
- A scaled plan with GPS co-ordinates (should be ISG or AMG co-ordinates) identifying areas proposed to be cleared, rehabilitated, vegetation buffers and sensitive areas, e.g. watercourses.
  - An assessment of vegetation types including native and weed species lists.
  - Threatened flora species known to occur within a five kilometre radius of the site.
  - Location of all trees identified for retention and removal in the development application plans.
  - Method of marking the trees for retention and removal.
  - Rehabilitation strategy including management zones, staging of works, weed control methods, plant spacings, timeframe of works, mulching, fencing, maintenance requirements and maintenance period.
  - Rehabilitation planting species list - ensuring a range of different species from groundcover to trees that reflect the indigenous vegetation communities.
  - Rehabilitation performance measures to the end of the maintenance period, e.g. planting survival rates, presence of weeds, etc
  - All site enhancement plants are to be purchased from nurseries in the Lismore area or confirmation provided that plants are to be propagated from local genetic stock.

The Vegetation Management Plan must be prepared by a suitably qualified person.

**Reason:** *To ensure that adequate provisions are made to restore and protect flora communities.*



- c) **Prior to activation of this consent and the commencement of any extractive industry operations** a detailed Weed Management Plan shall be incorporated within the vegetation management plan and submitted to Council and approved in writing. The Weed Management Plan shall be in accordance with Council's Preliminary Flora and Fauna Assessment Guidelines. The Weed Management Plan shall indicate:

- Weed species list.
- Scaled map/aerial photograph indicating the locations of the weed infestations.
- Detailed description of weed control methods.
- Timing for weed control activities to occur.
- Description and layout of any sensitive areas (e.g. watercourses) and spray buffers required.

The Weed Management Plan must be prepared by a suitably qualified person.

**Reason:** *To minimise the impact and spread of noxious weeds.*

- d) **Prior to activation of this consent and the commencement of any extractive industry operations** engineering drawings prepared by an appropriately qualified civil/structural engineer of the proposed internal haulage roads shall be provided to Council for written approval.

The engineering drawings shall indicate:

- i) the alignment, drainage and construction details for the internal haulage roads to be constructed;
- ii) proposed measures to ensure the stability of internal haulage roads;
- ii) proposed improvements to existing haulage roads to accord with the conditions of this consent; and
- iii) certification that the existing bridge crossing is structurally adequate to accommodate the proposed loads and is safe and fit for its intended purpose, or details of any minor improvements required to upgrade the bridge crossing.

Note: Replacement of the bridge will require a new development application.

In accordance with the provisions of Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, the Council sets the period of time in which the applicant must satisfy Deferred Commencement Conditions as 24 months effective from the determination date endorsed on this consent.

## **OPERATIVE CONDITIONS**

### **STANDARD**

1 In granting this development consent, Council requires:

- the development,
- all roads/civil works,
- lot boundaries, and
- areas subject to any amendment or modification called for in the following conditions

be substantially in accordance with the stamped approved plan(s) No.

- Drawing No 03030EIS.dgn Sheets 1 to 15 of 15 dated 12/12/08
- Job Title: Sight Distances Rous Road & Mollys Grass Road Intersection Drawing No. 1 to 9 of 9 dated 26/6/09 & 6/7/09
- Appendix E – Site Map and Appendix F – Internal Haulage Route – Noise Control Measures of Ambience Audio Services 2010 Noise Impact Assessment for Proposed Extractive Industry – Lot 2 107 Mollys Grass Road Tregagle dated 15/06/10
- Figure 3.1 Extent of Arrow-Head Vine associated with the study area dated June 2009

and supporting documents submitted with the application. Copies of the approved plan are attached to this consent.

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

## PLANNING

- 2 The annual rate of extraction and/or removal of material from the site shall not exceed 2,500 cubic metres of material per annum.

**Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood and to ensure that truck movements are limited to an acceptable level on the road network. (EPA Act Sec 79C(b)).

- 3 This consent will expire upon the extraction of 17,500 cubic metres of material from the quarry or seven (7) years from the date of this consent, whichever occurs first.

**Reason:** To ensure a finite operation period for the quarry.

## AMENITY

- 4 The hours of operation of the quarry shall be restricted to:

Monday to Friday      7:30am to 4:00pm

Construction work and all other activities and operations are not to be conducted on Saturdays or Sundays or public holidays.

Materials shall only be transported along Mollys Grass Road between the following hours:

Monday to Friday      9:30am to 3:00pm

All noise generating activities must be managed in accordance with the details and recommendations contained within the *Noise Impact Assessment* dated 15 June, 2010 and the *Addendum Internal Haulage Route* dated 23 May, 2010.

**Note:** 'operations' includes all quarry and haulage activities.

**Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood and to confirm the hours of operation stated in the *Noise Impact Assessment* dated 15<sup>th</sup> June, 2010 and as amended by correspondence from Sergio Griffani dated 24 June, 2010. (EPA Act Sec 79C(b), and to ensure that potential for traffic conflict on Molly's Grass Road is minimised)

- 5 The proposed extractive industry including all haulage activities shall not result in the emission of offensive noise as defined in the *Protection of the Environment (Operations) Act, 1997*.

In the event that operations are identified to exceed the relevant noise criteria, all quarrying activities on the site are to cease until Lismore City Council is satisfied (in writing) that quarrying operations can recommence, which may be subject to operational requirements.

**Reason:** To ensure compliance with the requirements of the *Protection of the Environment (Operations) Act 1997*

- 6 The noise generated by the operating development when assessed in accordance with the *NSW Industrial Noise Policy* must not exceed the assigned project specific noise levels (PSNL) as detailed in the *Noise Impact Assessment* dated 15 June, 2010 and based on the intrusive criteria as this reflects the most stringent noise level requirement. The PSNL is:

Daytime 7.30am to 4.00pm (approved operating hours) - 36dB(A) with an increase of 4.3dB(A) in the vicinity of 109 Mollys Grass Road for truck haulage activities only.

The development must not operate outside the approved operating hours.

No audible security alarm devices are permitted to be used on the development. Broadband reversing alarms must be used on all plant, vehicles and equipment where alarm devices are required to meet relevant legal requirements. These alarm devices must operate to ensure that the assigned PSNL is not exceeded.

Blasting, drilling, rock hammering, cutting, sawing and major excavation work is prohibited.

The recommendations contained in the Noise Impact Assessment dated 15 June, 2010 and the Addendum Internal Haulage Route Noise Impact Assessment dated 23 May, 2010 must be implemented/addressed prior to the commencement of operations.

Appropriate noise management practices must be put in place to ensure that the requirements of this consent and the PSNL are complied with at all times. The noise management practices 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 measured 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.*

- 7 Within 120 days of the commencement of the operational development and at any other time when directed by Council to do so, the noise generated by the fully operational development must be assessed by a suitably qualified noise assessment professional, and a document must be provided to Lismore City Council certifying compliance with the Project Specific Noise Level (PSNL) and all noise management recommendations.

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

- 8 All noise generated by all construction civil work activities carried out prior to the commencement of quarry operations must be managed in accordance with the *Interim Construction Noise Guideline*, DECC July, 2009. Site managers and all persons who carry out any civil works 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 construction noise on the neighbourhood.*

- 9 The extractive industry operations are limited in scale to that described within the approved development. The extractive industry must have a maximum extraction rate of 2500m<sup>3</sup> per calendar year with a maximum of 300 nominal 8 tonne haulage loads per year. A maximum of five (5) return haulage loads are permitted in any one day, with a maximum of 15 return haulage loads in any one week and 50 return haulage loads in any 4 week period. Records must be kept of all extraction and haulage activities to audit compliance with this condition. Details of record keeping and auditing procedures to comply with this condition must be included in the Extractive Industry Management Plan.

**Reason:** *To clearly state the scale and intensity of the approved operational activity of the extractive industry.*

- 10 **Prior to the commencement of any extractive industry operations** a certificate prepared by a suitably qualified professional, must be submitted to and be approved by Lismore City Council. The certificate must confirm that the noise attenuation earth bunds have been constructed and are in operation and comply with the recommendations contained in the *Noise Impact Assessment* dated 15 June, 2010.

**Reason:** *To ensure that noise attenuation works comply with the recommendations of the Noise Impact Assessment.*

## REHABILITATION

- 11 The extractive industry must be progressively rehabilitated in compliance with the approved measures in the approved EIMP.

**Reason:** *To ensure appropriate rehabilitation of the quarry and required by Lismore Development Control Plan.*

## ENVIRONMENTAL

- 12 Clean-up equipment, including suitable absorbent material, must be stored on site to effectively deal with oil, fuel and/or chemical spills.

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

- 13 Approved fuel storage areas must be provided and maintained with effective bunding to contain all potentially polluting materials. The bunded area must have a minimum holding capacity of 110% of the volume of the largest fuel storage container. Where flammable and combustible liquids are stored, compliance standards relating to flammable and combustible liquids as specified in AS 1940-1993 *The Storage and Handling of Flammable and Combustible Liquids* must be implemented.

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

- 14 No dust is permitted to leave the site from any haulage vehicles associated with the development or to be a nuisance to any persons. Appropriate management and practices must be complied with at all times to comply with this condition in accordance with provisions in the approved Extractive Industry Management Plan.

**Reason:** *To ensure the proper management of dust on the development and to protect the amenity of the neighbourhood.*

## EXTRACTIVE INDUSTRY MANAGEMENT PLAN

- 15 The details approved Extractive Industry Management Plan are to be complied with at all times.

In the event of any non-compliance with the EIMP being identified, the matter is to be brought to the attention of Council in writing, detailing a proposed course of action to address the relevant issue(s) and prevent recurrence.

**Reason:** *To protect the environment and to comply with Lismore Development Control Plan and this Consent.*

## ROADWORKS

16 **Prior to the commencement of any extraction** 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). The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of completion of the work. Required roadworks include:

- The design and construction of the intersection of Rous Road and Mollys Grass Road shall be in general agreement with RTA "Road Design Guide" paragraph 4-5.2.1.
- The intersection is to be signed in accordance with NSW "Manual of Uniform Traffic Control Devices" (AS1742-2009). A "Left turn only" sign with supplementary plate "Vehicles over 4.5 tonne" to be erected on Mollys Grass Road. A "No right turn" sign with a supplementary "Vehicle under 4.5 tonne Excepted" to be erected facing west on Rous Road for the east bound traffic.
- Mollys Grass Road at chainage 650 to be widened to a 6 metre sealed width with 1 metre wide full depth gravel shoulders for a length of 350m starting at ch 500 and finishing at ch 800. The widened pavement shall be line marked with a double line. The crest shall be signed on both approaches with a crest sign as detailed in the "Manual of Uniform Traffic Control Devices" (AS 1742-2009).
- All of the above works shall be undertaken entirely within the road reserve, and shall not encroach in any manner upon adjoining lands.

## Notes:

1. "Commencement of extraction" excludes construction activity for site preparation prior to extraction occurring.
2. The above requirements are likely to result in changes to the preliminary intersection plan details provided in support of the development application. Prior to preparing detailed engineering plans, it is strongly recommended that advice be sought at an early stage from Council Development Engineering staff on the above requirements for inclusion in the intersection design. Such changes would need to address the proposed length of the merge lane.

**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.

17 **Prior to the commencement of any extraction** the proponent shall provide "Truck Entering" warning signage, W5-22 signs, shall be erected at suitable locations, approximately 200 metres either side of the intersection of Mollys Grass Road and Rous Road. Signs shall be displayed during hours of haulage operations only.

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

18 **Prior to the commencement of any extraction**, the applicant shall obtain a certificate of completion for the road works (as required under this consent) 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.

19 The person acting upon this consent shall bear the cost of all restoration works to Council's property and road infrastructure damaged during the course of this development. The person acting upon this consent shall advise Council, in writing or by photographic record, of any existing damage to Council property or road infrastructure, which must be prepared by a suitably qualified person and submitted to Council prior to the commencement of the development.

**Note:** This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

**Reason:** To ensure the protection of existing built public infrastructure and making good any damage caused to Molly's Grass Road as a consequence of transporting equipment and material (EPA Act Sec 80A(6) in relation to the extractive industry.

- 19A **Prior to the commencement of any site preparation or construction activity occurring** the proponent shall lodge an unconditional bank guarantee to the value of \$20,000 with Council as a bond for making good any damage caused to Molly's Grass Road as a result of quarry activities.

Council will consider release of the bank guarantee upon receipt of written advice that quarry activities have ceased, and it is demonstrated that relevant conditions of consent have been complied with. Council will refer to the dilapidation survey required by condition 19 in assessing and determining whether to release the guarantee, the terms of which shall be the subject of a formal written agreement with Council for record keeping purposes.

**Reason:** To ensure the protection of existing built public infrastructure and making good any damage caused to Molly's Grass Road as a consequence of transporting equipment and material (EPA Act Sec 80A(6) in relation to the extractive industry.

- 20 **Prior to the commencement of any works in the road reserve required by conditions of this consent,** the applicant shall obtain approval under section 138 of the Roads Act for all works upon the public road. 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) 17 and 18. 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.

- 21 **Prior to the issue of the section 138 approval** for 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 the impact of the construction of the civil works upon the general public is minimised.

## CARPARKING

- 22 The development shall provide adequate on site parking for all vehicles, plant and equipment 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))

- 23 All loading and unloading shall take place within the property boundaries, as will the parking of all 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))

## VEHICLE ACCESS

- 24 **Prior to commencement of any extraction** the existing vehicular access shall be upgraded to be in accordance with the RTA's "Typical Rural Property Access Standard" for heavy vehicles and be finished with a bitumen sealed surface for the first 50 metres from the edge of the existing sealed road. All works to be in accordance with Council's Design and Construction Specification for Vehicular Access.

**Reason:** To ensure adequate access to and from the development and minimise the impacts of noise to adjoining premises. (EPA Act Sec 79C(c))

- 25 The travel routes to and from the site for all traffic associated with the operation of the quarry shall access the site via routes that do not require a right turn movement at the intersection of Mollys Grass Road and Rous Road.

This requirement shall be reflected within the Extractive Industry Plan of Management, as required by Deferred Commencement Condition No. (a), and all drivers shall be notified of this requirement as part of the operational management of the quarry.

**Reason:** *To ensure traffic generated from the development will not adversely affect the road network. (EPA Act Sec 79C(a))*

- 26 Unsealed trafficable areas including haul roads, and exposed surfaces and access pads must be maintained at all times in a condition which will minimise the emission of wind-blown or traffic generated dust that has the potential to impact upon adjoining or nearby properties.

**Reason:** *To minimise generation of dust and to protect the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b)).*

- 27 Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas shall be kept clear of obstructions that would prevent compliance with this condition.

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

- 28 Float shifts for excavator transport shall be limited to six (6) per year and must be provided with an traffic escort and appropriate signage if an "Over-Size Vehicle" is used on each road trip.

**Reason:** *To ensure the safety of all users of the road network (EPA Act Sec 79C)*

## WATER QUALITY

- 28 Erosion and Sediment control measures shall be put into place and be properly maintained at all times to prevent soil erosion and the transport of sediment from the site into natural or constructed drainage lines or watercourses, in accordance with the approved EIMP or as otherwise directed or approved by Council. Measures must:

- maximise the diversion of clean waters, and
- minimise the extent and duration of site disturbance, and
- include devices/practices to prevent sediment being carried from the site by vehicle and plant tracks and tyres.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. All control measures must be regularly inspected and be maintained to ensure they 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 maintenance procedures. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.

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

- 30 Design, construction and management of the sedimentation basins are to be strictly in accordance with the "Managing Urban Stormwater: Soils, and construction (Landcom, 2004)" guidelines; based on the 90<sup>th</sup> percentile five day rainfall event as a design criterion (i.e. 60mm).

**Reason:** *To protect the environment. (EPA Act Sec 90(1)(b))*

## ABORIGINAL CULTURAL HERITAGE

- 31 In the event that suspected cultural heritage is found, the Proponent shall inform the Ngulingah Local Aboriginal Land Council (LALC) as soon as practicable of the suspected cultural heritage matter. A buffer zone surrounding the outer extent of the find should be flagged and all activities should cease within this buffer zone until such time as clearance to continue quarrying activities within the buffer is provided in writing by the Ngulingah LALC. Additionally, the Proponent is bound by *National Parks and Wildlife Act, 1974* to inform DECCW forthwith of any cultural heritage objects found at the project area.

**Reason:** To ensure the management of Aboriginal cultural heritage and compliance with the requirements of the National Parks and Wildlife Act, 1974

## REPORTING

- 32 Annual audits shall be carried out of the quarry operations against approved plans of management. The audit shall identify areas of non-compliance and management responses. Annual reports of the audit shall be submitted to Council commencing 12 months after the date of commencement of operations.

**Reason:** To ensure compliance with the development consent and licensing conditions.

- 33 The proponent shall provide Council, on or before January 31, April 30, July 31 and October 31 in each year, with extraction figures detailing quantities of all material removed from the site for the previous quarter of operations.

## VEGETATION MANAGEMENT PLAN

- 35 The approved Vegetation Management Plan shall be complied with at all times.

**Reason:** To ensure integrity of the site's endemic vegetation community.

## RETENTION OF TREES & VEGETATION

- 36 No existing trees or vegetation (other than confirmed weed species) is to be removed or pruned from the site during construction works, with the exception of those restricted to the small area comprising vegetation at an early stage of regrowth in the form of a small group of primarily semi-mature early colonizing rainforest species and several exotic trees. Removal or pruning of any additional trees or vegetation would require prior written Council approval.

**Reason:** To ensure preservation of existing trees on-site.

- 37 Tree Protection Zones shall be adequately marked before, during and after site earthworks. Tree Protection Zone fencing bottom strand shall be no closer than 30 cm to the ground at any point.

**Reason:** To ensure preservation of existing trees on site and allow koala tree usage.

- 38 Prior to commencement of any other works upon the site an adequate Tree Protection Zone shall be provided around all retained trees. This Tree Protection Zone shall generally be provided by preserving an area around the tree extending one metre beyond the drip-line. No machinery works, earthworks or materials storage shall occur in Tree Protection Zones.

**Reason:** To ensure preservation of existing trees on site.

- 39 Vegetation surrounding the development site is to be left undisturbed. Boundaries should be clearly marked in the field prior to the commencement of any clearing operations. This information must be conveyed to machinery operators prior to commencement of works.

**Reason:** To ensure preservation of existing trees on-site.

## WEED MANAGEMENT PLANS

- 40 The applicant shall remove all listed noxious weeds from the areas identified in the Flora and Fauna Assessments for the Tregeagle Quarry Stage 2 Report dated June 2009.

The removal is to be undertaken in accordance with *Noxious Weeds Act, 1993*.

The weed removal works are to be completed in accordance with the approved Weed Management Plan.

**Reason:** To minimise the impact and spread of noxious weeds.



# Report

<b>Subject</b>	<b>Draft Local Environmental Plan (LEP)</b>
<b>TRIM Record No</b>	BP10/535:EF09/821
<b>Prepared by</b>	Executive Director - Sustainable Development
<b>Reason</b>	To report on requests from submitters to the draft LEP for a public hearing and to report on the next steps involved in finalising the draft LEP
<b>Community Strategic Plan Link</b>	Provide Sustainable Land-use Planning

## Overview of Report

Three (3) requests have been received from submitters to the draft Lismore Local Environmental Plan (LEP) 2010 for a Public Hearing to be held. Two (2) requests relate to the proposed rezoning of land in South Lismore. One (1) request relates to a number of rural and environmental protection zoning issues. The *Environmental Planning & Assessment Act 1979* (EP&A Act) provides Council with the ability to arrange a public hearing in respect of a submission if Council considers that the issues raised in a submission are of such significance that they should be the subject of a hearing before Council decides on the submission. This report recommends that a public hearing is not necessary.

## Background – Hearing Request

The draft LEP 2010 was publicly exhibited for four (4) months from 29 April 2010 to 30 August 2010. During this time approximately 1600 submissions were received. Three (3) submitters have requested a Public Hearing. Section 57 (5) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) provides that:

- (5) *If:*
- (a) *a person making a submission so requests, and*
  - (b) *the relevant planning authority considers that the issues raised in a submission are of such significance that they should be the subject of a hearing,*

*the relevant planning authority is to arrange a public hearing on the issues raised in the submission.*

Two (2) submissions relate to the proposed rezoning of land in South Lismore. One (1) submission related to a range of issues. Attached are copies of the subject submissions. This report outlines the issues raised by the submitters.

### South Lismore industrial rezoning background

The draft LEP2010 includes a number of urban release areas, one of which is an industrial area in South Lismore. The attached map shows the area proposed to be rezoned from the 1(r) Riverlands Zone (hatched) to the IN1 General Industrial zone. The land is identified as potential industrial land in the Lismore Industrial Land Study 1995 and as potential 'employment land' in the Far North Coast Regional Strategy 2006-2031. Part of the land (approximately 18.5ha) is owned by Council.

A rezoning application was prepared and assessed by Council staff prior to recommending its inclusion in the draft LEP. This application was considered to provide sufficient information to justify proposing to rezone land.

All land owners in the area proposed to be rezoned were advised of the proposal, along with adjoining land owners, when the draft LEP2010 was placed on public exhibition on 29 April 2010. The South Lismore Progress Association was also advised of the exhibition of the draft LEP along with an offer to provide a briefing to the Association. As required by the Department of Planning "Best practice Guidelines for LEPs and Council Land" January 1997, a 'Statement on Council Owned Land in Relation to the draft Lismore LEP 2010' was also prepared and publicly exhibited.

If the draft LEP is adopted by Council, subject to variations arising from submissions, a Development Control Plan (DCP) will be prepared for the site and the preparation of this DCP will provide the opportunity for further consultation with the community and involve more detailed assessments of possible flood impacts on South Lismore, the preferred location of future road access, design guidelines etc.

## **South Lismore submitter's issues**

The South Lismore Action Partnership (SLAP) and A. Davies have requested a public hearing into the South Lismore industrial rezoning (SLIR). SLAP's request refers to a Planning Circular C18 and states:

*"At this stage of the process I really don't think that the council has provided the community with this level of confidence about SLIR. I request that council hold a Public Hearing specifically on the SLIR that will allow the community to properly represent their concerns.*

*I think this SLIR plan will be a dramatic change to a massive area of the floodplain which has been very poorly considered by council and under substantiated by the supporting documents from Worley Parsons where they state twice that local flow assessments must be done to give an accurate conclusion. The potential consequences of the planned excavation by extractive industry, the consequent fill lining the waterway, the fill lifting of a new industrial park at the expense of existing residences and the water displacement and/or contamination that could occur and many other concerns all need to be given far closer consideration. The public has a right to have it's many serious concerns addressed at a public hearing."*

In determining whether to hold a public hearing, the EP&A Act requires a consideration of the significance of the issues raised in a submission. It is not proposed to provide a review or commentary on the two (2) submissions. However, for the purposes of considering the significance of the issues raised, the following is a brief summary:

- The need for a 'proper environmental study'. *'There is no proper EIS of the plan to excavate in conjunction with fill in the draft at all... a DLEP is not an EIS. Only a proper EIS would provide a sufficient amount of detail. Consequently, the entire plan for the South Lismore Rezoning must be scrapped in the LEP.'*
- Habitat for endangered species of flora will come under threat from SLIR. The draft plan does not properly investigate the risks of this eventuality.
- Aesthetic Values. This represents a plan to make South Lismore into literally a massive hole, which will be an eyesore and do nothing to beautify and enhance South Lismore.
- Missing Information. In 2007 there was an EIS looking at creating a quarry at this site by a well-known extractive industry entrepreneur.
- Risk to Waterways. Reference is made to an EIS by a 'well-known extractive industry entrepreneur' and the findings that the bedrock basalt is contaminated. The submission is that treating an excavation and thereby waterway for flood mitigation will introduce contaminants into waterways.
- Vital Local Knowledge. Reference to the SLAP representative's local knowledge of flooding in Hollingsworth Creek and assumptions that fill upstream will exacerbate flooding in South Lismore.
- Permanent Damage. Once development occurs it cannot be undone.

- Environmental & Health Risks. Opinion provided on impact of flood waters in the excavation area on mosquito populations, toxins leaching from the 'sewage farm', degradation of water quality, location of an endangered species downstream of the site (in Taylor Street), basalt is contaminated and noise will carry.
- Council's Resource Management Practice Requires Refocusing – relates to Council's alleged inaction on breaches of development consent conditions.
- Economic Risks – investment risks to Council along with alleged impacts on local businesses of increased mosquito populations and smell from toxins leaching from the 'sewage farm'.
- Use of Existing Services – will not result in most economic use of services.
- Inconsistencies – alleged inconsistencies with the rezoning submission.
- Financial Gain – Council makes no effort to disclose the financial gain, or equally as possible the huge investment in infrastructure to be squandered.

Most of the issues raised are relevant to the proposed rezoning. It is not clear whether some of the concerns relate to a development consent issued in 2006 for the excavation of the 'airport floodway', or the proposed rezoning. In any case, the issues require a proper and considered response, which is proposed to occur in the process outlined in this report.

Public workshops are planned to provide submitters the opportunity to address the Council about their concerns. Further Council briefings are planned to allow staff to report to Council on options and possible responses to issues. A public hearing will not provide for any more detailed or considered response by Council. Council is still required to consider and respond to the issues raised.

It is considered that the matters raised can be addressed adequately by Council in the proposed process and are not considered to be of such significance as to warrant a public hearing.

## **Rural and Environmental Protection Submission**

One (1) other submission, from Mr Jeff Champion, requested a public hearing into the issues summarised below:

- The zoning of Mr Champion's land as RU2 Rural Landscape and E3 Environmental Management.
- The imposition of E2 and E3 zones on private land and the objective in the E3 zone that includes the words 'to restore'.
- Inappropriateness of E3 zone on Mr Champion's land.
- Lack of recognition of the Champions Quarry as a significant resource in the LEP.
- Lack of accuracy in mapping.
- Excessive riparian restrictions and reference to a Riparian Lands Map in the Dictionary that does not exist.
- The impact of the Water Catchment Map on agriculture.
- Council's proposal to restrict rural boundary adjustments.
- Minimum lot size on horticultural land, in particular, proposed increase from 20ha to 40ha in the current 1(b) Agricultural Zone.
- Access by the EDO to the draft LEP.
- Inadequate consultation with the rural community.

These issues are relevant to the draft LEP and can be addressed and responded to in a public and accountable manner by the Council. Council has committed its Ecologist to undertake 'ground truthing' of environmental protection zones. A preliminary site inspection has already occurred at Mr Champion's request. The availability of Council's Ecologist has been publicly stated at a number of public forums. Staff have also advised at the same public forums that the proposed zoning of land is just that, a proposal.

As detailed above, the submitter and Council workshops will in the first instance provide submitters with the opportunity to individually address the Council about their concerns. Once again the issues raised in this submission are not considered to be of such significance as to warrant a public hearing.

## Draft LEP – Next Steps

There are approximately 1,600 submissions to the draft LEP with around 400 in a 'template' type letter and 500 of a very similar nature. All the submissions have been acknowledged. It will take some time to summarise these submissions.

Very briefly there are four steps to the Council part of the process namely:

### Step 1 – submitters heard by Council and rural / environmental issues workshopped

It is planned to hold submitter workshops by subject area in October/November 2010. It is hoped that all submitters that want to be heard will be able to be heard in this time period but if there are large numbers this could spill over into early December or even early 2011. These are not 'public hearings' as per the EP & A Act but rather Council briefings. Spokespersons will be encouraged and repetition of what is in their written submissions will be discouraged. At the start of each submitter workshop staff will present the 'technical facts'. There will be no deliberations at these workshops or staff recommendations. They are designed as listening forums by elected members and staff.

The first subject matter for submitter workshops will be the rural/environmental issues. As a separate briefing it is planned to have elected member deliberations on these issues in this time period while the issues are fresh in the mind prior to Christmas. However no decisions will be made at these workshops.

### Step 2 – internal staff analyse, site visits and discussions with the DOP

Staff from November 2010 till February 2011 will analyse submissions, consider submitter presentations, do further research/site visits and formulate options/recommendations on issues raised. Secondly, staff need to talk to the DOP staff on technical aspects where the Department have stipulated mandatory clauses e.g. the boundary adjustment clause in rural zones.

### Step 3 – Councillor briefing on options / recommendations

Staff will present elected members with options and recommendations on the balance of the subject issues (rural and environmental issues hopefully dealt with prior to Christmas). The public/submitters don't speak at these briefings. The land reclassification hearing report from Pamela Westing will be considered as part of steps 3 and 4. The indicative timing for this step in March/April 2011.

### Step 4 – Council resolves to submit draft LEP to Minister for gazettal

The final step is that Council staff will report the matter formally to Council with consideration of the submitter's issues and recommended variations to the draft LEP. The Council will be asked consider and resolve to make any variations to the draft LEP based on submissions and other matters (from staff and the DOP). The indicative timing for this is May/June 2011. The draft LEP will be forwarded to the Minister of Planning for consideration and approval.

## Sustainability Assessment

### Sustainable Economic Growth and Development

This report responds to three (3) requests for a Public Hearing. The sustainability assessment is more relevant to the consideration of the issues raised by the submissions which will be dealt with as part of the process outlined in this report.

### Social Inclusion and Participation

The process outlined in the report in respect of holding submitter workshops is an important public participation commitment by Council.

## Protect, Conserve and Enhance the Environment and Biodiversity

These matters will be dealt with in the process of considering submissions.

## Best-Practice Corporate Governance

The process outlined in addressing draft LEP submissions represents best practice corporate governance.

## Comments

### Finance

The extra costs associated with a Public Hearing would include an independent facilitator, advertising and venue hire (assuming it is not held in the Council Chambers). These are not considered to be significant, but funding is not currently provided in the 2010/11 Budget.

### Other staff comments

Not applicable.

### Public consultation

The draft Lismore LEP2010 was publicly exhibited for four (4) months. Owners of the South Lismore land that was proposed to be rezoned and adjoining landowners were notified of the proposal. The South Lismore Progress Association was also advised in writing that the draft LEP was available for public comment. Mr Champion was advised in writing that the draft LEP was proposing to include some of his land in the E3 zone. A preliminary site inspection has also been undertaken at his request. The public workshop process will provide submitters with further opportunity to address Council and for the community in general to be at the workshops.

### Conclusion

Three (3) submitters have requested that Public Hearings about issues raised in their submissions to the draft LEP. It is considered that the matters raised by all submitters can be addressed in an open and accountable manner by Council and are not considered to be of such significance as to warrant a public hearing. Hence it is recommended that Public Hearings into the matters raised not be held.

### Attachment/s

1. Submissions - Request for Public Hearing - Draft LEP
2. Map of Proposed LEP for SLIR

### Recommendation

That Council:

1. Resolve that pursuant to section 57 (5) of the *Environmental Planning & Assessment Act 1979* not to hold public hearings into the issues raised in the subject submissions by the South Lismore Action Partnership, A. Davies and Mr Jeff Champion to the draft Lismore Local Environmental Plan (LEP) 2010 for the following reasons:
  - (a) Council does not consider that the issues raised in the subject submission are of such significance to warrant a public hearing.
  - (b) That Council is holding submitter workshops that will allow the subject submitters to present their issues to Council.
2. Note the indicative process and steps as outlined in the report in respect of Council considering submissions to the draft LEP.

---

**From:** Amanda Morris [REDACTED]  
**Sent:** Saturday, 11 September 2010 10:45 AM  
**To:** Records  
**Cc:** Gianpiero Battista; David Yarnall; Graham Meineke; Isaac Smith; Jenny Dowall; John Chant; Neil Marks; Peter Graham; Ray Houston; Vanessa Eklns; DECCW Sandra Guy; EDO, Sue higginson; Thomas George; northcoast@planning.nsw.gov.au; information@planning.nsw.gov.au  
**Subject:** Official request: Public Hearing regarding the South Lismore Industrial Rezoning  
**Attachments:** Circular-C18.pdf

Official Request to the General Manager

Dear Sir,

I draw your attention to a section from Circular C18 which was on exhibition with the DLEP South Lismore Industrial Rezoning (SLIR):

**"Consideration of submissions**

**At this stage in the process, council will need to ensure that the public is confident their views have been fully taken into account. A public hearing is one way this could be achieved. The option of using the services of a Commissioner of Inquiry as an independent assessor of the submissions could also be considered."**

At this stage of the process I really don't think that the council has provided the community with this level of confidence about SLIR. I request that council hold a Public Hearing specifically on the SLIR that will allow the community to properly represent their concerns.

I think this SLIR plan will be a dramatic change to a massive area of the floodplain which has been very poorly considered by council and under substantiated by the supporting documents from Worley Parsons where they state twice that local flow assessments must be done to give an accurate conclusion. The potential consequences of the planned excavation by extractive industry, the consequent fill lining the waterway, the fill lifting of a new industrial park at the expense of existing residences and the water displacement and/or contamination that could occur and many other concerns all need to be given far closer consideration. The public has a right to have it's many serious concerns addressed at a public hearing.

Please respond in writing with your assurance that council will hold a public hearing chaired by an independent and suitably qualified individual.

Amanda Morris  
[REDACTED]

  
**DEPARTMENT OF URBAN  
AFFAIRS AND PLANNING**

Governor Macquarie Tower, 1 Farrer Place, Sydney 2000.  
Box 3927 GPO Sydney 2001. DX 15 Sydney.  
Telephone: (02) 391 2000 Fax: (02) 391 2111.

**CIRCULAR NO. C18**

Issued  
22 November 1990

To all Councils

**PROCESSES FOR THE REZONING OF COUNCIL  
PROPERTY ASSETS FOR DISPOSAL****BACKGROUND**

A variety of events over the past year have emphasised the importance for councils to ensure that both the spirit and letter of the planning process are observed when dealing with council assets. The Minister is keen to see local government operate in a manner which reflects positively on its integrity.

It is appropriate that all levels of government pursue effective management of assets such as property. Where that management involves the rezoning of council land which will enable a financial benefit to be achieved, it is important that the community sees the proper procedures being followed. It is also important that councils clearly distinguish between their plan making powers and responsibilities on the one hand and entrepreneurial activities on the other.

The purpose of this circular is to provide some suggestions to help councils achieve these objectives. The common thread in this advice is that a council should ensure that:

- (a) the public is made fully aware throughout of the council's interest in the proposal and of the type(s) of benefit that may arise, and
- (b) all environmental planning matters are given thorough and balanced consideration.

■ Contact: Research Branch

■ Our reference: 79/10309



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C18-2

The suggestions are provided for proposals to rezone and dispose of a specific site. It would be advisable if the same principles were applied where council land is being rezoned without that being the primary purpose of the LEP. This could occur where the plan applies to a much larger area and/or the increase in the potential asset value of the council land is incidental to the purpose of the LEP.

Councils should also remember that the final decision to make a plan rests with the Minister. Caution needs to be applied to the level of any commitment or commercial agreement made prior to an LEP being gazetted.

#### THE PLANNING PROCESS

- (i) The resolution to prepare an LEP.

The decision to rezone council land should be formal and fully public. As the council is dealing with the community's assets, it is suggested that consultation with the public about its intentions and possible uses of the land be undertaken prior to council determining its own preference. Once the formal planning process begins, council officers should not operate under delegated authority. As a general principle it would be advisable that all council's decisions be taken by the council as a whole. This would not prevent officers undertaking administrative steps under delegated authority.

The resolution to prepare a draft LEP should only be made after consideration of a report which clearly states:

- (i) the council's ownership of the land;
- (ii) the asset management objectives being pursued;
- (iii) the manner in which they will be achieved; and
- (iv) the type of benefits the council wants.

While it would not be necessary for the details of any possible financial arrangements to be disclosed, the public should be left in no doubt that, should the plan proceed to gazettal, the council may or will benefit financially.

The report on which the council makes its decision should discuss the planning merits of the proposal. It should also include all the information required to be given to the department's Secretary under section 54(4) of the Environmental Planning and Assessment Act (as detailed in clause 5 of the Regulation). Sufficient detail on environmental planning factors should be included in the report to enable a fully informed decision to be made on the need for an environmental study.

/3 ..



C18-3

An environmental study may only be necessary in some cases. However, council should carefully evaluate the need for a study, or the preparation of other technical reports, in terms of the effect of the proposal on the environment and whether substantial change in the character of the area may occur.

This sort of planning assessment should be undertaken before commercial negotiations reach an advanced stage. Where issues of regional or State policy may arise, early consultation with the department would also be advisable.

(ii) Content of the draft plan:

In deciding matters such as the land use category, any development standards such as floor space ratios, and whether to include any special provisions, care needs to be taken that normal planning principles are being applied and that similar issues are being consistently approached.

The provisions of the plan, including any development standards which are thought necessary, should fully provide for any development that can be reasonably envisaged. The content of the plan, accompanied where necessary by explanatory material, should clearly indicate to the public the parameters of development that can occur. Council should not anticipate relying on other instruments such as SEPP No. 1 - Development Standards, to enable a development proposal to be approved.

(iii) Exhibition of the draft LEP

The exhibition should be accompanied by material which clearly indicates to the public the council's interest. This would include a statement of council's current ownership of the land and whether it intends to sell, lease or otherwise realise its asset, either immediately after rezoning or at a later time. In addition, any proposed land use should be stated and, if available, relevant plans displayed. All relevant studies, including any environmental study, should also be publicly exhibited.

It would be advisable if the material displayed included information, possibly in graphic form, which indicated aspects such as the maximum possible height and bulk of a building, the extent of on-site parking allowed or required, the possible impact on traffic circulation and parking in surrounding streets, and the likely uses of the development.

/3 ..

C18-4

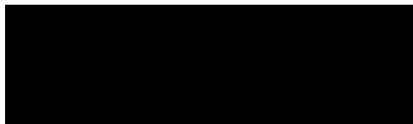
## (iv) Consideration of submissions

At this stage in the process, council will need to ensure that the public is confident their views have been fully taken into account. A public hearing is one way this could be achieved. The option of using the services of a Commissioner of Inquiry as an independent assessor of the submissions could also be considered.

DEVELOPMENT APPLICATIONS

The principles underlying the above advice are equally applicable where a development application is being considered and the council is a potential financial beneficiary, either directly or indirectly. The council must ensure that it gives full and balanced regard to all the relevant section 90 matters following proper consideration of a planning report on the proposal. The decision on the application should be made by the council itself rather than officers acting under delegated authority. Where it is practical, the report should be prepared by officers who have not been involved in commercial negotiations relating to the development. Where such a potential conflict of interest cannot be avoided, it should be mentioned in the planning report. Alternatively, the council could consider employing a consultant to prepare an independent assessment of the application.

The above advice is recommended to councils as an aid to the effective management of both council assets and the planning process. If further clarification or advice is required, please contact the department's regional office in your area.



G. KIBBLE  
Director

Saturday, 28 August 2010  
To the General Manager

**Objection to Draft Lismore LEP 2010**  
**South Lismore Industrial Rezoning**

**Introduction**

As recommended by Worley Parsons, this plan requires proper localised flow assessments and these assessments have clearly not been performed. Other information vital to making an informed assessment is also absent from this report such as a relevant Environmental Impact Study (EIS), an omitted EIS performed in 2007 in the same location for an extractive industry and proper & fitting financial disclosures. The DLEP is not a fair proposition for the community to consider because many important impacts have not been studied or presented.

Due to an apparent failure or dereliction of a duty of care to properly investigate the merits of a major proposal prior to public exhibition, it falls to the local ratepayer to represent to the best of their ability, understanding and resources the irresponsibility and shortsightedness of this section of the DLEP, with as strong a voice as an individual can muster in the face of a powerful authority.

What I have to say here is of vital importance for many.

*Please listen well.*

**Environmental Impact Study**

This plan will involve a major change to an enormous area (over 60 ha) of land in South Lismore therefore, a proper environmental study is called for, as prescribed in Circular C18 from the Department of Urban Affairs and Planning:

An environmental study may only be necessary in some cases. However, council should carefully evaluate the need for a study, or the preparation of other technical reports, in terms of the effect of the proposal on the environment and whether substantial change in the character of the area may occur.

There can be no doubt that "substantial change in the character area will occur" in that area: including substantial areas of local waterways to be rezoned and filled, grazing pastures rezoned industrial, massive area of fill to be used for industrial purposes and massive area of excavation. The EIS in DA 2006/672 that was included in the report stated that:

*"Flood levels throughout most of Lismore (North, South and the CBD) are increased in the PMF flood event as a result of the proposed excavation and filling."*

However these findings have been overlooked on the weight of some highly inconclusive studies by Worley and Parsons (your ref: Appendix 1).

A further EIS by a well-known extractive industry entrepreneur in 2007, which is omitted from this report, found that the bedrock basalt was in fact contaminated. This

Page 1 of 8

EIS needs to be considered in the context of this report for the community to be properly informed of the consequences.

There is no proper EIS of the plan to excavate in conjunction with fill in the draft at all. There is only the insubstantial Appendix 1, which as will be demonstrated is inconclusive as the authors themselves point out twice. (See **Inconsistencies**)

That "sufficient detail on environmental planning factors [has been provided in] this report, in particular Sections 4 & 5, identifies the key environmental and planning issues that relate to the lands" is a complete fallacy; a DLEP is not an EIS. Only a proper EIS would provide a sufficient amount of detail. Consequently, the entire plan for South Lismore Rezoning must be scrapped in the LEP.

#### **Endangered Tree**

Habitat for endangered species of flora will come under threat from South Lismore Industrial Rezoning - excavation and fill plan. The banks of Hollingsworth creek play host to at least 2 species and perhaps more of rare and endangered plants, which only grow on the Northern Rivers. Council has a duty to protect the areas where these plants occur, further to reserve and protect surrounding creek banks to help encourage regeneration.

Sweet Myrtle (endangered) or *Gossia Fragrantissima* is one plant that absolutely must be protected and promoted, so properties containing these rare plants must be protected from increased disturbance from floodwaters. The draft plan does not properly investigate the risks of this eventuality.

#### **Aesthetic Values**

This represents a plan to make South Lismore into literally a massive hole. It will be an eyesore, it will degrade the value of the properties in the entire area, it does nothing to beautify and enhance South Lismore in fact it does the opposite. Efforts to hide the development will not be able to hide heightened noise being carried and amplified across water, boosted mosquito populations, potentially enormous stench and increased sedimentation choking the waterways.

#### **Missing Information**

In 2007 there was an EIS looking at creating a quarry at this site by a well-known extractive industry entrepreneur. An important part of the conclusion was that although the topsoil was no longer contaminated, (this site having been host not only to the Lismore Tip but 2 dipping sites in the past) **the basalt bedrock was in fact still contaminated**. Why isn't this report in the South Lismore DLEP? It is highly relevant information. Council must include all relevant documentation in this exhibition but it has failed to do so. Consequently, the entire plan for South Lismore Rezoning must be scrapped in the LEP

#### **Risk to Waterways**

With regard to the EIS by well-known extractive industry entrepreneur in 2007, the findings were that the basalt was contaminated. This clearly indicates that creating an excavation and thereby waterway for flood mitigation at this site will introduce contaminants into the other naturally occurring waterways during flood times,

potentially exposing many native aquatic inhabitants to this residue. This is inappropriate in the extreme.

#### **Vital Local Knowledge**

As a resident of nearly 7 years with a home that is located on Hollingsworth Creek, I have come to know that it only takes a tiny bit of rain on the floodplain for the creek to swell noticeably. A day or two of rain can see the creek full and half a day more will see it break the southern banks and start to swamp Riverview Park. It can all happen in half a day in heavy rainfall. With the proposed fill lining the banks of Hollingsworth Creek, even at a distance of 40m from the creek a bottleneck will be created and further exacerbated by the even vaster body of water behind it created by the proposed excavation.

There will be a far greater body of water upstream of the creek, creating far higher velocity at greater depths than to be forced down a man-made passageway that will be narrowed by the fill lining the creek. It's a bandaied solution that can never truly improve flooding: it may postpone it for a very short time, allowing the floodwaters to gather momentum then whoosh, say goodbye a quarter of South Lismore!

Without a doubt the fill located along Hollingsworth Creek will push more water onto South Lismore residents and business. The area is not suitable for industrial zoning or any type of fill development because it is vital a floodplain that mitigates the flow by spreading water across a broad gently sloping area. This plan will clearly create a bottleneck downstream of a deep lake that will push water higher, faster and more destructively than ever experienced before.

#### **Permanent Damage**

This development once done cannot be undone. The risk is far too great with this under disclosed, under investigated and foolhardy venture into the unknown.

#### **Environmental Risks**

- This excavation is right next to the sewage farm. What about flood: the waters will mix and further degrade the water quality not only of Hollingsworth Creek but of Wilsons River. Council has a responsibility to the community and the environment to help protect and regenerate waterways. This plan will achieve the opposite affect.
- Mosquito populations will soar at the new excavation site and across South Lismore. How will council protect South Lismore wildlife and domestic animals from the health risks associated with mosquito bite and other waterborne disease?
- The fill positioning will create a bottleneck on Hollingsworth creek that will push more high velocity water onto creek banks during flood, wiping out existing native flora and fauna downstream
- The fill and excavation development will degrade the water quality further with (potentially contaminated once zoned General Industrial) soil erosion and sediment
- Most importantly, a remnant stand of *Gossia Fragrantissima* an endangered species of small tree that occurs exclusively on the Northern Rivers exist downstream of the proposed development on 13, 11, 9 and 16 Taylor Sts. Council risks further degradation and erosion of the creek banks where these

trees exist and in larger flood events, risks the trees being washed away with this draft proposal.

- Any steps to use insecticides and poisons to control mosquito populations, especially on waterways represent a further unnecessary risk to health and the environment and therefore may not be viewed as a suitable method to control problems that need not exist in the first place.

#### **Council's Resource Management Practice Requires Refocusing**

The council has repeatedly demonstrated a lack of resources when it comes to enforcing DA's in existence in industrial areas in South Lismore to date.

Within one week I have spoken to residents of Elliot Rd, Caniaba St, Foley Rd, Phyllis St, Union St and Newbridge St about how they have been trying to get council to enforce various conditions of DA's in industrial areas for collectively over 40 years.

**These residents have not asked for special treatment.** They have only requested that the regulations/conditions that were agreed to by the council and community in the first place be upheld. These are the conditions upon which the community was prepared to allow the developments to go ahead.

Council has respectively failed to enforce the full extent of DA's in each case, due to what we conclude is either a lack of will or a lack of resources. Council has clearly demonstrated it's historical inability to manage and enforce DA's, especially in South Lismore. So, what reason does the community have to believe that this massive new industrial area in South Lismore will be the exception? That Council will suddenly find the resources to ensure that conditions are met at this new development is an insult to intelligence!

#### **Economic Risks**

- Business owners will not appreciate the reduction in customers as people increasingly avoid South Lismore's business precinct, simply to escape the mozzies and/or the bad smell.
- Mosquito populations will soar at the new excavation site and across South Lismore. How will council protect South Lismore shoppers in the town and the industrial estates from the annoyance of mosquito attack? Can council be confident that workers will not mind being attacked by mosquitos throughout their round the clock shifts? Council has clearly not considered the economic consequences of permanently changing the landscape in such a dramatic fashion and the possible repercussions on business.
- The fill positioning will create a bottleneck on Hollingsworth creek that will put more water onto South Lismore residents and businesses during flood causing painful economic consequences
- Any steps to use insecticides and poisons to control mosquito populations, especially on waterways represent a further unnecessary cost therefore may not be viewed as a suitable method to control problems that need not exist in the first place.
- The DLEP for South Lismore represents a massive risk on investment. Given that the industrial estate that exists on Krauss Ave in South Lismore cost ratepayers an estimated \$8 million to develop and to date has only attracted

two takers is evidence that ratepayer funds will again be misspent building yet another an unnecessary industrial zone.

#### Health Risks

- This excavation is right next to the sewage farm, toxins from the farm will leech into the water in the excavation. Consequently, the entire plan for South Lismore Rezoning must be scrapped in the LEP.
- An excavation next to the sewage farm will stink to high heaven. South Lismore residents don't want to be bathed in the stench of this excavation. Consequently, the entire plan for South Lismore Rezoning must be scrapped in the LEP.
- Mosquito populations will soar at the new excavation site and across South Lismore. How will council ensure South Lismore residents, workers and shoppers are protected from the health risks associated with mosquito bite such as Ross River Fever, Barmah Forest Virus and other waterborne disease?
- Any steps to use insecticides and poisons to control mosquito populations, especially on waterways represent a further unnecessary risk to health and the environment and therefore may not be viewed as a suitable method to control problems that need not exist in the first place.
- The fill positioning will create a bottleneck on Hollingsworth Creek that will put more water onto South Lismore residents and businesses during flood which will have serious health consequences, especially for younger and older people.
- With regard to the EIS by a well-known extractive industry entrepreneur in 2007, the findings were that the basalt was contaminated. This clearly indicates that creating an excavation and thereby waterway for flood mitigation at this site will introduce contaminants into the other naturally occurring waterways and during flood times, potentially expose many South Lismore residents to this residue on their properties as the water recedes. This is inappropriate in the extreme.
- Noise will carry and be amplified by the body of water that will be in the excavation. Exposure to noise can have many serious health implications including depression, heart attack, anxiety, hearing impairment and insomnia.

#### Use of Existing Services

Clause 58 of the North Coast Regional Environmental Plan states that "the proposed development will make the most economic use of existing services" but this will not be the case because we already have a largely vacant industrial area and we don't need a duplicate in a new area. Industry does not make good use of the areas we already have in South Lismore. It is a waste of ratepayer funds to invest even more superfluous and expensive industrial zones when Krauss Avenue has been well established, curbed and guttered, undoubtedly with all the required infrastructure such as water, sewage, telecommunications and electricity for many years. Yet the uptake has been minimal with a large amount of vacant land still available.

#### Inconsistencies

In sections 2.5 Vegetation and 4.5 Flooding of the report, supported by appendix 1 by Worley Parsons, the council repeatedly seeks to justify all the inconsistencies that are contained within the plan titled as follows:

*Direction No. 15 - Flood Prone Land*  
*Direction No. 16 - Industrial Zones*  
*Direction No. 22 - Rural Zones*

*Part 4 - Urban Development*  
*Division 3 - Environmental Hazards*  
*Clause 44 – objectives*  
*Clause 45 - Plan preparation - hazards*  
*Clause 45A - Plan preparation - flood liable land*

5.13 Lismore Development Control Plan (LDPC)  
 Section 5.3.2 - Design elements  
 Flooding

These many inconsistencies deal largely with flooding and the consequence of development in floodplains, 4.5 in particular is basically a summary of appendix 1 and the entire balance of councils argument that this development is properly researched and investigated to go ahead rests upon these two documents by Worley Parsons.

I quote here from appendix 1.1 by Worley Parsons:

*"The approximate width of the bulk of the flow is shown on the figure. We propose that this line be used as a guide to the maximum extent of filling on the site to maintain Hollingsworth Creek's localized flow capacity. Note that a more accurate line could be determined through a more detailed, localised flow assessment."*

And from appendix 1.2 by Worley Parsons::

*"The issue of maintaining conveyance capacity of Hollingsworth Creek then becomes one of localised drainage. We suggest that the maximum fill line developed as part of Task 08 be used as a guideline as to the maximum extent of filling. Again, the accuracy of this line could be enhanced through a more detailed, localised flow assessment."*

That council seeks to put this plan to the community for approval based on independent investigations that clearly indicate that they're not detailed enough to assess the full extent or impact of the water flow is completely irresponsible, verging on negligence and a cynical attempt to take the South Lismore community for granted. Consequently, the entire plan for South Lismore Rezoning must be scrapped in the LEP.

#### Financial Gain

In part six of the report, insufficient information is made available to satisfy the requirements of the Circular C18. Where council attempts to address this section, it makes no effort to disclose the obvious financial gain (or equally as possible the huge investment in infrastructure to be squandered: see Use of Existing Services and Economic Risk) it stands to receive/lose from the ensuing rezoning, development and subdivision of grazing lands.

Council states that for 35 ha it paid \$132 000 50:50 with Richmond Valley Council in 2001. Of that 12 ha will be rezoned and developed with fill for industry. Although council says in its report *"the financial benefits and economic impacts of the rezoning*



*have not been identified or assessed*", it is evident that the \$5,500 per hectare price in the 12 ha area of the initial investment will soar under the industrial zoning, development and ultimate subdivision and sale of the land. It will also add an enormous amount of value to the remaining private properties listed for rezoning in the draft plan.

There can be no doubt that the intent is to invest ratepayer funds into extensive development that is obvious value adding but council contrarily states:

*"The financial benefits and economic impacts of the rezoning have not been identified or assessed"*

and that:

*"Specific details of this nature are unknown at this stage. Council may ultimately sell the lands. It is not, at this stage known, whether or not Council will develop the lands it owns following the rezoning of the lands."*

Which is clearly misleading. When viewing Map 5 council has clear plans to fill the east and west sides to Caniaba St, to build roads both on it's own land asset and upon land assets currently under ownership of three private interests. Additionally on all these properties council will make other large scale landscaping and infrastructure improvements. Expensive sewage, water, electricity and telecommunications are all identified as part of the realization of the plan to make this area an industrial precinct. The rezoning is only necessary in order for this development plan to go ahead, the two are inextricably linked. This can only be viewed a cynical attempt by council to hide the obvious potential profitability of the plan for all stakeholders from the community.

That this land currently and rightfully can be used for no purpose other than grazing and recreation because it is a flood plain and that council intends to make an exception for itself (to which a private individual would not stand a chance of substantiating a claim; that is developing grazing land on a floodplain for industry) is an obvious use of power that has clear benefits for council and 3 private individuals which could be a conflict of interest.

Further the private individuals that stand to benefit from the change in the nature to their lands, notably at ratepayer expense where we view the plan to shift fill from the excavation on council land to raise the level of the remaining private properties is clearly a misuse of funds. Why should ordinary ratepayers fund free fill for raising the heights of private industry where the same ratepayers risk suffering water displacement, property de-valuation and much more as a result of the very development they funded?

(iv) the type of benefits are -----

While it would not be necessary for the details of any possible financial arrangements to be disclosed, the public should be left in no doubt that, should the plan proceed to gazettal, the council may or will benefit financially.

Council and private individuals will clearly benefit financially, but council has not disclosed the potential extent to which they could benefit (or alternately in councils case, loose investments by developing unwarranted infrastructure). Whether or not and to what potential extent the four stakeholders would benefit is similarly left unaddressed which is a clear breach of the above rule.

**Conclusion**

Council is asking the community to blindly approve this plan when many essential facts that may have serious consequences or implications are omitted. It is a cynical and careless exercise for council to present the community with this ill researched plan.

That council seeks to adjust existing floodplain regulations to suit it's own ends is reprehensible and shows a dereliction of a property duty of care to the residents and businesses owners of North and South Lismore. This plan will undoubtedly see far worse consequences in flood times; a simple application of logic has clearly demonstrated this.

Council has not properly and objectively considered the repercussions of the DLEP on the community, health, environment, business, ratepayers, wildlife, flooding, waterways and workers. Instead it has chosen to support it's entire rezoning and excavation/fill plan premise on an incomplete and inconclusive study.

Council needs to get it's own house in order before it seeks to frivolously invest funds in superfluous infrastructure, funds that are desperately and rightfully needed for management and maintenance elsewhere in the shire. Council needs to enforce existing DA's and other consents that it currently shrinks from the responsibility of upholding on the hollow excuse of a lack of resources.

Consequently, the entire plan for South Lismore Rezoning must be comprehensively scrapped in the LEP.

Amanda Morris

On behalf of South Lismore Action Partnership (SLAP)  
southlismoreactionpartnership@gmail.com  
South Lismore, NSW 2480

Sep 9th. 2010

A. Davies  


OFFICIAL REQUEST,  
MR. GRAEME WILSON,  
Dear Sir,

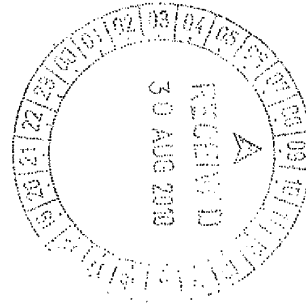
I am writing to you today to request a Public Hearing on the Rezoning of my land and Lot 8 DP 1035991, Lot 74 DP 755737, Lot 1 DP 182457, Lot 2 DP 596412, Lot 1 DP 596412, Lot 71 DP 755737 and Lot 62 DP 755737 known as 216 Casino Street, 135A Three Chain Road, 135B Three Chain Road, 97 Caniaba Street, 197 Caniaba Street, 171 Caniaba Street and 135 Three Chain Road South Lismore, Parish of South Lismore, County of Ross. Designated Development A06/672 Extractive Industry. Or has this been included in the Public Hearing of Wednesday 22nd Sept. 2010. Please advise us so we can attend.

Yours Sincerely  




27 August 2010

The General Manager  
Lismore City Council  
PO Box 23A  
LISMORE NSW 2480



Dear Sir

**Re: Lismore City Council Draft Local Environment Plan 2010 – Objection**

I strongly object to the Lismore City Council draft Local Environment Plan 2010 (LEP). This document should be withdrawn and completely redrafted to take into account at least the following points.

**Under Section 68 of the Environmental Planning and Assessment Act 1979 and applicable to standard LEPs I hereby request a public hearing on these LEP issues.**

I have, over many years, put together with my family, a substantial rural holding at Tucki and Tuckurimba. This property is in the names of Reavill Farm Pty Ltd and Tucki Hills Pty. Ltd. We operate an 850 acre commercial beef cattle enterprise as well as a sand/sandstone quarry. The proposed zoning is RU2 and E3 with rural landsharing (multiple occupancy) map overlays, biodiversity overlays and increased riparian zone restrictions and many more complex maps. This plethora of planning and environmental controls will ruin the property as a commercial enterprise and reduce its value significantly.

It is clear that our land, being primary production land, should be zoned RU1. The NSW Department of Planning template and the Lismore Local Environment Plan accompanying the draft LEP, states on page 131 that "all land used for or with potential for primary production should be zoned RU1". RU2 zoning is listed as rural landscape, is to be used where there is negligible primary production capability. Our property is attractive and well cared for, however, it is a commercial grazing and quarrying operation. RU2 will fragment primary production and hence affect the viability of agriculture in the area. RU1 zoning on primary production land is critical for ongoing viability, innovation and flexibility for agricultural production.

E2 and E3 zonings should **not** be imposed on private land. The objective "to restore" is oppressive and unreasonable. The imposition of these E zonings removes some of the most productive sheltered grazing land from our property and takes away our ability to slash and manage the area in the traditional way. This is nothing short of stealing our land. The Native Vegetation Act already protects mature timbered country and this is the same

1

throughout New South Wales. It is unreasonable that LCC rural landholders should be carrying a burden that the rest of the state's landholders do not. On our property most of the proposed E3 zoned land is in fact cleared country or sheltered grazing country. This shows how flawed the LEP is in this respect. Many of the trees shown on the biodiversity map we have planted. We are being penalised for looking after our land and being environmentally aware citizens. The placing of environmental zones on private land could well inhibit the ability of primary producers to trade carbon credits in the future and this seriously affects the ability of primary producers to be innovative and profitable.

The Department of Primary Industry (now Department of Industry and Investment) states in a letter to LCC dated 23 September 2008 that Champions Quarry development comprises a resource of approximately 12 million tonnes and therefore is of State Significant Development under Schedule 1 of State Environmental Planning Policy (State Significant Development) 2005. This letter also states that the list of significant quarries published by the North Coast Extractive Industries Standing Committee in 1997 did not include Champions Quarry because they were unaware of the size of the resource at the time. Council now knows the size of the resource and its significance however Council has failed to recognise this in its LEP, though it has listed Councils own Blakebrook quarry. It is misleading and totally negligent (or intentional) for Council to use 1997 information in a 2010 LEP. Our property should be zoned RU1 to ensure the correct agricultural classification and the availability of this resource. It is inappropriate to zone the land RU2, E3 and rural landsharing (multiple occupancy) around a resource LCC knows is of State significance. The map detailing quarries is a disgrace. It is impossible to read and identify individual quarries. I believe this has been done intentionally to sterilise the resource.

Council is required to identify resources of local and regional significance and ensure "that properties containing an extractive industry are zoned appropriately.....and that quarries are protected and their operation not compromised.....". It is totally negligent to zone land RU2, E3 and rural landsharing around a resource LCC knows is of State significance.

The Rural Landsharing Map (multiple occupancy) indicates this option is available on the Tucki Hills property. This has the potential to cause conflict with primary production, quarry operation and surrounding primary production land.

I can find no indication in the draft LEP that Bush Fire Management has been taken into account. If Environmental zonings are implemented with no slashing or hazard reduction allowed then the bush will quickly regenerate creating a massive bush fire hazard. This lack of forethought by Council planners has the potential to endanger the lives of both fire fighters and residents. The Victorian bush fires should never be forgotten.

The stated possibility of a Development Application being required to be processed by an anti rural council following "cessation of current land use", for

a period of twelve (12) months is a totally unacceptable scenario. Events beyond the control of the primary producer may necessitate a cessation of activities for certain periods. Examples of such events are:

- Destocking for Bovine Johne's Disease (BJD) which is the management practice recommended by authorities.
- Chemical contamination such as a road accident encroaching on land or spray drift.
- Natural disasters including flood, drought and/or fire.
- Financial issues (including market fluctuations).
- Illness.

The changes in zoning have the potential to result in loss of existing use rights. This is a disincentive to agriculture and a threat to the economic status of agriculture in the region.

The maps detailed in the LEP are impossible to read on the internet and require a visit to Council to ascertain what overlays are applicable to each property. The Lismore Environmental Plan 2008 states that the maps are 75% correct. Despite phone calls to GHD (consultants for the Lismore Environment Study 2008) and Council I established that no ground truthing was done. The claim is that the maps are 75% correct. This is untrue as there is no way of knowing which 75% is correct. In relation to our property **the maps are totally incorrect**. For example, cleared grazing land is zoned E3 and a house situated 40 metres AHD shown as flooding on the flood map. Council should have done ground truthing before a draft LEP was produced that imposed detrimental zoning on primary production land.

The LEP refers to the Riparian Lands map. Council has advised that this map does not exist. This is clearly a substantial omission which results in the LEP exhibition being flawed. The riparian restrictions that Council has drafted into the LEP are excessive. A 40 metre setback from any permanent or non-permanent watercourse is unnecessary and once again restricts future development of primary production land for no good reason. The current restrictions which are in place are more than sufficient to protect waterways. Council has over extended its powers in this area. The Department of Environment, Climate Change and Water cover this aspect with their regulations.

The Water Catchment Map covering areas to the north east of Lismore seems to be excessive. To have a blanket cover over the whole area and restrictive controls as to usage of the land many kilometres from the high flow pump on the Wilsons River is a disincentive to agriculture and a threat to the economic status of agriculture in the region. Farmers should not be disadvantaged because the water supply authority failed to plan adequately for domestic town water requirements.

LCC's proposal to restrict boundary adjustments in any way is unreasonable. The boundary adjustment restriction is not required under the State Government template. It would preclude the sensible consolidation of rural land into more practical units and therefore act to frustrate other provisions of

the draft plan. This is another restriction being proposed by an anti-rural council.

The current 1(b) zoning allows for a 13 hectare and 20 hectare minimum lot size. This has been done away with. Why should horticultural land be 40 hectare minimum size? Surely this erodes the potential rates base of council and restricts the growth of horticultural production in our area. There are many crops which are economically viable on a much smaller parcel of land. Surely it is better to have more enterprises. The 13 hectare and 20 hectare minimum lot size should be maintained. Deleting 1(b) zoning downgrades the value of the properties affected.

I believe the leaking of the draft LEP document in late 2008 to the Lismore Environmental Defenders Office (EDO) by a LCC councillor has corrupted the LEP process and certainly changed the spirit of primary production zonings. NO other special interest group, such as NSW Farmers, had input to the LEP prior to its public exhibition. This is totally wrong and has skewed the focus of the draft LEP away from primary production to the potential economic detriment of the whole LCC area. Primary production is a substantial income earner for this area. The General Manager and the Mayor are both aware of the EDO's intervention in the process and have done nothing to resolve the issue in a proper way. They have continued to try and cover up this and many other inappropriate actions by Council in respect to the LEP. The map from 2008 which Councillor Ekins illegally gave the Lismore EDO has a statement on it which reads "Disclaimer – This map is DRAFT only and has not been endorsed for public exhibition." AS STATED ABOVE THE 2008 MAP BEARS NO RESEMBLANCE TO THE MAPS NOW ON DISPLAY DUE TO ILLEGAL RELEASE TO THE LISMORE EDO OFFICE. This matter should be the subject of the Department of Planning, the Department of Local Government and ICAC enquiry.

There has been a large amount of incorrect and misleading information coming from Council staff and the Mayor in relation to the LEP. The Echo newspaper which Council advertises in has been very happy to print inaccurate and unbalanced information by the General Manager and the Lismore EDO. Neither the Echo nor the Northern Star have been prepared to cover the meetings, attended by over 1200 people, arranged by local people with interests in preserving primary production land in LCC area.

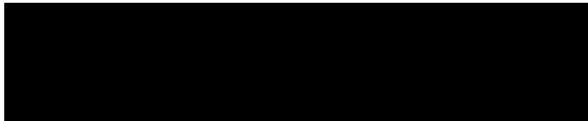
Lack of consultation by LCC with the rural community is a major failing of the LEP process. Council has not adequately advised landholders of the LEP implications or of any public workshops they may have run. Letters were only sent to rural landholders who had significant zoning changes. This is not acceptable. Who judges what is significant. Any zoning changes (or map overlay restrictions) should have been notified to landholders as well as any changes to adjoining lands as buffer areas impact on neighbours. Most rural people do not get the Echo and are not aware of council meetings. All rural landholders should have received a letter from LCC stating the date and time of all public meetings and been advised that they could ask questions or address the meetings. Most Council workshops are for information only, so if

there is a query one can listen but not speak which is hardly consultation. Community meetings should have been held in all rural areas. The community has had to arrange the meetings themselves with over 1200 people attending several public meetings since mid July 2010.

I again state objection to the draft LEP in the strongest terms. I believe that primary production has not been given the recognition it deserves as a major contributor to the local, state and national economy. No LEP affecting the value and production potential of farm land should be put on exhibition without an accompanying regulatory impact statement that quantifies the economic impacts on landholders. It is the duty of Local Government to explain and justify the implications of planning policy to ratepayers. This has not been done.

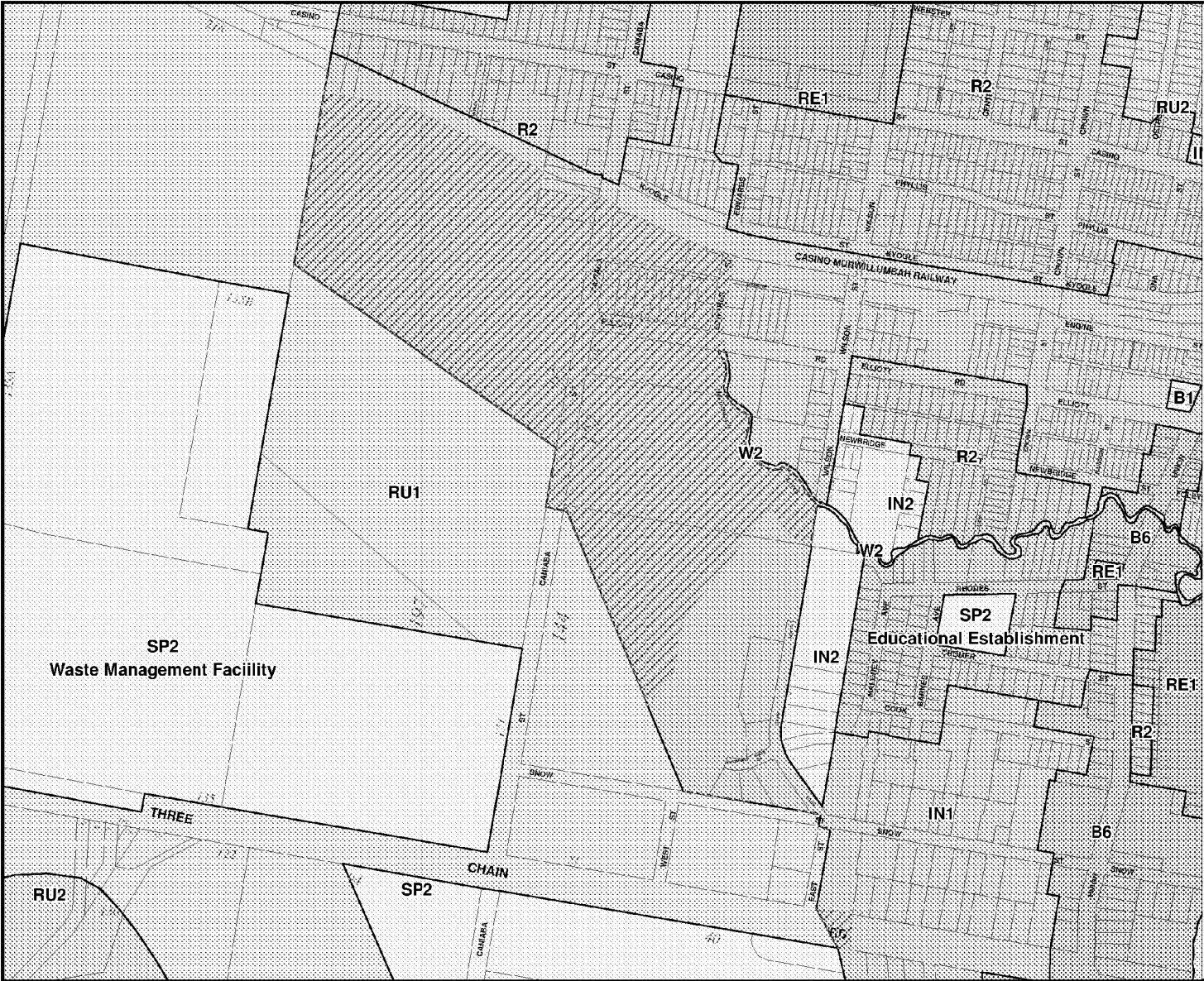
I request that the LEP be withdrawn and subjected to a public hearing or completely redrafted by a Planning Panel appointed by the Minister for Planning.

Yours faithfully

A large black rectangular redaction box covering the signature of the sender.

Jeff Champion.





**LEGEND**

- Property Parcels
- Current LEP 2000 1(r) Zoning
- Proposed LEP**
- B1 - Neighbourhood Centre
- B6 - Enterprise Corridor
- IN1 - General Industrial
- IN2 - Light Industrial
- R2 - Low Density Residential
- RE1 - Public Recreation
- RU1 - Primary Production
- RU2 - Rural Landscape
- SP2 - Infrastructure
- W2 - Recreational Waterways

**LISMORE CITY COUNCIL**  
While all reasonable care has been taken, the council does not guarantee the accuracy of the information contained on this map and any reliance placed on such information shall be at the sole risk of the user. An acknowledgment is signed application. Digitally Created: Draft Local Environmental Plan (LEP)

**MAP TITLE: DRAFT LEP - SOUTH LISMORE**

Printed: 28/09/2010

Scale: 1:9,000



# Report

<b>Subject</b>	<b>DA2010/316 - Nimbin Skate Park</b>
<b>TRIM Record No</b>	BP10/542:DA10/316
<b>Prepared by</b>	Manager - Development & Compliance
<b>Reason</b>	To undertake an assessment and the determination of a development application
<b>Community Strategic Plan Link</b>	Foster Youth Development

## Overview of Report

Ardill Payne and Partners has been commissioned by Lismore City Council to undertake an independent planning assessment of a development application for a proposed new skate park (outdoor recreation area) at 9 Sibley Street, Nimbin (within Peace Park). The proposed skate park will replace an existing skate park. The development application (DA) and statement of environmental effects (dated August 2010) was prepared by Malcolm Scott MP/IA CCP on behalf of Council.

Council is the proponent and owns the land upon which the skate park is proposed and has secured funding for its construction under the Federal Government's Regional, Local and Community Infrastructure Program (RLCIP). The land is categorised as 'operational land' under the Local Government Act 1993.

## Background

The subject land is described in real property terms as Lot 1 DP 305607. The land is commonly known as No. 9 Sibley Street, Nimbin ('Peace Park'). Existing on the land is a skate park and children's playground. The existing skate park is no longer operational having been subject of past problems/issues that have resulted in its closure. The existing skate park has been fenced and has not been operational since December 2005.

The location of new skate park has been subject of a detailed and lengthy public consultative process, details of which were reported to Council's meeting of 8 June 2010 (File No. EF09/2267:ED10/9985). As was evidenced from the survey results during the consultative process, a majority (58.17%) of respondents submitted that the Nimbin skate park be situated in Peace Park.

There were some community concerns raised with the proposed Peace Park Site which related to crime prevention/anti-social social behaviour, noise levels/proximity to residents, accessibility for kids and parents/pedestrian links, passive surveillance, reduction of green space, design/potential for expansion/scale of facility, essential youth facility, access to amenities, completed within timeframe and car parking.

Having regard to the consultative process (which involved input from the NSW Police Crime Prevention Officer) Council resolved that Peace Park be endorsed as the site for the proposed Nimbin Skate Park.

## Description of the proposal

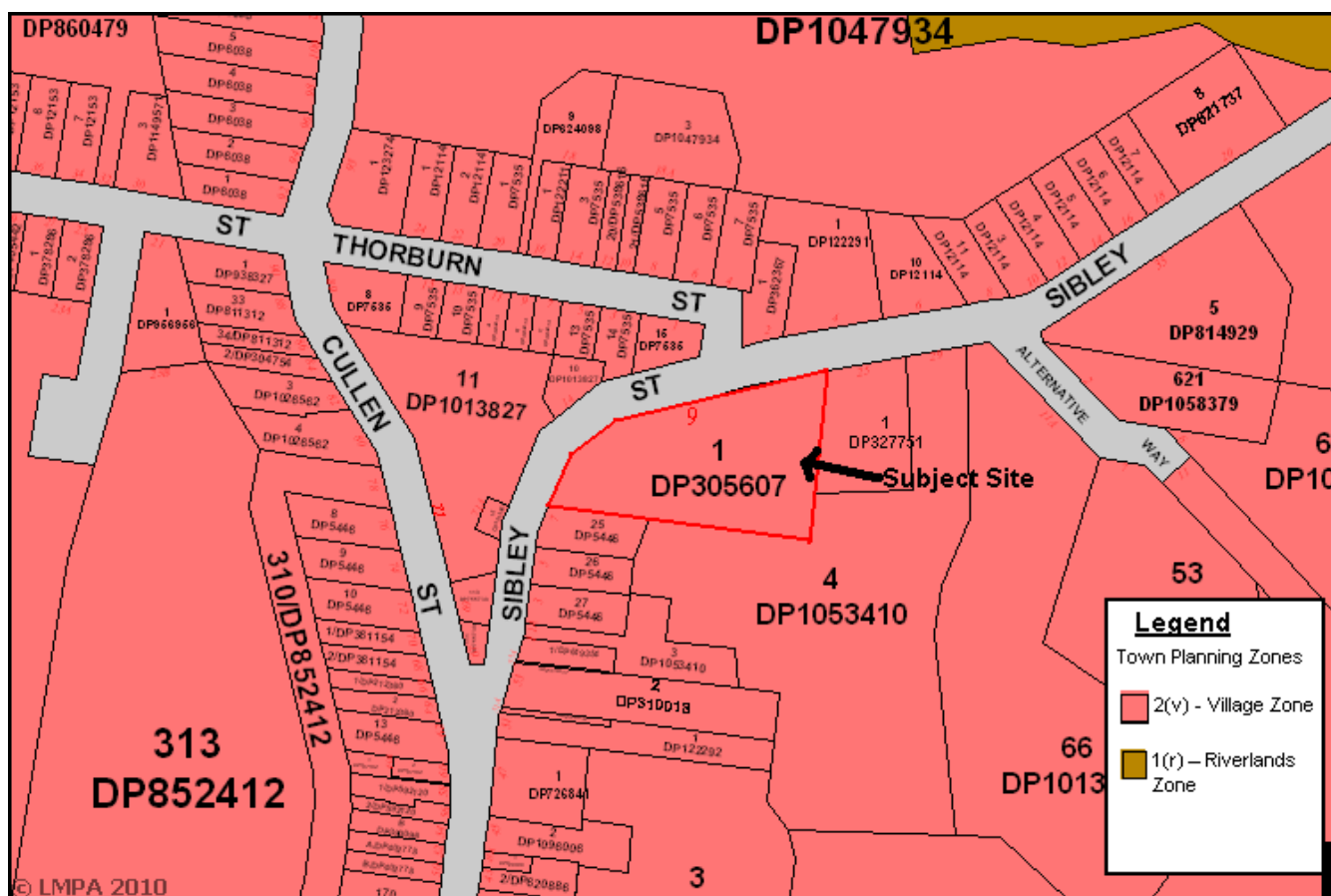
The application proposes to use the land at No. 9 Sibley Street, Nimbin as a “recreation area” involving outdoor recreation (skate park). *Recreation area* is defined in Schedule 7 of the LLEP as “..an area used for outdoor sporting, leisure or recreation activities and may include clubhouse facilities, spectator facilities or shelters, but (in a table providing general zoning controls) does not include a building or place elsewhere specifically defined in this Schedule.”

The proposal involves the removal/demolition of the existing timber and metal skate park facility and the erection of a new concrete skate park facility (and ancillary infrastructure) to the east of the existing skate park site.

The proposed skate park is a lower level concrete structure that contains elements for all levels of user. The facility contains a snake run, bowl, ledges, rails and stairs. Integral to the construction of the facility is the following:

- construction of acoustic barriers/screens around the northern and western sections of the facility,
- construction of a timber paling fence along part of the northern boundary of Lot 25 DP 5446 (7 Sibley Street)
- removal of 5 camphor laurel trees
- removal/demolition of the existing facility and return that area to parkland (grass)
- relocation of covered seating areas and provision of water bubblers
- installation of information and conditions of use signage.

The skate park has a footprint of approximately 1,000m<sup>2</sup> which represents approximately 12% of the total land area (8,094m<sup>2</sup>) of Peace Park.



Map 1 - Locality Plan shows subject site and the town planning zones.

## Relevant Statutory Controls

Lismore LEP 2000

Zoning – 2(v) Village  
Item of Heritage – No  
In vicinity of Heritage Item – Yes – opposite Nimbin Central School and Nimbin Park  
Conservation Area – No  
Draft Lismore LEP 2010 – Proposed zone RU5 – Village zone “Recreational Facility (Outdoor)” permitted with consent  
S94 Contributions Plan – Nil  
Environmental Planning & Assessment Act 1979  
Local Development  
Crime Prevention Through Environmental Design.

## Relevant Policy Controls

Lismore Development Control Plan.

## Description of Site/Locality

Peace Park is an existing park in the Nimbin Village containing an existing skate park and a play ground. The park has an area of 8,094m<sup>2</sup> and is adjoined by dwelling houses, commercial uses (including Nimbin Neighbourhood Centre and Nimbin Fire Brigade Shed), Nimbin Caravan Park, Nimbin Swimming Pool and the Nimbin Bowling Club.

## Relevant Development History

The existing skate park was approved under the terms and conditions of DA 2001/803 (endorsement date of consent – 25 February 2002, applicant – Nimbin Community Development Association).

DA 2001/803 approved the establishment of a recreation area in Peace Park to be developed in 3 stages which included the construction of a skate park, a gazebo and children’s playground. The DA also approved extensive tree planting and the construction of footpaths in the park which have not been undertaken.

The existing skate park was approved in 2 stages. Stage 1 was a skate park and ½ basketball court. Stage 2 was a skate park extension comprising a cement street section. The skate park and children’s playground were built.

DA 2001/803 was modified on two occasions:

- MC 02/39 (25 June 2002) – changed the supporting sub-structure from timber to metal construction and a minor amendment to the ramp configuration
- MC 03/92 (20 November 2003) – changes the proposed Stage 2 ramp to be of metal construction extending to the north of the site the same as the Stage 1 design.

Work commenced on the site in 2004. As the ramp neared completion in early 2005, skaters began to use it. Noise complaints from local residents commenced in January 2005.

## Internal Referrals

### Building

No objections have been raised to the proposed design of the skate park in relation to the Building Code of Australia (BCA).

### Environmental Health

A noise assessment has been undertaken by Renzo Tonnin & Associates to determine noise compliance for the proposed skate park. The park, constructed of concrete, includes low ramps, bowls and a snake run which is generally considered a quieter design compared to the timber and steel parks with high ramps such as the existing skate park.

In order to determine the predicted noise levels at listed receptors, project noise goals have been determined based on background noise levels +5dB, in accordance with the NSW EPA Industrial Noise Policy (INP). Due to time constraints the consultant has derived background levels from two previous reports.

Air Noise Environment Pty Ltd conducted background monitoring in 2007 during the daytime period of one day when the existing skate park was not in use. The results were 46dB (LA90) at 7 Sibley Street and 41dB (LA90) at 3 Thorburn Street.

Noise measurements were also conducted in 2005 (Greg Alderson) over a 7 day period at the same locations. The measured levels were 39dB (LA90) during the day and 35dB (LA90) in the evening at 3 Thornburn Street. The measured levels at 7 Sibley Street were conducted indoors and therefore not relevant.

The 2005 data provides background noise levels for 3 Thorburn Street for both day and evening periods. The 2007 data shows a 5dBA difference between the Thorburn Street and Sibley Street locations over the same monitoring period. Therefore by starting with the Thorburn Street levels for day and evening periods, and adding 5dBA for Sibley Street location, it has been deduced that the following background noise levels should apply:

Location	Time	dB - LA90
7 Sibley Street	Day (7am – 6pm)	44
	Evening (6pm -10-pm)	40
3 Thorburn Street	Day	39
	Evening	35

From the noise report, emissions from the skate park are predicted to exceed the set criteria by up to 5dBA in the day to 9dBA in the evening, without any noise attenuation measures in place (i.e. without the proposed 1.8m high acoustic screens on the north and west sides of the skate park and boundary fence)

It should be noted that the projected noise levels from the use of the skate facility were based upon a similarly designed facility in the Sydney suburb of Waterloo, which would be considered a high use, or well patronised facility in a high density urban area. The proposed skate facility in Nimbin is likely to have a lower level of use than such facilities in denser urban areas such as Waterloo, which would result in the likelihood of lower projected noise levels.

The noise report recommends consideration of the following mitigation measures:

1. Reduce source noise – lowering the level of the park or locating it further to the east has been considered but is not feasible due to construction issues and the small reduction it would achieve. Lock out of the site after 6pm is not practical from a management prospective.
2. Reduce noise along the acoustic path – install noise walls around the skate park.
3. Apply noise mitigation at receiver – provide acoustic screening along property boundary walls, provide double glazing for houses.

Discussions have determined that option two is the preferred option as it controls the noise at the source rather than at the receiver. This would provide a more effective acoustic barrier compared to option 3.

To mitigate the noise, the installation of a noise wall around the skate park is proposed. The wall would extend along the top of the skate run on the western and northern sides and would provide an additional 5dB reduction in predicted noise levels. The extension of the wall around the southern perimeter will also provide the required 5dB noise level reduction for 7 Sibley Street. The wall should be high enough to cut line of site between receivers at 7 Sibley Street, 1 and 3 Thorburn Street, and the Community Centre and Radio Station at the rear of 71 Cullen Street, which is anticipated to be approximately 2 metres in height. The required height should be confirmed by surveyors or others.

With the noise wall in place, emissions are predicted to meet the set noise criteria in the day period and exceed the criteria in the evening period by 4dB.

From the information supplied, the proposed mitigation measures will not reduce noise levels to the project-specific noise levels for the evening period. Saying that, the data set used to determine background noise levels was not measured but based on previous reports. Those reports did not provide the results for the evening period for 7 Sibley Street, therefore an extrapolation of existing results was used to determine background noise levels. The LA90 of 44dB for the day period for Sibley Street appears high compared to typical background levels for residential areas which is typically between 35 – 40dB.

As a comparison, noise background levels have been undertaken at 57 Sibley Street from a report by A B & E Pty Ltd in 2009. This report established LA 90 levels of 40dB for daytime and 48 dB for the evening period. The increase in noise levels for the evening period is attributed to insect noise.

From this information there may be some discrepancy between the deduced and actual background noise levels. Considering higher noise levels have been recorded in the past for the evening period, a degree of flexibility may be warranted.

From this development, the proposed mitigation measures will not reduce noise levels despite feasible and reasonable mitigation measures being applied. In this instance, according to the INP, the social and economic benefits flowing from the proposed development to the community should be evaluated against the undesirable noise impacts. Where it can be demonstrated that the development offers net benefits, the consent authority may consider these as grounds for applying the achieved noise levels, rather than the project specific noise levels.

In this instance, there is only one receiver which fails to meet the desired noise goals for the evening period, 7 Sibley Street. This receiver is in close proximity to the CBD including the hotel. There would be an expectation of increased background noise levels being close to nearby commercial operations.

A degree of flexibility in the INP is provided for minor variations to the nominated project specific noise levels when the social and economic benefits outweigh undesirable noise impacts. This facility provides recreational opportunities for the youth of the area. The only undesirable noise impacts are expected during the evening period at 7 Sibley Street. To this effect, the following should be considered:

- There is a final noise exceedence of 4dB during the evening period (6pm – 10pm) at 7 Sibley Street. Please note an exceedence of 2dB is not considered discernable.
- Evening use is more likely to occur in summer (daylight savings) months, where background noise levels are likely to be elevated as a result of insect noise, pool usage and other recreational activities in the locality.
- Hours of operation will be proposed from 8am - 8pm. In reality the use of the skate park would generally cease after dark due to lack of effective lighting. This would reflect a finishing time of between 6pm and 8pm depending on the season.
- The site is an existing park which already generates noise from patrons.
- There is existing noise from nearby commercial activities, including the bowling club, hotel and public swimming pool.
- The methodology used to calculate background noise levels for 7 Sibley Street is based on interpolation of data and may not reflect the actual background noise levels experienced from time to time.

## Social Planner

Wide community support for skate park in Nimbin, the need for such being firmly established since the late 1990's. Management plan needs to be developed prior to skate park being open to the public. Recommend deferred commencement condition requiring the preparation of a detailed management plan that will address the following:

- Management model
- Safety & Risk Management
- Signage
- First Aid
- Programs
- Review.

It is important to note that the provisions of this management plan will need to have appropriate regard to Council's operating budgets.

## Development Engineer

No objections have been raised by Council's Engineer to the proposed skate park. Recommended conditions relating to the provision detailed stormwater drainage design and drainage management, provision of bicycle parking facilities and access pathway construction standards have been recommended.

## External Referrals

### NSW Police

NSW Police carried out an assessment in accordance with Crime Prevention through Environmental Design Principles. The Police referenced pages 36 through 40 of the SEE prepared by Malcolm Scott and advised that the applicant addressed the issues raised on the 19<sup>th</sup> July 2010. Police raise no further issues and have given in principle support to the application subject to the imposition of conditions relating to:

- development and incorporation of a graffiti management plan
- use of graffiti resistant materials throughout the development
- development of a landscape management plan (maximum height of shrubs to 600mm and trees with lower limbs trimmed on a regular maintenance program)
- access control should be set in place to exclude unauthorised access to restricted areas.

Police identified a number of areas of concern:

- control mechanism be developed and maintained to prevent pedestrian access to the site and driveway – possible conflict between vehicular and pedestrian access due to lack of pedestrian cues of where to walk or creation of safe zones – pedestrians have to establish their own safe route from car park to complex.
- vegetation within the site needs to be maintained to prevent concealment areas or predator traps.

## Notification / Submissions

The consultative process for the site selection involved the distribution of surveys via Australia Post on Tuesday, 4 May 2010 and included 642 letters for mailboxes, 80 letter for residents who collected direct from the Nimbin Post Office, and 20 letter/survey forms for display at the Nimbin Neighbourhood Centre. Completed surveys were required to be returned within the reply paid envelope or via facsimile by Friday, 14 May 2010. Submissions were received and are summarised below:

- Do you think that a skate park should be provided in Nimbin?
  - 139 said yes - 90.85%
  - 10 said no - 6.54%
  - Other - 2.61%
- Where do you think the skate park should be located?
  - 89 said Peace Park - 58.17%
  - 53 said Nimbin Showgrounds - 34.64%

- 11 said Neither/ Other - 7.19%

The most significant issues and concerns raised by the community were crime prevention, noise levels/ proximity to residents, accessibility for kids and parents/ pedestrian links, passive surveillance, reduction of green space, design/ potential for expansion/ scale of facility, essential youth facility, access to amenities, completed within timeframe and car parking.

The main advantages and disadvantages of Peace Park for the location of the proposed skate park were outlined as the following:

#### Advantages:

- In town easy access to users and spectators;
- Close to town bus stop for visitors to access the site;
- Passive observation from nearby residents, bowling club, users of Peace Park and general public reduces likelihood of vandalism and anti-social behaviour;
- Reasonably close to public amenities in park further up Sibley Street;
- Close to pool – benefit in summer months;
- Playground equipment in Peace Park also available for parents bringing children of different age groups; and
- Design can incorporate elements that would be of use at other times e.g. small stage or elevated area with power for use during events such as Mardi Grass.

#### Disadvantage:

- Reduces passive open space area in Peace Park (loss of green space);
- Potential for noise disruption to nearby residents; and
- Less parking for visitors – may be required as part of the development consent.

The development application was received by Council on 19 August 2010 and was publicly exhibited for the period 26 August to 17 September 2010. Only one submission was received with a summary of such being provided below:

Name	Issues raised
Mr Graham Way 2 Sibley Street	<ul style="list-style-type: none"> <li>• skate park will remove a large area of the park where children play and is situated beside the children's playground/swings</li> <li>• skaters make a lot of noise which will interfere with adjacent residents</li> <li>• Council has not listened to concerns raised by local residents with respect to noise, drug taking and drug dealing (which occurred at existing skate park)</li> <li>• the existing skate park has interfered with quality of life for local residents</li> </ul>

## Integrated Referrals

Nil

## Consideration

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### Lismore LEP 2000

#### Permissibility within the zone:

The proposed development is permissible as Recreational Area (Outdoor) within the 2(v)(Village Zone) under the provisions of the Lismore LEP 2000.

1. **Development affecting places or sites of known or potential Aboriginal heritage significance or potential archaeological sites of relics of non-Aboriginal heritage significance (cl 16 & 17)**  
The proposed development is not considered to have effect on potential archaeology or relics due to the nature of works proposed and to the fact that the subject land is a disturbed and developed urban lot.



## 2. **Preservation of trees (cl 18)**

Integral to the proposed development is the removal of 5 camphor laurel trees which will not have any adverse ecological impacts.

## 3. **Development on flood affected land (cl 22)**

The proposed skate park envelope is not mapped as being flood prone land in Lismore Development Control Plan Part B Chapter 6 – Flood Prone Lands. Irrespective of such, the proposed skate park is of concrete material and if subject to inundation no adverse impacts are likely to occur to the structure.

## 4. **Demolition of a building or work (cl 28B)**

The existing skate park is proposed for demolition. As the existing skate park is currently dilapidated, demolition of the existing skate park is recommended.

### Zone objectives and zoning control tables

Having regard to the provisions of Lismore LEP 2000, it is considered that:

- (a) The development is in accordance with and promotes the specific aims of this plan, the objectives of the zone and the objectives of the controls, and
- (b) The development, in particular, is in accordance with and promotes the character of the neighbourhood within which the development is carried out.

The proposal involves the replacement of an existing dated and problematic facility with a new facility which will have reduced noise impacts on the local area. The facility is appropriately situated within a park and the Peace Park site was subject of a detailed public consultation process. As such, consent to the development may be granted.

### Miscellaneous Provisions

#### **Excavation and filling of land in urban areas**

The maximum depth of excavation is approximately 2.4m. Filling to approximately 500mm is also required. The excavated material will be used for landscaping and/or spread over disturbed areas and grassed. The curtilage of the facility is not identified as being subject to flooding and thus there will be no potential impacts on flood waters.

### Draft LEP

Peace Park is proposed to be zoned RU5 – Village under the Draft LLEP 2010. Recreation facilities (outdoor) are proposed to be permissible uses within the RU5 zone.

### North Coast REP

Clause 82A requires Council when determining a DA for a specialist recreation facility to consider the need for access by the community to the facility and include relevant conditions in its approval to achieve an acceptable level of public access.

The proposed site is within a park that has unrestricted access and is centrally located within the Village. It is submitted that an appropriate level of access will be available to the facility.

### Lismore Development Control Plan

The application has been assessed against the relevant controls in DCP 2002 as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.

## 1. DCP 2002 Compliance Table

<b>DEVELOPMENT CONTROL PLAN 2002</b>		
	<i>complies</i>	<b>Comments</b>
<b>Part B Chapter 6 – Nimbin Village</b>		
6.2.4 Objectives	Yes	<p>The proposed skate park is a community facility within the Nimbin community precinct and is not a heritage listed site.</p> <p>There are no specific provisions relating to the subject land or proposed development, with the exception of part of the land being identified as being subject to flooding and to the need to control and manage stormwater.</p> <p>It appears that the facility is just clear of the mapped flood area on the land and irrespective of such, is a low level concrete structure that will not be adversely impacted by inundation.</p> <p>Council's Engineer has recommended conditions of consent to control and manage stormwater such that there are no adverse impacts on downstream receiving environments.</p> <p>There will not be a significant increase in impervious surfaces on the land subject to the removal/demolition of the existing facility.</p>
6.3.3 Provision of Village Infrastructure	Yes	<p>Satisfactory arrangements are in place to supply potable drinking water to the proposed skate park via bubblers.</p> <p>No amenities building is proposed at the proposed site as supervised public facilities exist in the Nimbin Neighbourhood Centre which is available to the public during hours of operation and public facilities also exist in the Nimbin swimming pool.</p>
<b>Chapter 7 – Off Street Parking</b>		
7.7.2 Requirements outside the Lismore CBD	Yes	<p>Sufficient public and on-street parking exists in the locality to service the development. Further, the site is centrally located in the village and is accessible by foot and the public footpath system. The existing car parking situation servicing the existing skate park is sufficient for the new skate park. Therefore no additional car parking is needed.</p>
<b>Chapter 10 – Notification and Advertisement of Development Applications</b>		
10.1 Objectives of this Chapter	Yes	<p>Detailed community consultation has been undertaken with respect to the location of the proposed skate park and all persons who may be affected have been given sufficient time to inspect plans and the preparation of submissions on applications and to provide input into the assessment process. Only one objection was received the advertising of the DA.</p>

Chapter 13 – Crime prevention through environmental design		
The NSW Police have provided comments in respect of the site selection process and to the DA (refer letter from M Hogan dated 31 August 2010)	Yes	The Police have provided in principle support to the application and have recommended the inclusion of a number of consent conditions.

## State Environmental Planning Policies

There are no SEPPs of specific relevance to the proposed development.

## Section 94 Contributions

There are no contributions applicable to the proposal.

## Applicable Regulations

There are no applicable regulations to the proposal.

## Design

The skate park has been designed and will be constructed by a specialist skate park company. Concrete Skateparks has been nominated as the preferred tender due to the fact that when all assessment criteria were considered, Concrete Skate Parks achieved the highest score.

The skate park is to be situated on land that has a higher level of visibility and passive surveillance opportunity than the existing site. The facility is also lower level. The proposed acoustic screens are to be made of clear graffiti resistant material so that they do not act as predator traps or concealment areas.

## Amenity

All potential adverse amenity impacts have been considered and brought forward during the community consultation process for site selection. Noise impacts and anti-social behaviour were identified by the local residents as being the two (2) main issues of concern and were raised largely as a consequence of experiences with the existing skate park.

Noise impacts have been subject of detailed investigation (specialist acoustic consultant report as part of the DA/SEE process) and can be mitigated via the construction of acoustic barriers around the skate park. It should be noted that the proposed concrete structure is also a quieter facility than the existing metal and timber structure.

Anti-social impacts have been subject of consultations with the NSW Police, Council's Social Officer and experiences gained from the Goonellabah Youth Plaza. It is submitted that the proposed location and design of the facility (lower level concrete structure) is such that will assist in maximising passive surveillance opportunities to the site. Landscaping, seating and a water bubbler have also been incorporated in the design to improve the amenity of the proposed skate park.

Conditions of consent are to be included in respect of noise in an attempt to manage/control anti-social behaviour.

Integral to the proposal is the removal of the existing facility and the re-instatement of that land back to park-land and the removal of 5 camphor laurel trees which will also assist with the passive surveillance opportunities of the park. This will be undertaken by others and is the subject of the second part of the proposed recommendation to Council.

The existing facility is also considered to be somewhat of an eye-sore that does not present well in the local landscape and streetscape. The proposed new facility will not have such adverse impacts.

## Roads Act Approvals

No approvals under Roads Act apply to the proposed skate park.

## Local Government Approvals

No Local Government Act approvals apply to the proposed skate park. The land is categorised as 'operational land' under the provisions of the LGA.

## All likely impacts of the Development

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>	<b>CONSIDERED</b>
1. Statutory Controls	YES
2. Policy Controls	YES
3. Design in relation to the natural environment	YES
4. Landscaping/Open Space Provision	YES
5. Traffic generation and car parking provision	YES
6. Physical relationship to and impact upon adjoining development (views, privacy, overshadowing etc.)	YES
7. Site Management Issues	YES
8. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	YES

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposed new facility will likely contribute positively to the local economy.

### Social Inclusion and Participation

Detailed community consultation has been undertaken in the site selection and for the DA. The local community was quite vocal during the site selection process but only one objection was received to the DA. The main issues raised by the community relate to potential adverse social impacts resulting from noise and possible anti-social behaviour. These potential impacts are able to be mitigated by way of controls to be implemented in accordance with consent conditions. There is strong support from the local community and Council for the removal of the existing skate park and the construction of a new skate park in Nimbin. The NSW Police also support the proposal.

### Protect, Conserve and Enhance the Environment and Biodiversity

The land upon which the facility is proposed is cleared grassland/parkland. Integral to the proposal is the removal of 5 camphor laurel trees (exotic weeds). Detailed stormwater drainage and management plans are to be prepared prior to the release of the construction certificate. Such systems are to ensure that discharge of stormwater from the site shall be limited to the pre-development flow (rural land) for an ARI of 10 years and a time frame concentration of 6 minutes. Council's Development Engineer has provided recommended conditions of consent in respect of such.

The proposal will not have any adverse environmental impacts.

### Best-Practice Corporate Governance

The preferred site of Peace Park was nominated in the grant application for funding of the project under the RLCIP program. The project budget is \$494,000 which includes a grant of \$445,000 from the Australian Government's Regional & Local Infrastructure Program.

## Comments

### Finance

Not required.

### Other staff comments

#### Parks Coordinator

The Parks Coordinator is supportive of the facility and its management subject to the appropriate budget allocation. Input into the preparation of the management plan and the financial implications of any recurrent costs will be required. Landscaping works will be carried out in consultation with the Parks Section.

### Public consultation

Public consultation with respect to two (2) potential sites (Peace Park and the Nimbin Show Grounds) for the design and construction of the new Nimbin skate park were undertaken. Based on the results of the community survey and input from Police, Peace Park is considered to be the more appropriate site. As noise impacts were raised to be of high concern to the nearby residents acoustic barriers have been incorporated (in the form of noise walls) in the design to mitigate noise issues.

Only one objection was received to the public exhibition of the development application from an adjacent resident. It is able to be assumed that based on such a low level of objection to the DA that the broader community does not object to the proposed facility and location. The issues raised by the objector with respect to noise, anti-social behaviour and loss of parkland are implicit in the application (proposed acoustic treatments, removal of existing facility and re-instatement of land to park-land) able to be addressed via consent conditions.

## Conclusion

As a consequence of the outcomes of the detailed community consultation undertaken during the site selection process, Council at its Ordinary meeting of 8 June 2010 resolved that the skate park be situated in Peace Park.

Council can be satisfied that the potential noise generation from the proposed skate facility has been based on conservative modelling, and that offensive noise will not be generated if the application is approved, subject to appropriate conditions and ongoing compliance being maintained.

The application for the concrete skate park in Peace Park at Nimbin is considered to be a priority for the council and the community and should be granted development consent subject to the imposition of appropriate conditions on consent.

## Attachment/s

1. Proposed Skate Facility Peace Park Plans

## Recommendation

That:

- A. Council as the consent authority, grant development consent to Development Application No. 2010/316 proposing a skate park (outdoor recreation area) at 9 Sibley Street, Nimbin ('Peace Park'), subject to the following conditions.

### STANDARD

1 In granting this development consent, Council requires:

- All proposed structures 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 structures or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. Project No 10010 Dwg No S01 dated 14.04.10 and/or supporting documents submitted with the application. A copy/copies of the approved plan is/are attached to this consent.

No approval is granted or implied for the removal of the existing steel skate facility at Peace Park under this consent.

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

## PLAN OF MANAGEMENT

2 **Prior to commencement of use of the Skate Park** the Peace Park Management Plan is to be prepared and submitted to Council for approval by the Executive Director – Sustainable Development to address the following matters:

### (a) Management model

- Participation of young people
- Working with the local community
- Code of conduct
- Supervision
- Identify roles and responsibilities
- Education and information strategies.

### (b) Safety & Risk Management

- Safety policies and procedures including procedures to address antisocial behaviours and community complaints
- Inspections
- Documentation & Reporting
- Maintenance and cleaning schedule
- Graffiti Prevention and Removal Strategy
- Occupational Health & Safety
- Risk Management Plan
- Emergency Action Plan
- Development of a landscape management plan (maximum height of shrubs to 600mm and trees with lower limbs trimmed on a regular maintenance program)
- Vegetation within the site needs to be maintained to prevent concealment areas or predator traps.

### (c) Signage

Signage at facilities is necessary to educate, to inform and regulate activity, to reduce possible dangers, and disclaim liability.

- Keep language on signs simple, and use picto-grams, to convey the message
- Signs should also be written in Bundjalung
- Use positive wording rather than simply prohibiting activities and making demands
- Develop codes of behaviour and display them
- Elevate signs to avoid damage
- Avoid using vinyl lettering on signs as they are more easily damaged/removed
- Include on signs an emergency phone number
- Signs designed with anti — graffiti measures (e.g. height, protective surface coatings and no vinyl lettering).

### (d) First Aid

- First Aid Procedures.

### (e) Programs

- Lessons, clinics and demonstrations
- Mainstream family activities: festivals, holiday programs, after-school programs

- Risk and Safety Management
- Duty of Care
- Skateboard/bike/inline competitions
- Guidelines and Procedures
- Event scheduling and management
- Consulting with local skate park users
- Marketing and programming initiatives.

**(f) Review**

- Management plan review every 2 years
- Ongoing program of evaluation and development
- Communication program about the facility
- Programs Results – measure changes in vandalism, anti social behaviour, community participation.

**Note:** The above matters shall be considered and addressed with appropriate regard to financial/budget constraints to ensure that community expectations are properly managed.

**Reason:** *To ensure proper management of skate facility and manage community expectations and social inclusion.*

## **BUILDING**

3 The following building works are to be **inspected** by Council or by an Accredited Certifier. In the event that Council is the Principal Certifying Authority, you are required to notify Council at least 24 hours prior to the inspection.

(a) **Commencement of building work.**

(b) After the commencement of the excavation for, and before the placement of, the first footing

(c) Stormwater drainage connections prior to covering.

(d) **Occupation** - the building work is completed and prior to any Occupation Certificate being issued in relation to the building.

**Reason:** *To assess compliance with this approval.*

**NOTE:** Please note that rural areas and villages will only be serviced for building inspections on Tuesdays and Thursdays. Council seeks your co-operation in organising your works program to suit these times.

4 The building is not to be occupied until an Occupation Certificate is issued by the Principal Certifying Authority and in this regard all matters relating to this Development Consent are to be completed prior to the issue of the Occupation Certificate.

**Reason:** *To meet statutory requirements and to ensure compliance with this approval.*

5 Provide an on-site sign, in prominent visible position, stating:

(a) That unauthorised access to the construction 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.*

6 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.*

7 The building including all ancillary components must be wholly located within the subject land.

**Reason:** *To ensure there is no encroachment by any part of the building onto adjoining land.*

8 The excavated and filled areas are to be graded, drained and retained to the satisfaction of the Principal Certifying Authority.

**Reason:** *To ensure stability of the site.*

- 9 Structural Engineering details for reinforced concrete components are to be submitted to and approved by the principal certifying authority **prior to commencement of the work**. Details shall be signed and reference made to the Geotechnical Engineer's report prepared by Coffey Geotechnics Pty Limited dated 24 June 2010.

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

- 10 Access to the development shall meet the following requirements:

- a) Paths and steps to have even non-slip surfaces.
- b) Paths to be a minimum of 1350 mm wide, with a maximum camber of 1:100.
  
- c) Provide fixed, rigid, continuous handrails 900 mm above steps and paths, where the ground level falls away close to the path. Handrails are to be provided on both sides of steps and to extend a minimum of 300 mm past the first and last step. A change in surface texture is recommended between steps and a path, and a contrasting surface is required at the edge of paths and steps to assist the visually impaired.
- d) The first and last step in a flight of stairs are to have the tread painted or constructed of white or a light colour.
- e) Changes in levels of less than 150 mm and single steps are to be avoided.
- f) Access for people with disabilities in accordance with the relevant provisions of AS1428.1 is to be provided to the main entrance of the building.

**Reason:** *To provide equality of access.*

- 11 Noise attenuation barriers and shade sails detailed within the application shall be constructed in accordance with their manufacturer's specifications. Details of the barriers and shade sails shall be submitted to the Principal Certifying Authority prior to commencement of work on the same.

**Reason:** *To ensure compliance with the terms of this approval to an appropriate standard.*

## NOISE MANAGEMENT

- 12 The mitigation measures detailed in the acoustic report prepared by Renzo Tonin & associates (NSW) Pty Ltd Ref: TE999-01F02 (rev 1), must be fully implemented **prior to the issue of a final occupation certificate** and complied with at all times. This includes the installation of a noise wall extending along the northern, western and southern perimeters of the skate park at a height to ensure line of site is cut to nearby identified receptors.

**Reason:** *To preserve the environment and meet the requirements of the approved acoustic report.*

- 13 The hours of operation for the proposed development shall be limited to the following time restrictions:

Monday to Sunday - 8.00am to 8.00pm

The applicant shall erect signage (Public Notice) of a suitable scale, location and nature that clearly identifies to users of the recreational facility the following times periods within which the facility can be used. The applicant is to ensure that signage identifies that use of the facility outside of these hours is prohibited and the maximum penalty notice that maybe imposed under the provisions of the Local Government Act 1993.

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

- 14 The hours of work for any noise generating activity relating to 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))

- 15 Noise monitoring of the event must be undertaken by a suitably qualified acoustic consultant and subsequent submission of reporting to Council within ninety (90) days from the date of completion of development. The report shall detail the level of compliance, and any necessary measures taken to ensure that all noise control conditions and requirements have been met.

**Reason:** To ensure the conditions of consent are satisfied and to reduce the likelihood of "offensive noise" from the development.

## STORMWATER DRAINAGE

- 16 **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 **Council**. This system shall be designed and constructed in accordance with Australian Standard AS3500 Plumbing and Drainage Part 3: Stormwater Drainage. 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. 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.

**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))

- 17 The proposed skate bowl shall be so designed so as not to hold stormwater and be self draining.

**Reason:** To preserve public health and safety

- 18 **Prior to the release of the Construction Certificate** full design details of the stormwater management system for the development shall be submitted to Council for approval under Section 68 of the Local Government Act. Stormwater control and treatment measures shall be installed to ensure stormwater discharges satisfy the qualitative and quantitative objectives of Council's Stormwater Management Plan.

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

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

- maximise the diversion of clean waters, and
- minimise the extent and duration of site disturbance, and
- include devices/practices to prevent sediment being carried from the site by vehicle and plant tracks and tyres.

Some treatment of waters may be required prior to release into the environment.

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

## BICYCLE PARKING FACILITIES

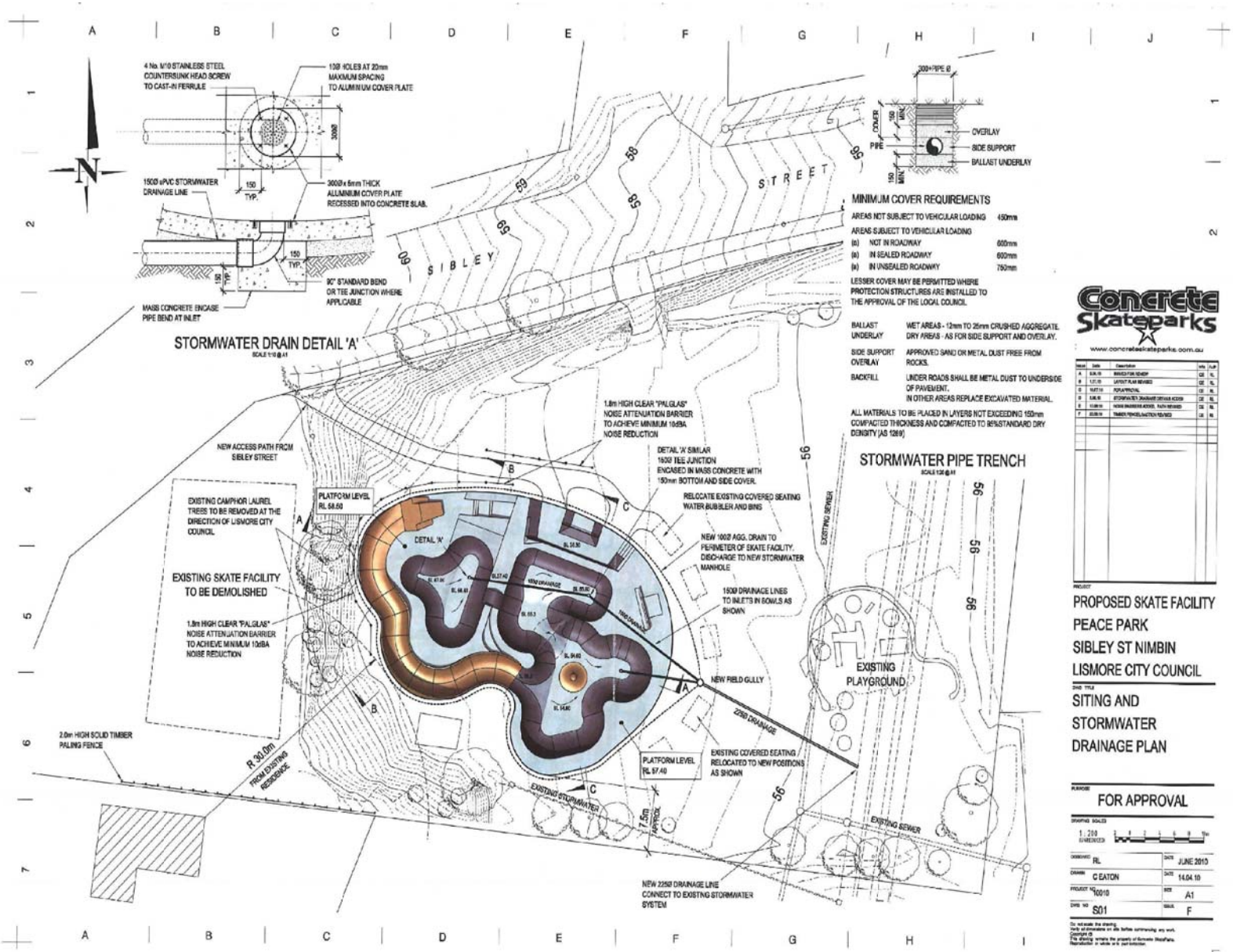
- 20 The applicant shall provide bicycle parking facilities in accordance with Austroads Part 14 'Bicycles' and Australian Standard AS2890.3 'Bicycle Parking Facilities'.

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

- 21 The proposed access pathway shall be designed and constructed to a minimum width of 2.5 m.

**Reason:** *To provide a pathway network that caters for pedestrian and cyclist access*

- B. Council write to the Nimbin Community Centre Incorporated and advise of the determination of Development Application No. 2010/316 and outline the options available to the Nimbin Community Centre Incorporated to remove the existing steel skate facility within Peace Park, including approval requirements, removal/demolition management issues and implications of relocating the structure to an alternative site or location, and request written advice on their intentions in dealing with the removal, including proposed timeframes, with the aim to complete removal prior to the use of the new skate facility.



**Concrete Skateparks**  
www.concreteskateparks.com.au

NO.	DATE	DESCRIPTION	BY	CHECKED
A	15.06.10	ISSUED FOR DESIGN	CE	RL
B	17.06.10	ISSUED FOR PERMITS	CE	RL
C	18.06.10	FOR APPROVAL	CE	RL
D	18.06.10	FOR WATER MAINS DESIGN CHECK	CE	RL
E	18.06.10	FOR WATER MAINS APPROV. NOTIFIED	CE	RL
F	18.06.10	ISSUED FOR CONSTRUCTION	CE	RL

PROJECT  
**PROPOSED SKATE FACILITY  
PEACE PARK  
SIBLEY ST NIMBIN  
LISMORE CITY COUNCIL**

DRAW TITLE  
**SITING AND  
STORMWATER  
DRAINAGE PLAN**

APPROVED  
**FOR APPROVAL**

DRAWING SCALES  
1:200

DRAWING DATE  
JUNE 2010

DRAWN BY  
C EATON

DATE  
14.04.10

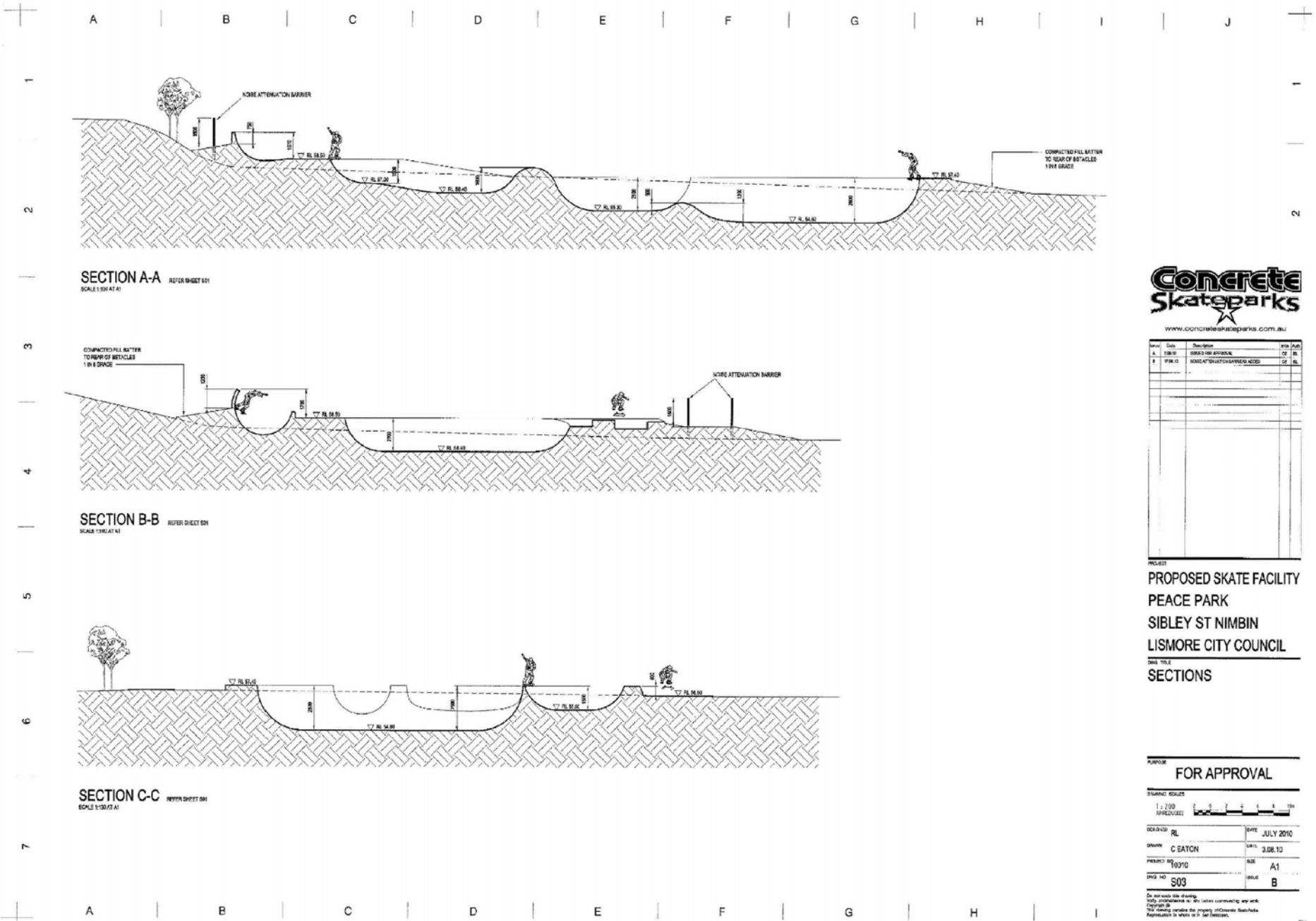
PROJECT NO.  
10010

REV  
A1

DWG NO.  
S01

SHEET NO.  
F

In accepting the drawing, the contractor is to be taken to warrant any work. Changes to the drawing shall be the responsibility of the contractor.



REV	DATE	DESCRIPTION	BY	CHK
1	08.10	ISSUED FOR APPROVAL	CF	RL
2	08.10	MODIFIED TO SHOW ATTENUATION BARRIER	CF	RL

PROJECT  
**PROPOSED SKATE FACILITY  
 PEACE PARK  
 SIBLEY ST NIMBIN  
 LISMORE CITY COUNCIL**

DRAW TITLE  
**SECTIONS**

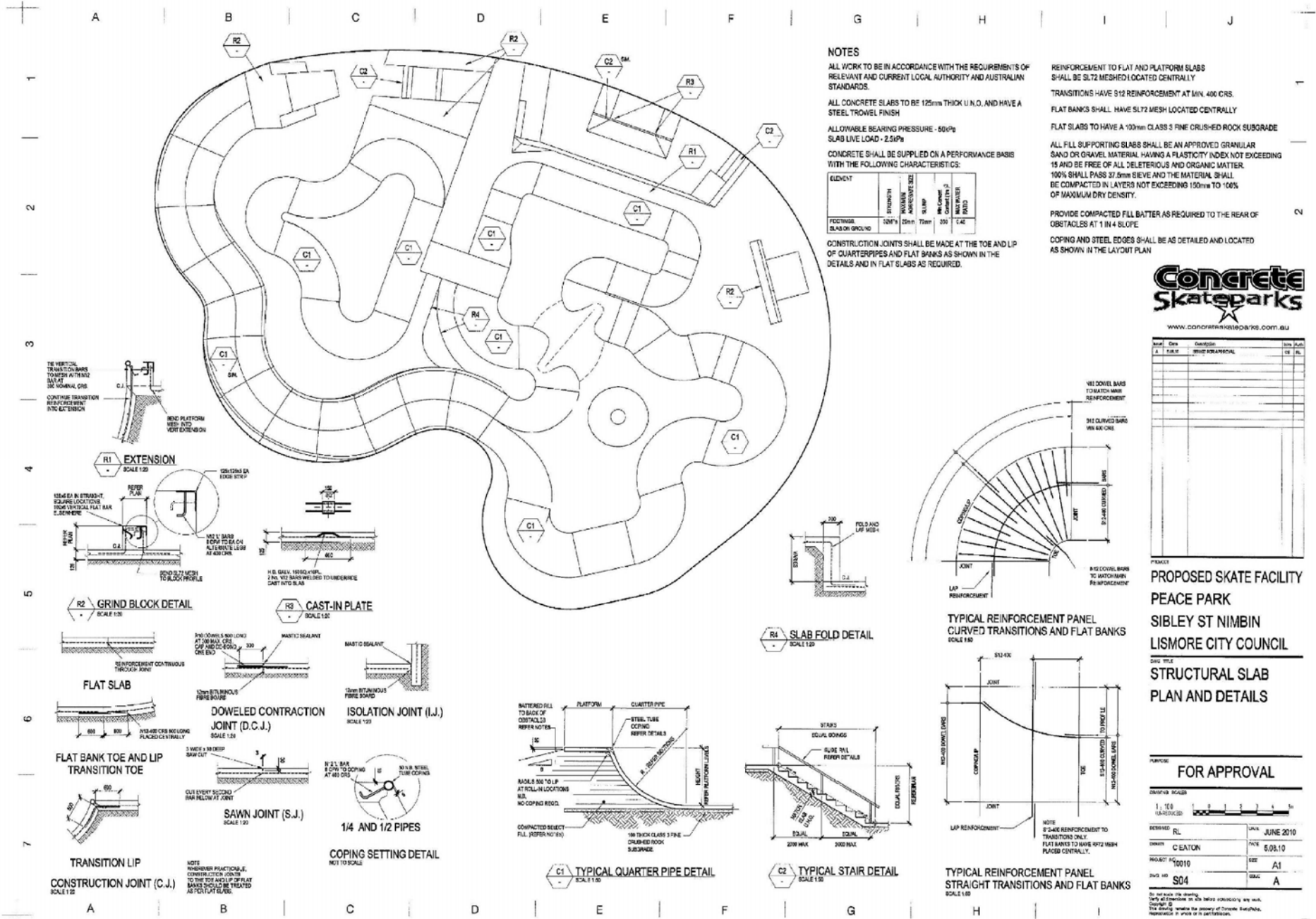
**FOR APPROVAL**

DRAWING SCALE  
 1 : 200  
 APPROXIMATE

SCALE BAR: 0 1 2 3 4 5 6 7 8 9 10m

DESIGNED BY	RL	DATE	JULY 2010
DRAWN BY	C EATON	SCALE	3.08.10
PROJECT NO	10070	SIZE	A1
DWG NO	S03	SHEET	B

Do not make site drawings. Only modifications to this set are to be made by the original designer. This drawing is the property of Concrete Skateparks. Reproduction in whole or in part is prohibited.



**NOTES**

ALL WORK TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF RELEVANT AND CURRENT LOCAL AUTHORITY AND AUSTRALIAN STANDARDS.

ALL CONCRETE SLABS TO BE 125mm THICK U.N.O. AND HAVE A STEEL TROWEL FINISH

ALLOWABLE BEARING PRESSURE - 600kPa  
SLAB LIVE LOAD - 2.5kPa

CONCRETE SHALL BE SUPPLIED ON A PERFORMANCE BASIS WITH THE FOLLOWING CHARACTERISTICS:

ELEMENT	STRENGTH	MINIMUM COMPRESSIVE STRENGTH	SLUMP	MINIMUM COMPACTED 28 DAY STRENGTH	MINIMUM AIR CONTENT	TEST METHOD
FOOTING	25MPa	25MPa	75mm	350	1.4%	
SLAB ON GROUND	25MPa	25MPa	75mm	350	1.4%	

CONSTRUCTION JOINTS SHALL BE MADE AT THE TOE AND LIP OF QUARTERPIES AND FLAT BANKS AS SHOWN IN THE DETAILS AND IN FLAT SLABS AS REQUIRED.

REINFORCEMENT TO FLAT AND PLATFORM SLABS SHALL BE S12 MESH LOCATED CENTRALLY

TRANSITIONS HAVE S12 REINFORCEMENT AT MIN. 400 CRS.

FLAT BANKS SHALL HAVE S12 MESH LOCATED CENTRALLY

FLAT SLABS TO HAVE A 100mm CLASS 3 FINE CRUSHED ROCK SUBGRADE

ALL FILL SUPPORTING SLABS SHALL BE AN APPROVED GRANULAR SAND OR GRAVEL MATERIAL HAVING A PLASTICITY INDEX NOT EXCEEDING 15 AND BE FREE OF ALL DELETERIOUS AND ORGANIC MATTER. 100% SHALL PASS 37.5mm SIEVE AND THE MATERIAL SHALL BE COMPACTED IN LAYERS NOT EXCEEDING 150mm TO 100% OF MAXIMUM DRY DENSITY.

PROVIDE COMPACTED FILL BATTER AS REQUIRED TO THE REAR OF OBSTACLES AT 1 IN 4 SLOPE

COPING AND STEEL EDGES SHALL BE AS DETAIL AND LOCATED AS SHOWN IN THE LAYOUT PLAN



Rev	Date	Description	By	Chk
A		ISSUE FOR TENDER		

**PROPOSED SKATE FACILITY  
PEACE PARK  
SIBLEY ST NIMBIN  
LISMORE CITY COUNCIL**

DATE: 10/10/10

**FOR APPROVAL**

DESIGNER: RL

SCALE: 1:100

DATE: JUNE 2010

DESIGNER: C. EATON

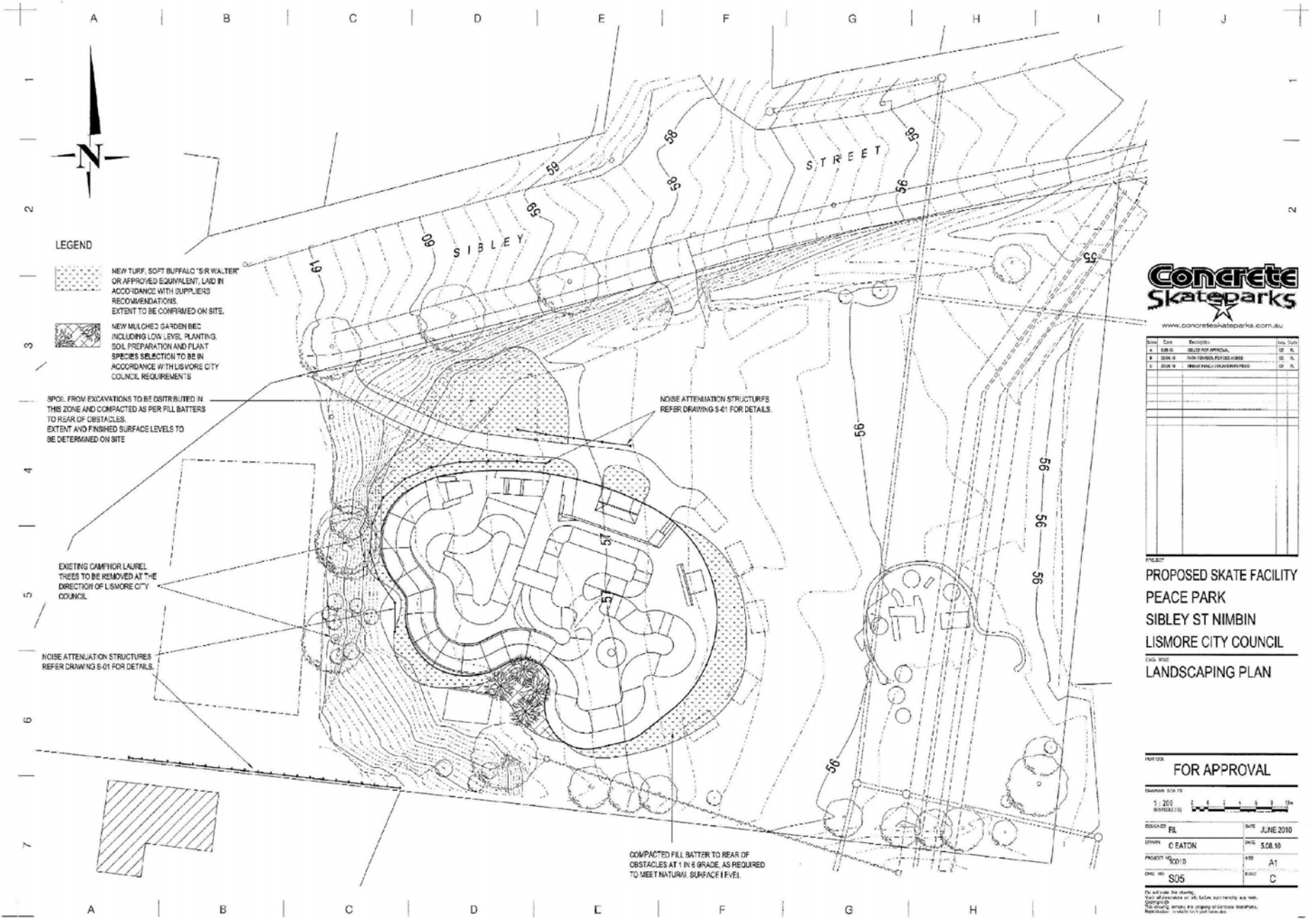
SCALE: 5.08:10

PROJECT NO: 10010

DATE: A1

PROJECT NO: S04

SCALE: A



# Report

<b>Subject</b>	<b>Tender for the Management of Lismore City Hall</b>
<b>TRIM Record No</b>	BP10/494:T10/34
<b>Prepared by</b>	Manager - Arts, Tourism and Leisure
<b>Reason</b>	Council resolution.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

This report provides a revised tender price for the management of City Hall. It explores the costs associated with self managing City Hall, comparing two similar Council-operated facilities in NSW, and provides options for managing the venue with limited or no cultural and performance program delivery. The report recommends accepting the revised tender from NORPA.

## Background

The management of Lismore City Hall has been outsourced to NORPA via a series of management contracts for the past 19 years. Following a tender process conducted in May/June 2010, NORPA was the sole tenderer, however the tender price proposed was significantly higher than previous years.

At the 10 August 2010 Council meeting, it was resolved that:

1. In accordance with Clause 178(1) (b) of the *Local Government (General) Regulation*, Council decline to accept any tenders for T2010-34 – Management of City Hall.
2. In accordance with Clause 178(3) (e) of the *Local Government (General) Regulation*, Council resolve to enter into negotiations with NORPA for the Management of City Hall.
3. In accordance with Clause 178 (4) (a) of the *Local Government (General) Regulation*, the reasons that Council declines to invite fresh tenders are that:
  - Council has already conducted a tender process and received a response;
  - The respondent to that process is capable of delivering the services that Council requires;
  - Some matters need to be resolved and clarified prior to entering into a contractual arrangement;
  - Those matters are not of a nature that significantly alter the requirements of the tender as printed.
4. The General Manager concurrently with the negotiations with NORPA, investigate the option of self managing the facility and report back to Council with both options prior to finalisation and signing of any management agreement.

In accordance with resolution Number 4 above, Council staff met with NORPA representatives to discuss the tender and explore possibilities to reduce the tender price. Administration Costs (additional \$15,000), Management Fee (\$15,500) and Staff costs (\$50,000) were the key items within the budget reflecting significant but unexplained increases. In relation to each of these items, NORPA has clarified their position as follows:

Administration costs (\$15,000) – previously NORPA has been absorbing all administration costs as part of their overall operations. A review of their accounting process attributed greater costs to City Hall administration than had previously been noted.

Management fee (\$35,000) – NORPA has been absorbing losses and using Box Office income or other funding to cover City Hall operational costs. This fee represents a fee for providing services and expertise not previously sought.

Staffing (\$50,000) – reflects the percentage of staff time contributing to all facets of the management of City Hall together with specialist input into the delivery of NORPA's extensive performance program.

Throughout this tendering process it has become apparent that the cultural and performance activities of NORPA have converged with the management of City Hall over time. This situation has evolved through the continuation of one management group over many years. However, the tender document does not reflect this evolution and continues to separate the management of City Hall from other performance and cultural activities undertaken by NORPA. It was noted in the August Council report that it was possible that the 'lines between facility management and the operation of NORPA have become blurred', and now it has become increasingly impossible to separate the two major functions which are provided by one organisation.

NORPA has reviewed their tender proposal, and with a view to focusing more specifically on venue management, has revised its tender price for the five year period as follows. Note, 3% CPI has been factored into each year's budget.

<b>2010/11</b>	<b>\$210,000</b>
<b>2011/12</b>	<b>\$216,300</b>
<b>2012/13</b>	<b>\$222,789</b>
<b>2013/14</b>	<b>\$229,473</b>
<b>2014/15</b>	<b>\$236,357</b>

This represents a \$40,000 reduction from the initial tender price. Administration costs have been significantly reduced to \$10,000 (as opposed to \$35,000), increased staff costs have been reduced by \$19,000 (as opposed to \$50,000), and the proposed management fee has been absorbed into existing costs. Electricity and gas costs have risen from \$13,000 to \$20,000 in line with predicted price increases. Several other matters within the contract are still in the process of negotiation, however the impact on the overall budget and management tender price should not be significant and are therefore not discussed in this report.

In order to accurately project costs associated with Council self managing City Hall, clarification is required on what services are to be delivered. If Council and the community expect the continued delivery of a quality cultural and performance program from City Hall, a number of comparisons can be made with similar types of facilities. However, if Council does not expect the delivery of a cultural and performance program, then City Hall could be managed more as a venue for hire, similar to other halls in the community.

The following two examples of Council managed facilities with full cultural programs provide relevant comparisons to City Hall:

**1. Bathurst Memorial Entertainment Centre**

- Opened in 1999
- 642 seat proscenium arch theatre
- Commercial kitchen
- Three licensed bars



- Two foyers
- Ticketek box office
- City Hall seats 500 people plus 100 people on mezzanine level
- Four conference rooms, each can accommodate 70 people
- Full seasonal program of theatre and other performances
- Includes Youth and Young Families program, local stages / performances; independent shows; festivals; Aboriginal arts program
- Venue for conferences and weddings, school events, mainstream artists.

## Staff

Manager – oversees venue and season program; festival; local stages; budget

Assistant Manager – supports manager, conferences and social activities, administration and staff

Operations Manager – maintenance and operations

Venue Technician – equipment, sound, lighting etc

Front of House Supervisor – ushers, bar

Box Officers Supervisors (2 x part time) – ticketing

Casual staff - box office, technical support, hospitality

Arts Performance Officer (3 years funded contract position).

## Budget 2009/2010

Income \$1,074,223

Expenditure \$1,911,121 (staff component: \$402,276)

Council subsidy \$ 836,898

- Competes with Orange which is only 40 minutes away; Dubbo also a competitor
- Purpose built facility, has good support from the public.

## 2. Tamworth Capitol Theatre

- Performing arts theatre plus conference facilities
- Opened 2008 (15 year lease on property)
- 402 seat purpose built proscenium arch theatre
- 16m retractable screen converts to cinema mode
- Shares foyer and licensed bar with Forum 6 Cinemas
- Built within shopping complex, adjoins cinema complex, shares facilities and staffing
- Shares staffing across other key entertainment venues.

## Other entertainment facilities

- Tamworth Recreation Entertainment Centre – tiered seating, seats 5,500, major conferences, conventions, concerts etc
- Tamworth Town Hall – seats 500 plus 200 balcony seating, dance recitals, eisteddfods etc.

## Staffing at Capitol Theatre

- Theatre Director – programming, theatre operations, liaising with performers, budget
- Venue Administration Officer – administration, accounts, box office, venue supervision, marketing

## Shared staff across other venues

- Senior venue technician – sound, lighting
- Assistant venue technician
- Casual labour hire – ushers
- Bar and food staff organised and paid for by Cinema.

## Budget

In the 2010/2011 budget the Tamworth Regional Council provided operational subsidies for its major community entertainment facilities as follows:

Tamworth Capitol Theatre	\$500,863
Tamworth City Hall	\$195,085
Tamworth Regional Conference and Entertainment Centre	\$475,948

A comparison of the above two facility with Lismore City Hall managed by NORPA clearly identifies the value of an external entity managing these types of facilities. If the NORPA revised proposal is accepted, the net cost to Council for the management of City Hall together with the delivery of a high quality, extensive cultural program is \$210,000 in 2010/2011 to \$236,000 in 2014/15 together with cultural programming assistance allocations of \$40,000 each year for the last six years, and approximately \$62,000 per annum in rates, charges and building maintenance. The net cost to Bathurst City Council in 2009/2010 was almost \$837,000, and \$501,000 for the Capitol Theatre and \$195,000 for the City Hall in Tamworth.

## Self-managed model

An alternative to these models is the option of venue management without the provision of the extensive cultural and performance program currently offered by NORPA. This type of model would entail managing and maintaining City Hall as a venue, providing a booking service for facility users, and arranging a limited program of touring events. The number of staff required to manage City Hall would be contingent upon the level of programming required. At a minimum, full time administrative support would be required to assist with bookings and other enquires, in addition to technical venue support for maintenance and the specific requirements of touring events/shows etc. Touring shows would require additional staffing support e.g. ushers, bar staff, marketing. In addition to staffing costs, routine administration costs also require budget provision. A basic draft budget for facility management with a limited program is outlined below:

### Income

Venue hire	<u>\$30,000*</u>
Total income	\$30,000

### Expenditure

Administration/Programs Officer	\$68,000**
Venue Technician/Maintenance (P/T 20 hrs/wk)	\$42,440**
Casual staff (events support staff)	\$10,000
Administration costs	\$10,000
Cleaning	\$ 5,000
Electricity and gas	\$ 8,000
Rates, water charges	\$15,000
Insurance	\$ 5,000
Maintenance	\$15,000
Security	\$ 7,000
Communications	\$ 3,000
Marketing	\$ 2,000
Council support costs	<u>\$30,000</u>
Total Expenditure	\$220,440
Net cost to Council	\$190,440

\* assumes NORPA is not hiring the facility for its performance program

\*\* includes oncosts

A variation to this option could be the addition of City Hall as a venue for hire together with the facilities currently managed by Events staff, i.e. Gordon Pavilion, Oakes Oval and Crozier Field. City Hall would become a venue for hire and would be included in any relevant bids to host events in Lismore. Additional ongoing administrative support would be required as well as maintenance and other support currently provided by NORPA. The delivery of even a limited cultural program through City Hall would require additional staff to develop and organise the program. This option would most likely be the most cost effective for Council however City Hall would potentially become a very underutilised facility.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The revised tender price is \$210,000 for the 2010/2011 financial year, increasing by 3% each year for a further four years. Although this price is approximately \$50,000 over the budget provision, compared to other similar Council-managed facilities, this represents good value for money.

### Social Inclusion and Participation

City Hall is a community facility that is socially inclusive for all groups as identified in the Community Strategic Plan 2008-2018.

If NORPA were not to continue the management of City Hall their ongoing viability may be questionable and a possible option for them may be relocation to another City. This would not be a desirable outcome for Lismore.

### Protect, Conserve and Enhance the Environment and Biodiversity

Not applicable.

### Best-Practice Corporate Governance

The management of City Hall by an external organisation employing staff with a variety of skills and competencies allows the community to benefit from NORPA's high quality cultural and performance program together with the efficient management of City Hall, and thus demonstrates efficient use of Council's resources.

## Comments

### Finance

The management fee amount for City Hall is driven by the service level required. The two options being considered are:

1. The current service level provided by NORPA being venue management as well as a quality cultural and performance program, or
2. Venue management only, similar to other halls in the community.

### Option 1

NORPA has provided an extensive range of related information to support their management fee tender including NORPA's audited financial reports. The financial reports clearly show that in recent years NORPA has in fact been financially supporting City Halls day to day operating costs (\$15,300 in 2008 and \$29,200 in 2009). Given this situation, an increase in the 2009/10 management fee to provide a 'like service' can be supported.

As a result of negotiations, NORPA have revised the management fee structure as reported above. If Council accepts the offer, the impact on the 2010/11 Budget will be an unfavourable variance of \$45,000. For the remaining years of the contract, the revised management fee increases annually by 3%.

When comparing the total cost to provide City Hall with the 'like service' examples provided for Bathurst and Tamworth, it indicates that the Lismore community receives very good value from the NORPA arrangement.

## Option 2

To provide a basic venue management service only, it is estimated that Council could deliver this service for approximately \$190,000 per annum. If Council chose this approach, the impact on the 2010/11 Budget will be an unfavourable variance of \$25,000. As with all Council operating budgets, it would increase annually by at least 1% to 2%.

In summary, the difference between Option 1 (\$210,000) and Option 2 (\$190,000) is effectively Council and the community would receive a quality cultural and performance program at the City Hall for \$20,000 per annum.

Based on the decision made by Council, the adjustment required to the 2010/11 Budget will be reported as part the September 2010 Quarterly Budget Review report to the November 2010 meeting.

## Other staff comments

### Manager Assets

Council's Assets staff currently enjoy a close working relationship with NORPA in regard to maintenance and upkeep of the building. Having a full time venue manager that is familiar with the building assists in identifying and addressing maintenance issues in a timely manner. NORPA staff also exhibit a degree of "ownership" of the building which would be difficult to replicate with a part-time arrangement focussed solely on venue hire.

## Public consultation

Not required.

## Conclusion

By virtue of NORPA's high quality cultural and performance program, Lismore is viewed by many as the cultural hub of the Northern Rivers. NORPA has been very successful in accessing state and federal funding to support and grow its operations, and a number of innovative NORPA shows have toured nationally. NORPA has effectively managed City Hall for almost two decades, sharing staff expertise across the core business areas of facility management and cultural and performance program delivery. Over time the core business areas have merged somewhat, and the management fee provided by Council contributes to both functions which result in beneficial outcomes for Lismore and Northern Rivers residents and visitors alike. It is highly unlikely that a fully Council-managed facility could match the value and efficiencies demonstrated by NORPA.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. The revised tender from NORPA for \$210,000 in 2010/2011; \$216,300 in 2011/2012; \$222,789 in 2012/2013; \$229,473 in 2013/2014; and \$236,357 in 2014/2015 is accepted for Contract T10/34 for the Management of City Hall.
2. The General Manager is authorised to finalise a Formal Instrument of Agreement with NORPA and any other documents deemed necessary to complete this resolution.
3. The necessary documentation is executed under seal of Council.

# Report

<b>Subject</b>	<b>Sale of Land for Unpaid Rates</b>
<b>TRIM Record No</b>	BP10/501:EF09/572
<b>Prepared by</b>	Debt Collection Officer
<b>Reason</b>	All other alternatives for recovery of outstanding rates have been exhausted
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

As part of Council's debt collection practices, it is sometimes necessary to take drastic action to recover outstanding debts. In the case of outstanding rates, the Local Government Act 1993 (Act) provides for the sale of land in such circumstances.

It is recommended that Council commence proceedings to recover the rates from seventeen (17) assessments totalling approximately \$283,721.14 by the sale of the land to which the rates relate. All avenues to reach an acceptable recovery position have been explored and have failed.

The Act outlines the process a council must follow to sell land on this basis and the purpose of this report is to seek Council's approval to commence this process on the nominated properties.

## Background

Council has over 17,800 rateable assessments and in 2010/11 has forwarded rates and charges assessment notices for over \$37 million to the owners of these properties.

Generally, ratepayers pay in accordance with requirements (in full or quarterly instalments), however the trend of paying by special arrangement or not paying at all is increasing. The 2009/10 Financial Statement highlight the fact that the percentage of rates and charges outstanding is at 11.19% of the total charged. At this level, the Local Government Benchmark suggests that corrective action should be taken. A concerted effort to recover all debts is in train, but with such a large number of ratepayers and with the multitude of varying financial circumstances, there will always be a minority that will need to be recovered using drastic recovery action.

Before proceeding to the sale of land, the property must have at least five (5) years rates outstanding. During this time, the property owner would have received rates notices, instalment notices, reminder letters, final notice letters and legal action of some sort. This is in accordance with Council's debt recovery procedures. As such, a recommendation to sell someone's land is considered the final step and one not proposed lightly. However, having exhausted all available debt recovery methods including legal action without success, the choice is either to carry the debt and wait for the owner to sell the property, or for Council to sell the property.

Council has a policy to not take legal action to recover outstanding rates from pensioners but that any variation is to be determined by the Council. Pensioners with outstanding rates, and there are many, only receive rates notices, instalment notices and reminder letters.

The Act sets out the various provisions that must be complied with for a sale to be conducted. These include Council resolving to sell the properties, the General Manager certifying what rates are payable and that they exceed five (5) years rates, set a time for the sale, advertising, notification to owners and notification to interested parties of the proposed sale.

To implement these requirements, delegation to the General Manager will be required. In addition to the requirements of the Act, the delegation will provide for properties to be withdrawn from the sale in situations where payment or an arrangement to pay is made or circumstances being such that the General Manager believes the sale should not proceed.

It is recommended that seventeen (17) assessments that have accumulated over five years of outstanding rates and charges be sold. Cumulatively, these debts amount to over \$283,721.14. The confidential attachment provides the details of the individual situations and history relating to each assessment as well as the appropriate certificates setting out the outstanding rates and charges in accordance with the Act that the General Manager must certify.

The seventeen (17) properties include three vacant land properties, one being farmland and a business property. Some of these properties are owned by pensioners and legal action would not normally be taken as is Council's policy, but there are extenuating circumstances in this situation and the matter is brought to Council for determination.

Should Councillors wish to discuss individual circumstances, it would be more appropriate that this occur in a Closed Council Meeting.

The proposed timeline for the sale of land is:

- November 2010 – Fix a date with the auctioneer.
- November 2010 - Advertise in the Government Gazette (7 days notice), Sydney Morning Herald and Northern Star giving 5 months notice of the sale. The Act requires between 3-6 months notice.
- April 2011 – Do another title search on each property and notify each property owner of impending sale.
- April 2011 – Contact solicitors and finalise date and place with auctioneer.
- May 2011 – Hold auction

## Sustainability Assessment

### Social Inclusion and Participation

Proceeding with the sale of land for unpaid rates will result in some ratepayer's primary place of residence being sold. It is likely that this would have a tumultuous impact on effected ratepayers.

Council has a 'duty of care' to all its ratepayers to ensure that rates are charged and collected. It could be argued that by letting outstanding rates increase to unmanageable levels, Council is not meeting its obligation for all ratepayers. However, once the process has commenced, the ratepayers in question have the ability to avoid a sale by paying the outstanding sums.

### Best-Practice Corporate Governance

Council is required to follow the legislative requirements of the Local Government Act 1993 when selling land for unpaid rates.

## Comments

### Finance

The recommendations are supported as they represent the final option available to recover the outstanding rates and charges, within Council's debt recovery practice of actively pursuing all overdue debts. The practice includes the acceptance of payment arrangements and genuine hardship applications.

As indicated in the individual property information, where possible, all recovery options have been explored and therefore I believe it important to re-emphasise the point that what is proposed is the last resort.

Given rate revenue is such a large component of Council's total revenues (39.01%), it is vitally important that all facets of this debt be appropriately managed to maintain financial sustainability.

### Public consultation

Property owners where contactable have been made aware of the consequences of not reaching and maintaining a suitable payment agreement. Further efforts will be made to secure acceptable payment arrangements prior to sale. Other public consultation, such as advertising, will be undertaken in accordance with the requirements of the Act.

### Conclusion

The recovery action to sell seventeen (17) properties for unpaid rates is considered to be the last resort for the recovery of outstanding rates. All options to recover these rates which have been outstanding for a period of five (5) years have been unsuccessful.

It is also relevant that commencing the process is only a starting point and in previous cases, where the owners or equity stakeholders are known, arrangements to pay have resulted prior to a sale being effected.

In summary, the seventeen (17) properties include:

- 12 Residential properties at \$198,212.15,
- 5 of these Residential properties are claiming the pension rebate, with their debt being \$66,628.06
- 1 Business property at \$42,495.19
- 1 Farmland property at \$13,778.65
- 2 vacant properties at \$29,235.15

### Attachment/s

1. Rates Certificates\_Sale of Unpaid Rates Report 210910 - *This matter is considered to be confidential under Section 10A(2) (b) of the Local Government Act, as it deals with the personal hardship of any resident or ratepayer* (Over 7 pages)
2. Rates Assessments\_Sale of Unpaid Rates Report 210910 - *This matter is considered to be confidential under Section 10A(2) (b) of the Local Government Act, as it deals with the personal hardship of any resident or ratepayer* (Over 7 pages)

## Recommendation

That:

1. In accordance with Section 713 of the Local Government Act 1993, Council sells the properties covered by assessment numbers 471, 754, 1632, 1789, 3344, 3621, 5193, 6207, 6365, 7782, 10750, 11723, 13229, 14623, 15156, 15499 and 18773.
2. That the General Manager certify in accordance with Section 713 (3) of the Local Government Act, 1993, that the properties covered by Council assessment numbers 471, 754, 1632, 1789, 3344, 3621, 5193, 6207, 6365, 7782, 10750, 11723, 13229, 14623, 15156, 15499 and 18773 have five or more year's outstanding rates.
3. That the General Manager, by delegated authority, determine the date of the sale, subject to the provisions and timeframe set out in Section 715(1)(a) of the Local Government Act 1993.
4. That the General Manager, by delegated authority, be authorised to accept an arrangement to pay the outstanding rates and charges and/or withdraw any assessment from the proposed sale at his discretion.
5. That the General Manager be authorised to determine the place of the sale and appoint an auctioneer to carry out the sale.
6. That the Mayor and General Manager be authorised to sign any documents required by and relating to the sale of land for unpaid rates including the contract of sale and transfer, and to be executed under the Common Seal of Council.



# Report

<b>Subject</b>	<b>Tender No. T2011-06 - Lease of Tea Tree and Agricultural Land</b>
<b>TRIM Record No</b>	BP10/432:T11/6
<b>Prepared by</b>	Manager - Commercial Services
<b>Reason</b>	To inform Council of the outcomes of submissions received for Tender T2011-06.
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

Council has considerable holdings of flood prone land. The ongoing management of these properties is Council's responsibility. Council's involvement in tea tree and other farming activities has not been profitable. This report proposes to lease the land to locally based professional farm operators. This will provide a small income to maintain the farm surrounds in a presentable manner.

## Background

Council has considerable holdings of flood prone land including the tea tree plantation at the airport and other agricultural lands. Council has been running the tea tree farm for approximately seven years. A brief history of the issues in that time has been:

- The first two years were largely spent trying to get the farm back into a satisfactory condition following the poor performance of the previous lessee. Increasing yields, high costs and decreasing prices were the norm during this period.
- The next two years saw fair volumes but poor prices – up to 9 tonne at \$12 per kilogram.
- The development of the airport industrial subdivision replaced a majority of the crop area and reduced yield to around 3 tonne. The price in 2008 for oil was \$58 per kilogram. Last year's crop has as yet been unable to be sold and industry indications are that prices are now around \$30-\$35 per kilogram but demand is low.
- Two large tracts of land were added to the portfolio several years ago including the Riverbank Road block which forms part of the landfill / East Lismore Sewer Treatment Plant buffer land and the floodplain quarry land in Caniaba Street, South Lismore.
- In recent years staff have tried various strategies to increase returns from the farmland but lack the necessary equipment and flexibility to be able to farm as suitable conditions are available. It has also proved difficult to access contractors at the right time as they are usually doing their own farm work at those times. Strategies have included:
  - *Growing corn, oats and fodder crops.* None of these have been very successful with the principal problem being wet weather at critical times – plough paddock then rain prevents planting, plant paddock then floods killing germinating seeds, then re-establishment of weeds. Staff have managed to establish two smaller fodder paddocks which are close to harvestable quality.

- *Cutting “rough” paddocks for biomass for blending with biosolids.* This was partially successful but there was not enough “body” in the grass to absorb the moisture from the biosolids.
- Several years ago Expressions of Interest were invited for the lease of the tea tree farm area but conditions surrounding maintenance of the area and compliance with DECCW water licenses deterred applicants.
- *Leasing various parcels for grazing.* This has provided very low returns and there are always issues with maintenance of fences, etc. This is a major issue near the airport.

Given the ongoing difficulties of trying to farm at a less than professional full time level, it was decided to:

1. Investigate leasing out the tea tree section of the farmland again with some relaxing of the maintenance conditions and removal of the water re-use conditions. This is by far the most expensive section of the farm to maintain and the most time demanding and time critical operation. In reality the area is too small to produce much of a surplus but may add value to another farmer who could coordinate activities with other areas. Council would look to still maintain roadways, drains and areas close to the airport and roadways inhouse. This would overcome the issues with presentation around the airport and not cost too much annually.
2. Investigate leasing the remaining area for cropping or grazing at an improved return level. By adding together several of Council’s unused blocks a significant area will be available.

## Submissions

Tender No. T2011-06 for the Lease of the Tea Tree and Agricultural Lands for five years with an option for an additional five years, was advertised in August 2010 with a closing date of 2 September 2010. Two submissions were received for the tea tree farm and three for the agricultural lands. One of the tea tree submissions also offered a lease for part of the agricultural lands. The tenderers were:

- Paul Weir
- Gaudrons Vegetation Management
- T n L Contracting Pty Ltd
- John Seccombe
- Stepping Stone Plantation.

Assessment of the tenders was conducted using Council's purchasing procedures. The weighted scoring of the tenders is included in Attachment 1. All applicants were local farming operators exhibiting sound knowledge of their area of operation. Whilst offering different proposals for the land, all proposals scored similarly on capability, safety, environment and local content criteria. The most variation was on prices offered.

From the assessment process a preferred position for the tea tree and agricultural lands was developed, being John Seccombe and Gaudrons Vegetation Management. John Seccombe is a major local tea tree farm operator and offered more upfront returns with less risk attached for the tea tree lands. Gaudrons have operated sugar cane, soybean and cattle at Broadwater and Numulgi for many generations. Their submission covered the majority of the agricultural land blocks and provided the best returns to Council.

Not all of the land parcels offered by Council received a submission. These are parcels of small lots with current short term grazing leases, which will be extended.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposal provides ongoing revenue in excess of current income levels being generated from the farming lands held by Council. Additionally it will put into use several parcels of land which have not been productive in recent years.

### Social Inclusion and Participation

This proposal has no impact on social issues.

### Protect, Conserve and Enhance the Environment and Biodiversity

This proposal has a neutral impact on environment and biodiversity issues.

### Best-Practice Corporate Governance

This proposal supports the efficient use of Council's agricultural lands by making them available for use by professional farm operators, and in doing so generating an income for Council.

## Comments

### Finance

Council's involvement with tea tree and crop farming has not proven to be profitable and as it is not considered core business, leasing is supported.

In regards to the impact on the Budget, the lease income will be used to largely offset the contribution from Wastewater Fund to General Fund for water re-use as this condition has been removed from the tea tree farm lease.

## Public consultation

Not required.

## Conclusion

The current farm arrangements result in a lot of work for not much return. Given the difficulties of trying to operate the Council farmlands with inadequate resources, it is proposed to lease the lands to locally based professional farm operators.

## Attachment/s

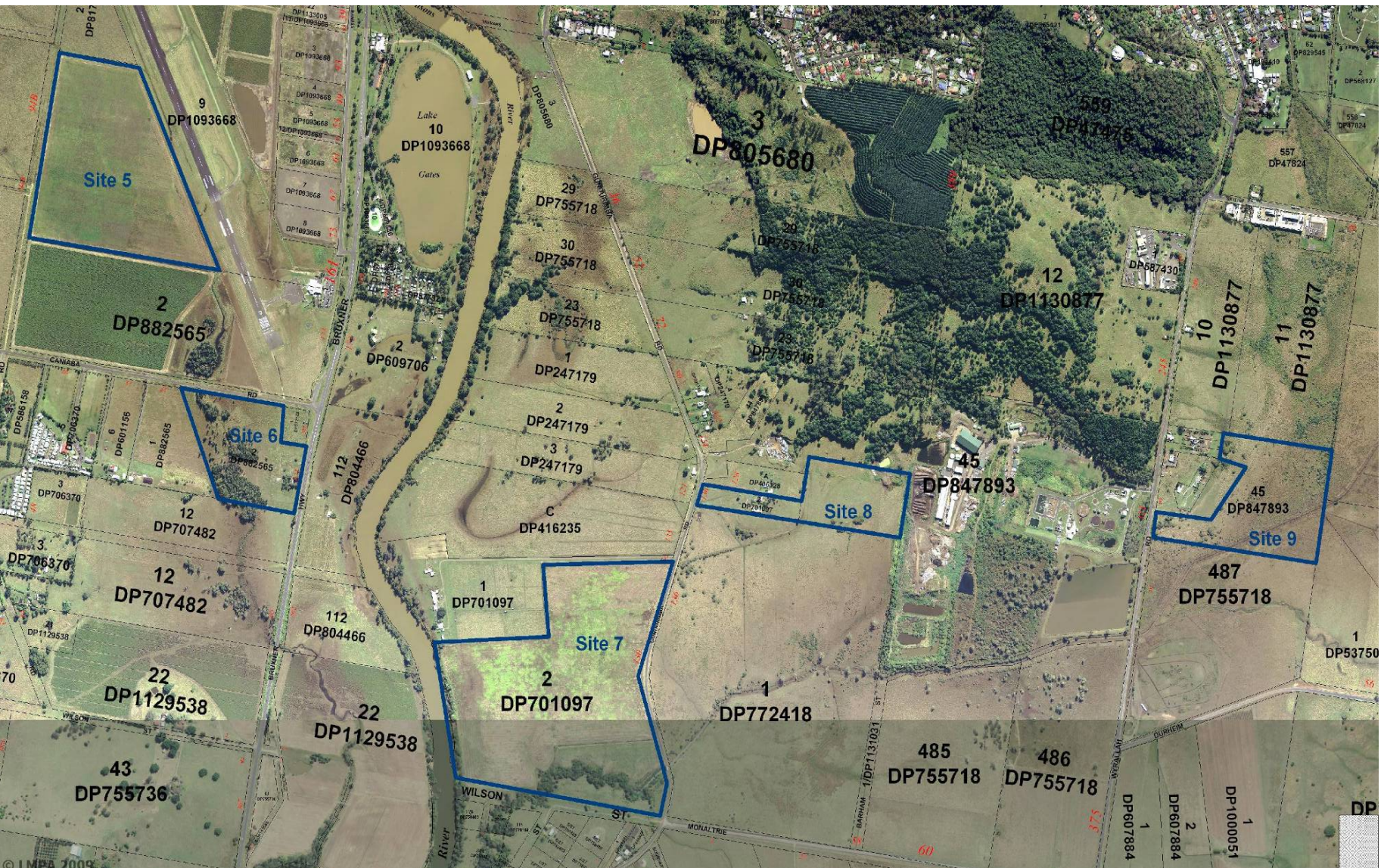
1. Site Maps - Lease of Tea Tree and Agricultural Land - Sites 1-9
2. T2011-06 Weighted Scores
3. Farm Tender Price Calculations - *This matter is considered to be confidential under Section 10A(2) (c) (d i) of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it*

## Recommendation

That:

1. Council accept the tender of \$20,000.00 (plus GST) per annum from John Seccombe for the lease of the tea tree farm.
2. Council accept the tender of \$33,045.00 (plus GST) per annum from Gaudrons Vegetation Management for lease of the agricultural land as detailed in their submission.





Tender T2011-06		Lease of Existing Tea Tree Farm and other Agricultural Land										
		Tendered by:	Paul Weir		Gaudrons		TnL Contracting		Seccombe		Stepping Stone	
Price Score by Ratio			Tender 1		Tender 2		Tender 3		Tender 4		Tender 5	
	Criteria	Weighting from Tender Docs	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated
1	Total Price (out of 10; against average)	40%	3.63	1.45	10.00	4.00	0.67	0.27	10.00	4.00	6.00	2.40
2	Capability and Experience (out of 10)	30%	9.00	2.70	9.00	2.70	8.50	2.55	9.00	2.70	9.00	2.70
3	Quality and Safety (out of 10)	5%	7.00	0.35	7.00	0.35	7.00	0.35	7.00	0.35	7.00	0.35
4	Environment and Community (out of 10)	5%	7.00	0.35	7.67	0.38	7.00	0.35	7.67	0.38	7.33	0.37
5	Local Content Minimum 10% (Out of 10)	20%	9.67	1.93	9.67	1.93	9.33	1.87	9.67	1.93	9.67	1.93
		100%		6.79		9.37		5.38		9.37		7.75
	<b>Overall score out of 100</b>			<b>67.85</b>		<b>93.67</b>		<b>53.83</b>		<b>93.67</b>		<b>77.50</b>





# Report

<b>Subject</b>	<b>Tender No. T2010-26 - Lease of Cafe at Lismore Regional Art Gallery</b>
<b>TRIM Record No</b>	BP10/503:T10/26
<b>Prepared by</b>	Manager - Assets
<b>Reason</b>	To advise Council of the outcome of negotiations with a tenderer to lease the Art Gallery Cafe.
<b>Community Strategic Plan Link</b>	Sustainable Economic Growth and Development

## Overview of Report

Council conducted a tender process in May 2010 for the lease of the café facility attached to the Lismore Regional Art Gallery building in Spinks Park. At its meeting on 13 July 2010 Council resolved not to accept any tenders and enter into negotiations with one party to finalise a lease.

Negotiations with the party were unable to be finalised and their tender was officially withdrawn on 2 September 2010. The recommendation in the report is to conduct a fresh tender process.

## Declaration

Councillor Gianpiero Battista was one of the parties to tender for the lease.

## Background

Lismore City Council has leased out the café facility attached to the Lismore Regional Art Gallery building to an operator since 1998. This lease expired on 7 October 2010. In May 2010 Council invited submissions via tender from suitably qualified and experienced businesses or individuals to lease and operate the café facility adjoining the Gallery.

Two submissions were received and a report was prepared for Council's consideration at its meeting of 13 July 2010. On the day of the meeting, the lessees at the time, Gianpiero and Rebekka Battista, withdrew their tender. As such Council resolved to enter negotiations with the other tenderer, Robert and Debbie Cregan, to lease the facility. The main issue to be resolved with the Cregans prior to entering a lease was fit out of the café. In particular there was a desire to try and facilitate an agreement between the Battistas and the Cregans for purchase of plant, equipment, furniture, fixtures and fittings that were owned by the Battistas and would otherwise need to be removed from the building at the end of the lease.

Council staff attempted to broker a deal between the two parties but an agreement was unable to be reached. As such the Cregans formally withdrew their tender on 2 September 2010.

In parallel with these negotiations, staff conducted discussions with the Battistas and in the absence of an agreement between the Battistas and the Cregans, reached agreement for Council to purchase a number of specific items of plant and equipment which are considered to be essential for the operation of the building, and some others which were considered to be difficult to remove and replace and would be required by a new café operator. These items are:

## **Building Items:**

- Hot water system
- Security/alarm system
- Shade sail at rear of building
- Front gates
- Ceiling fans
- Air Conditioner.

## **Café Items:**

- Cool room (built in)
- Air extraction system (would require replacement of a section of the roof)
- Front counter
- Built in gas heater.

Given that both tenders have been withdrawn, it is recommended that Council conduct a fresh tender process. Informal approaches have already been made to Council staff by interested parties given the publicity surrounding the closure of the Left Bank Café.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The lease of the café is income producing, resulting in a positive economic outcome for Council. The location adjacent to the Art Gallery also has a positive effect for patrons of the Gallery. Having the café in operation also provides employment opportunities for local people.

### Social Inclusion and Participation

Conducting a fresh tender process will ensure an equal opportunity for all interested parties. Having the café in operation also provides employment opportunities for local people.

### Protect, Conserve and Enhance the Environment and Biodiversity

There are not considered to be any positive or negative effects as a result of the proposed re-tender process.

### Best-Practice Corporate Governance

An open tender process is considered to be the most transparent method to appoint a new lessee for the facility.

## Comments

### Finance

The recommendation to conduct a new tender process is supported.

As the café is no longer leased, there will be no income received from 7 October 2010 to when a new lease commences. This situation will not impact available funds in 2010/11 as the majority of café income is reserved for a new Art Gallery.

## Other staff comments

### Manager Arts, Tourism and Leisure

The Gallery is operating within a very tight budget in a building which requires varied levels of maintenance from time to time. Rental income from the café provides a fund reserve for the Gallery building and public toilets currently shared by the Left Bank Café and the Gallery. Any long term disruption to these funds will impact on the Gallery's ability to adequately maintain an ageing building. The option to conduct a new tender process is fully supported.

## Public consultation

Not applicable

## Conclusion

Council conducted a tender process and entered negotiations with one party in an attempt to secure a lessee for the café at the Lismore Regional Art Gallery. Both tenderers ultimately withdrew their tenders.

A fresh tender process is recommended for lease of the facility.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. The report be received and noted.
2. Council conduct a fresh tender process for the lease of the café at the Lismore Regional Art Gallery given that both respondents to Council's original tender process have withdrawn their tenders.

# Report

<b>Subject</b>	<b>70 Lancaster Drive - Boundary Adjustment</b>
<b>TRIM Record No</b>	BP10/524:P28318
<b>Prepared by</b>	Manager - Assets
<b>Reason</b>	To gain Council approval for the sale of land to conduct a boundary adjustment at the property.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

In 2003 Council sold Lot 2 DP 1050674, being industrial land at 70 Lancaster Drive, Goonellabah. The purchaser had planned to build within 1.0m of the boundary adjoining Tucki Tucki Public Reserve at 15 Holland Street, Goonellabah. As regulations required the proposed building to have an increased fire resistance level if less than 3.0m from the boundary, an additional area of the reserve was offered to the purchaser.

The reserve was subsequently reclassified from community to operational land to permit the sale. Correspondence between the parties regarding several issues has continued to this time. Other issues have since arisen and been resolved with the land owner. The report addresses those issues which largely relate to the area of land proposed to be sold being increased over the original proposal and recommends that Council proceed with the sale.

## Background

On 8 October 2002 Council resolved to subdivide and sell Lot 2 in Council's industrial land subdivision at Goonellabah. On 7 May 2003 settlement was effected for this lot, being 70 Lancaster Drive and is now the home of Summit Joinery.

At the time the purchaser had proposed to build a new structure within 1.0m of the rear boundary. The Building Code of Australia required a 3.0m set back for a building without fire rating to the adjoining Council-owned reserve. At this time additional land was offered to the purchaser.

A contract for sale of the additional land was exchanged on 6 May 2003 and the purchaser paid Council's costs in conducting the reclassification of the land and sale processes. No payment was made for the land component. In 2006 the reserve was reclassified to operational land pursuant to *Lismore Local Environmental Plan 2001 (Amendment No. 12)* to enable the subdivision and sale of the portion of the land subject of the contract exchanged in May 2003.

During the process of arranging for survey of the proposed boundary adjustment, it became apparent that the new property boundary would be located within an existing sewer easement. This would not be acceptable from a practical perspective as any fence proposed on the boundary would be located directly over the sewer. As such the proposed boundary adjustment was moved further out to coincide with the boundary of the sewer easement. The total area of additional land to be provided to the purchaser was 164m<sup>2</sup>.

In order to secure their property the purchaser subsequently arranged for construction of a chain wire fence. Upon completion of construction of the chain wire fence, it became apparent that it had not been constructed on the proposed boundary and was in fact constructed beyond the proposed boundary, both at the rear and the side of the property. The total area of additional land enclosed by the fence was 315m<sup>2</sup>, an increase of 151m<sup>2</sup>. Since construction of the fence, staff have written to the property owner advising that the fence can remain in its current location at Council's pleasure.

A survey plan of the site, the sewer easement and the location of the fence is attached to Councillors' business papers.

The fact that the fence has been constructed in the wrong location is disappointing and there are now two options available to Council. Council could require the fence to be removed and relocated to the correct boundary (allowing for the proposed adjustment), or it could sell an additional portion of land to the owner.

Given that Council reclassified the land with the intention of conducting a boundary adjustment, it is considered reasonable to sell the additional area of land that has been enclosed by the fence.

As such there are effectively three areas of land to be considered. The first area is 116.2m<sup>2</sup> and represents the original area proposed to be sold to the owner. It is this area of land that is dealt with in the contract exchanged in 2003 and for which there was no charge to the purchaser (other than transaction costs).

The second area of land is that additional area required such that the new property boundary would coincide with the boundary of the sewer easement. This represents an additional 47.8m<sup>2</sup> and the proposal is that this land be purchased at the same rate at which Council sold the original block to the purchaser. This rate was \$33.21/m<sup>2</sup> and was agreed on the basis that Council had required the boundary to be moved further out such that any fence would not be constructed over the top of the existing sewer.

The third area is the additional 151m<sup>2</sup> of land that has been enclosed due to the fence being constructed in the wrong location. There is an argument that this land should be purchased at market rates, given it was an error on the part of the contractor employed by the property owner. Recent industrial land sales in the adjoining areas have achieved prices of approximately \$130.00/m<sup>2</sup>. The property owner has indicated that he is not prepared to pay this amount for the land but has offered to pay half of that rate i.e. \$65.00/m<sup>2</sup>.

Given the spirit of the original agreement which was to provide an amount of land at no cost (other than transaction costs) to the property owner, that the error in building the fence on the incorrect alignment appears to be a genuine error, and that the overall additional area does not permit any increased use of the subject land, it is proposed to accept the offer of \$65.00/m<sup>2</sup> from the property owner.

As such the total price to be paid for the land subject of the boundary adjustment would be as follows:

Original area – 116.2m <sup>2</sup> @ no charge:	Nil
Additional area to edge of easement – 47.8m <sup>2</sup> @ \$33.21/m <sup>2</sup> :	\$ 1,587.44
Additional area to fence line – 151m <sup>2</sup> @ \$65/m <sup>2</sup> :	<u>\$ 9,815.00</u>
<b>Total:</b>	<b>\$11,402.44 (inc. GST)</b>

The property owner would also be required to pay Council's legal and survey costs of the transaction. These have increased considerably since the original contract was entered and are a result of the changes required to documentation, re-survey etc.

As a minimum, the boundary adjustment needs to be amended to include the additional area that will allow the new property boundary to coincide with the boundary of the sewer easement. If Council is agreeable to sell the additional 151m<sup>2</sup> enclosed by the fence, the transaction would also need to reflect this agreement. It is not clear whether this should be conducted as a separate transaction to the contract that Council has already entered, or whether that contract should be rescinded and a fresh contract entered into. Legal advice would need to be taken in order to determine the best way forward.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Summit Joinery is a local business that employs a number of people. The original proposal to undertake the boundary adjustment was designed to assist the establishment of that business on the site.

### Social Inclusion and Participation

The proposal is not considered to have any positive or negative effects.

### Protect, Conserve and Enhance the Environment and Biodiversity

The proposed boundary adjustment will result in the removal of an amount of land from the adjoining reserve. However, Council had already reclassified the land to operational with a view to undertaking a boundary adjustment on this property. The land proposed to be sold consists largely of an easement for sewer purposes and therefore could not be used for planting of vegetation as access needs to be maintained for maintenance purposes. The area not covered by the sewer easement is currently unvegetated and already enclosed by the fence.

### Best-Practice Corporate Governance

Resolution of the boundary issues to ensure that the fence is located on the boundary, whether in its current location or some other location as deemed appropriate by Council is preferable to having a fence located on Council land at Council's pleasure.

## Comments

### Finance

On the basis that the adjoining land owner is paying a reasonable land valuation, plus Council's legal and survey costs, the recommendations are supported.

### Other staff comments

Not required.

### Public consultation

Not applicable.

## Conclusion

This matter has been ongoing for a considerable time. It is considered that Council should accept the offer from the property owner as outlined in the report to resolve this matter and agree to sell all of the land that has been enclosed inside the fence.

Legal advice will be required in order to determine the best way forward given that Council already has a contract with the property owner to purchase some of the land in question and it is recommended that the General Manager be authorised to finalise negotiations and complete the sale.

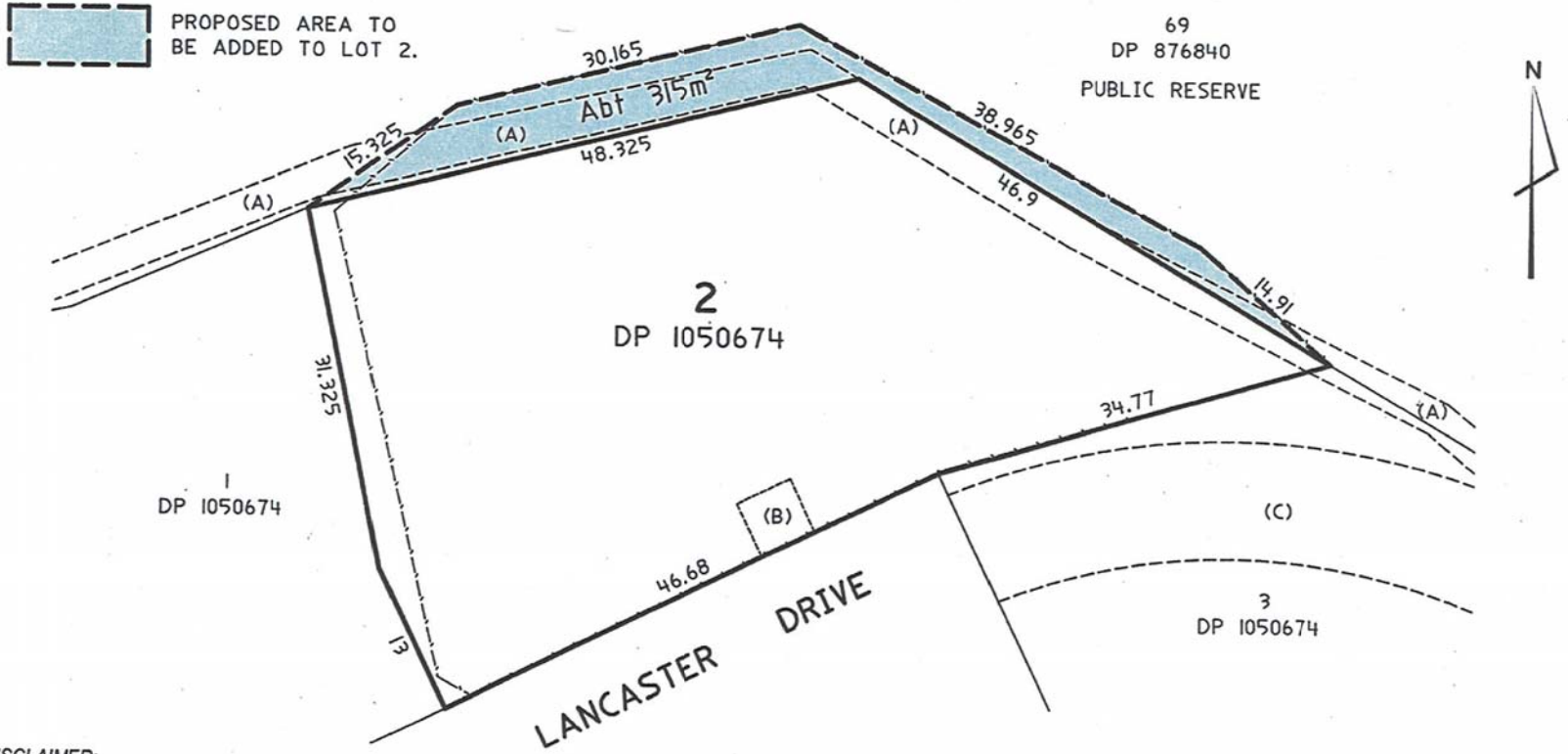
## Attachment/s

1. Proposed Plan - Boundary Adjustment of Lot 2, DP 1050674 and Lot 69, DP 876840

## Recommendation

That:

1. Council agree to sell approximately 315m<sup>2</sup> of land as shown on the plan attached to Councillors' business papers to the owner of 70 Lancaster Drive (lot 2 DP 1050674).
2. The purchase price for the land is to be \$11,402.44 (inc. GST)
3. The purchaser shall pay Council's reasonable legal and survey costs incurred in undertaking the sale.
4. The General Manager be authorised to finalise negotiations regarding the proposed sale, including the taking of legal advice on whether the existing contract for sale of a smaller parcel of land entered into on 6 May 2003 should be rescinded.
5. If upon receipt of legal advice, finalisation of the matter requires Council to rescind the contract entered into on 6 May 2003, then Council agree to rescind that contract.
6. Any documentation required to complete the sale be executed under seal of Council.



**DISCLAIMER:**

This plan was prepared for Summit Joinery as a proposed subdivision to accompany a subdivision application to council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to final survey and also to the requirements of council and any other authority which may have requirements under any relevant legislation. In particular, no reliance should be placed on the information on this plan for any financial dealings involving the land. This note is an integral part of this plan.

- (A) EASMENT TO DRAIN SEWAGE 3 WIDE (DP876840).
- (B) EASMENT FOR ELECTRICITY PURPOSES 5 WIDE (DP1050674).
- (C) RIGHT OF WAY 10 WIDE (DP831685).



**LandPartners Limited**  
2a Carrington Street  
Lismore, NSW, 2480  
Phone: (02) 6627 5600

Incorporating  
**ASPECT north &  
KFM Partnership**

**SUMMIT JOINERY**  
**PROPOSED BOUNDARY ADJUSTMENT OF**  
**LOT 2 IN DP1050674 & LOT 69 IN DP876840**  
**- LANCASTER DRIVE -**  
**GOONELLABAH**

SCALE: 1 : 500 at A4  
LGA: Lismore  
LOCALITY: Goonellabah  
SURVEYED: V.P  
DRAWN: C.D  
APPROVED:  
DATE: 18/12/2006  
COGO: LM060295A.cc6  
Dwg. No. LM060295-SV1



# Report

<b>Subject</b>	<b>Sale of 202 and 214A Oliver Avenue, Goonellabah to Lismore and District Workers Club</b>
<b>TRIM Record No</b>	BP10/527:EF09/159
<b>Prepared by</b>	Manager - Assets
<b>Reason</b>	To approve the sale of land to the Lismore & District Workers Club in accordance with an option available to the Club under the terms of its lease.
<b>Community Strategic Plan Link</b>	Sustainable Economic Growth and Development

## Overview of Report

This report recommends that Council proceed with the sale of land in Oliver Avenue to the Lismore & District Workers Club. The land is currently leased to the Club and under the terms of that lease, can be sold to the Club at any time if the Club so requests.

In 2006 Council commenced a process to reclassify the land from community to operational such that the sale could proceed. In more recent times a valuation has been undertaken and negotiations progressed with the Club. Agreement has now been reached on a purchase price and the next stage is for Council to formally agree to sell part of the land such that contracts can be exchanged.

## Background

The Workers Sports Club in Goonellabah is situated on Council owned land (Lots 134 and 135 in DP 859549), that adjoins the western boundary of Hepburn Park. In November 2005 the Lismore & District Workers Club took over the lease of the land from the Lismore RSL Club. The deed of consent to the assignment of the lease preserved the conditions of the original lease which has a term of 99 years expiring on 31 May 2090.



The terms of the lease also provide that the lessee has an option to purchase the land at any time during the term of the lease. The option can be exercised by the lessee through submission of a written notice to Council.

A report was prepared for Council's meeting of 12 September 2006 outlining that should the option be exercised, Council could not fulfil its obligations under the lease because the land was classified as community land. As such Council resolved at that meeting to commence a process to reclassify the land as operational land. This process was undertaken as amendment No. 35 to the Lismore LEP 2000.

Since that time discussions and negotiations have been undertaken with the Workers Club regarding sale of the property including issues such as price, area of land to be sold, easements for services and access, tenancy issues regarding other sporting clubs e.g. table tennis and tennis clubs etc. These matters have all now generally been resolved and the Workers Club has agreed to purchase Lot 1 shown on the attached plan containing approximately 2.3 hectares at a purchase price of \$694,400.00 + GST. This amount was determined by a formal valuation undertaken for Council. The purchase price is to be paid over five (5) years and will be secured by a first mortgage over the property in Council's favour.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Purchase of the land will generate some income for Council and allow the Workers Club to further develop the site should it choose to do so.

### Social Inclusion and Participation

The Lismore & District Workers Club provides a great deal of support to local community and sporting groups. Sale of the land is not considered to have any positive or negative effects in this regard.

### Protect, Conserve and Enhance the Environment and Biodiversity

By selling the land Council is losing some control over its future use, however any future development of the land would be required to comply with the relevant planning controls.

### Best-Practice Corporate Governance

In accordance with the terms of the lease, Council is obliged to sell the land to the Workers Club upon its request. Sale of the land is required for Council to fulfil its obligations.

## Comments

### Finance

The negotiations with the Lismore & District Workers Club pre-date the current Council. At that time, it was agreed that the purchase price would be paid over five years and that it would be on an 'interest free' basis. This will result in approximately \$115,700 (+ GST \$69,440) being paid on settlement and \$115,700 each year for the next five years. Each party will pay its respective costs.

As planned, the proceeds from the sale of this land will be used to repay the internal loan for the construction of the Goonellabah Sports & Aquatic Centre.

## Other staff comments

Not required.

## Public consultation

Not applicable.

## Conclusion

Council has a lease with the Lismore & District Workers Club for the land at 202 and 214A Oliver Avenue, Goonellabah. A condition of that lease requires Council to sell the land to the Club upon its written request. This option has been exercised and Council in 2006 resolved to reclassify the land to operational in order to facilitate a sale if required.

A formal valuation of the land has been undertaken and the Workers Club has agreed to pay the amount determined by the valuation. It is recommended that Council proceed with sale of the property.

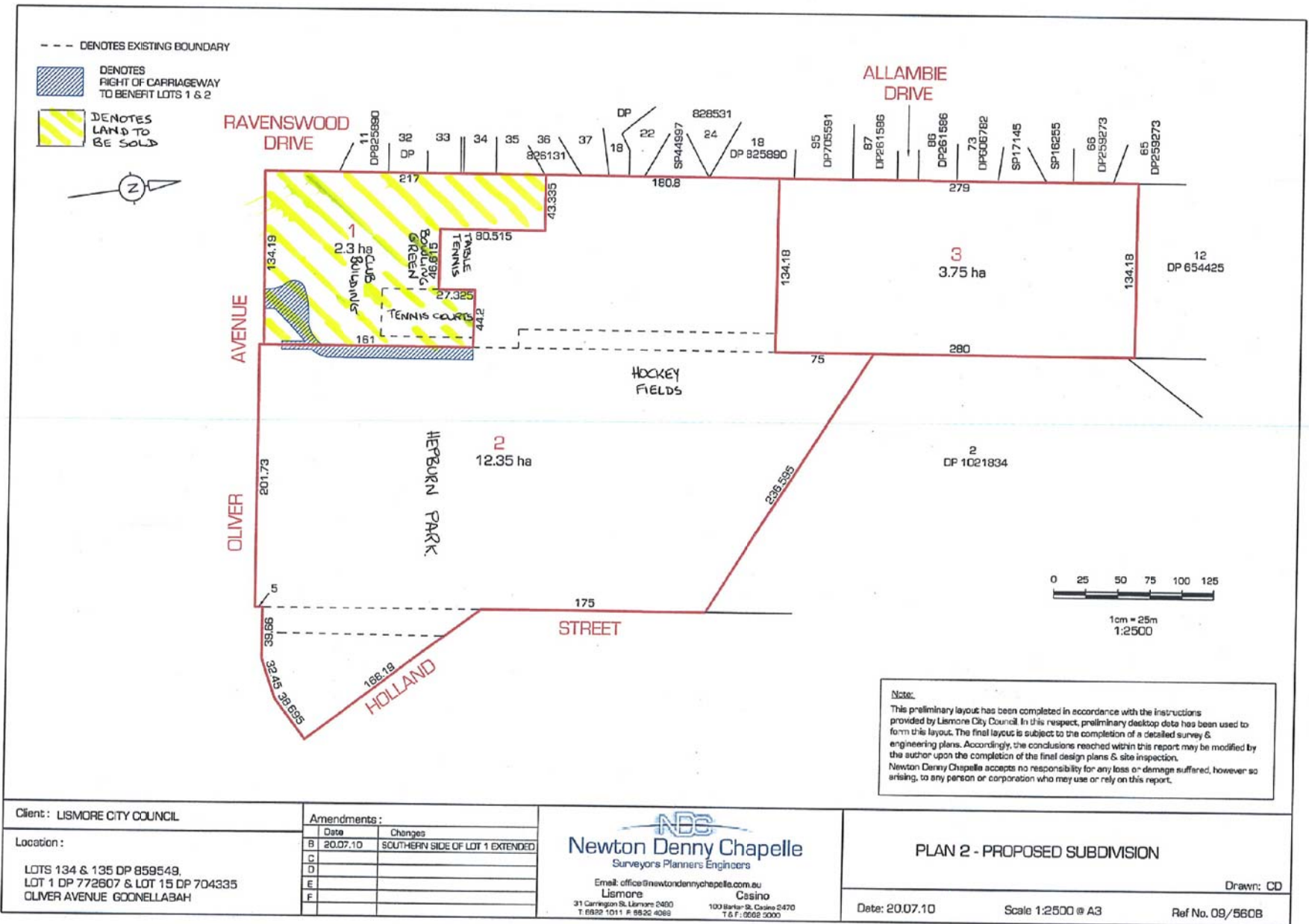
## Attachment/s

1. Proposed Subdivision Plan - Lots 134 and 135 DP 859549; 202 and 214A Oliver Avenue, Goonellabah

## Recommendation

That:

1. In accordance with the terms of the lease, Council agree to sell the property, being Lot 134, DP 859549 and Part Lot 135, DP 859549 (being lot 1 on the attached survey plan), to the Lismore & District Workers Club Inc.
2. A condition be included in the Contract for Sale that the Lismore & District Workers Club has no further option to purchase the balance of Lot 135, DP 859549.
3. The General Manager be authorised to finalise negotiations with the Club.
4. Documentation required to formalise the sale be executed under seal of Council.



# Report

<b>Subject</b>	<b>Lismore Swans AFL - Change to grant condition</b>
<b>TRIM Record No</b>	BP10/405:EF09/725
<b>Prepared by</b>	Community Services Officer (Sport and Recreation)
<b>Reason</b>	Change of conditions for Urban Sports Facilities Grant
<b>Community Strategic Plan Link</b>	Improve Passive and Active Recreational Facilities

## Overview of Report

The Lismore Swans AFL Club requested that the Sport and Recreation PAG make a recommendation to Council to allow them to use their Urban Sports Facilities Fund (USFF) allocation of \$15,000, together with a \$15,000 grant from the AFL (QLD), to construct one light tower at Mortimer Oval.

Originally, two towers were approved by Council however this was contingent upon the success of a number of supporting funding applications. Apart from the QAFL, none of the other applications were successful and the scope of the project has therefore been reduced.

## Background

At the 13 October 2009 Council meeting it was resolved that the Lismore Swans AFL receive a grant of \$15,000 from the USFF to assist with the finalisation of the lighting project for Mortimer Oval. This grant was conditional upon \$15,000 funding being received from the AFL (QLD) and additional supporting funding of \$20,000 from either the Federal Government or the NSW Department of Sport and Recreation (DSR) Facilities Grant allocation.

The proposed project originally involved erecting two additional light poles at Mortimer Oval with five lights being housed on each pole. This would have completed the goal of the installation of four light poles around the perimeter of the oval.

The AFL (QLD) \$15,000 grant was confirmed; however the grant application to both the Federal Government and the NSW DSR were unsuccessful.

Given this funding shortfall of \$20,000, Lismore Swans AFL then requested the Sport and Recreation PAG recommend to Council that:

1. It alter its original condition for the receipt of external funding as a prerequisite to the project going ahead.
2. Accept the reduction of the project to the construction of one tower instead of two at this stage.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Better lighting on Mortimer Oval will provide Lismore with a higher quality sporting facility which will enhance Lismore's regional reputation as a sport and recreation hub. This has the potential to contribute to increased positive economic benefits for the community.

### Social Inclusion and Participation

The increased lighting will improve participation for both AFL and cricket as the facility will be more useable for an expanded period of time. Increased usage will create more leisure opportunities for the community and create avenues for broader social inclusion.

## Comments

### Finance

Council has \$37,400 in Reserves for Urban Sports Facilities Funds which includes the \$15,000 referred to for this project. As such, \$15,000 is available for this project to proceed.

### Other staff comments

Not applicable.

### Public consultation

The Sport and Recreation PAG supported altering the current conditions of Council's grant so that a further pole and lights can be erected at Mortimer Oval. Sufficient funding is available to allow this to occur. No additional public consultation was required.

## Conclusion

As there is now sufficient funding in place through Council's Urban Sports Facilities Fund and the QAFL allocation for one light tower to be erected, it is proposed that the modified project proceed.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council approve the deletion of one of the original Urban Sports and Facilities Fund (USFF) grant approval conditions for the erection of lighting at the Lismore Swans AFL Club namely that \$20,000 Federal or State Government matching funds be obtained.
2. Council confirm the altered funding approval namely for one light tower as outlined in the report for the subject Club with \$15,000 from the Urban Sports and Facilities Fund (USFF) fund and confirmed matching equal funding of \$15,000 from the AFL (Queensland).

# Report

<b>Subject</b>	<b>October 2010 Extraordinary Council Meeting</b>
<b>TRIM Record No</b>	BP10/544:EF09/581
<b>Prepared by</b>	Corporate Compliance Coordinator
<b>Reason</b>	Request to move a meeting date
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

The report advises of reasons to move an Extraordinary meeting to a new date.

## Background

Council at its meeting held on the 10 August 2010 considered a report on the 2009/10 Financial Statements and resolved that an Extraordinary meeting be held on the 21 October 2010 to consider the Statements following the completion of the Audit.

This date was selected having regard to the Auditors requirements, the fact that the meeting had to be held by the 30 October and that the Local Government Association Conference was being held from the 24–27 October 2010.

The date selected i.e. 21 October was not ideal, given that the Lismore Show is also on at this time. As Council is not to be represented at the Local Government Conference, an opportunity has arisen to postpone the Extraordinary meeting to the following Tuesday. This has the added advantage of giving the auditors some extra time to complete the audit and Councillors extra time to read the report.

Council would also be aware that the issue of the future of the Koala Child Care Centre is to be decided following the calling of tenders. To avoid any unnecessary delay and uncertainty surrounding its future it is also proposed that this matter be listed on the agenda.

## Sustainability Assessment

### Best-Practice Corporate Governance

The selection of this date will allow Councillors sufficient time to review the documentation and to meet statutory deadlines.

## Comments

### Finance

The proposed postponement of the Extraordinary meeting is supported by the Finance Section.

## Attachment/s

There are no attachments for this report.

## Recommendation

That the Extraordinary meeting scheduled for the 21 October be rescheduled to Tuesday, 26 October 2010 to consider the 2009/10 Financial Statements, 2009/10 Reserves and the tenders for the sale of the Koala Child Care Facility.



# Report

<b>Subject</b>	<b>Disclosure of Pecuniary Interest Returns 2009/10</b>
<b>TRIM Record No</b>	BP10/545:EF09/645
<b>Prepared by</b>	Corporate Compliance Coordinator
<b>Reason</b>	Required by the Division of Local Government to meet the guidelines requirements
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

Compliance with guidelines from the Division of Local Government associated with the completion of Pecuniary Interest Returns.

## Background

The Division of Local Government has issued a set of guidelines associated with the administrative process of the completion of Pecuniary Interest Returns. Part of these guidelines requires that such Returns are tabled at a Council meeting.

In accordance with the Procedure, the Returns for Councillors and designated staff are tabled.

## Sustainability Assessment

### Best-Practice Corporate Governance

The submission of this report tabling the Pecuniary Interest Returns for 2009/10 meets Council's statutory requirements.

## Attachment/s

There are no attachments for this report.

## Recommendation

That the report be received and the tabled Pecuniary Interest Return be acknowledged.

# Report

<b>Subject</b>	<b>Investments - September 2010</b>
<b>TRIM Record No</b>	BP10/543:EF09/586
<b>Prepared by</b>	Management Accountant
<b>Reason</b>	Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

Investments as at 30 September 2010 are estimated to be \$46,377,365 subject to final market valuations typically provided after month end.

The interest rate reported for September 2010 is estimated to be 5.26% which is above the Bank Bill Swap Rate for the period of 4.79%. The final interest return may vary due to actual returns achieved on investments advised after month end.

## Background

The Local Government Act 1993 (Section 625), Local Government (General) Regulations 2005 (Regulation 212) and Council's Investment Policy requires a monthly report be provided to Council on investments. The report is to include the source and amount of funds invested, investment portfolio performance for the 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 – 31 August 2010</i> | <i>\$41,606,807</i> |
| • <i>Estimated Investments – at Market Value – 30 September 2010</i>    | <i>\$46,377,365</i> |

Investments have increased by approximately \$5 million during September 2010. This is mainly due to the 1<sup>st</sup> rates instalment due 31 August, 2010. Payments were still being received into early September. There was also \$2.4 million received from the Roads and Traffic Authority for works carried out towards the end of the previous financial year.

The current rate of return on investments for September 2010 is estimated to be 5.26% which is above the Bank Bill Swap Rate for the period of 4.79%. 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 a number of investments not paying coupons. These include investments in Blackrock Care & Maintenance Fund, Longreach – Series 25, Corsair (Torquay) and five other 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 being available net of costs. For September 2010, no coupon payment is recognised.

The estimated interest earned for the financial year to September 2010 (\$584,000) is approximately \$332,000 greater than the pro rata annual Budget (\$252,000). This is partly attributable to a much higher than anticipated balance of investments for this time of year as funds have been received in advance, e.g. Financial Assistance Grants and Southern Trunk Main Loan, of the works being completed. The average interest rate is also higher than anticipated when preparing the 2010/11 Budget. This will be monitored over the coming months and reported within the December 2010 Quarterly Budget Review report once any benefit is certain.

### **Belo (Kalgoorlie)**

The investment in Belo (Kalgoorlie) has been sold during September for a value of \$681,800. The proceeds were below the face value of the investment (\$700,000) but above the reported market value (\$525,000).

After discussions with Council's investment advisor, CPG Research and Advisory, it was considered prudent to dispose of this investment. With financial markets still experiencing volatility and the investment having another 17 months to maturity (27/02/12), the sale eliminates a significant capital risk. The funds can be reinvested in term deposits to achieve a similar interest return. Settlement is due after this report is finalised on 29 September 2010.

### **Richmond Tweed Regional Library**

To meet governance requirements associated with being the Executive Council for Richmond Tweed Regional Library, Council must report investments made by the Richmond Tweed Regional Library as part of its investment report. Richmond Tweed Regional Library's investments have now been incorporated into the attachments and shown as part of the total investments held by Lismore City Council. For the month ended 30 September 2010 the estimated total value of investments held by Richmond Tweed Regional Library is \$740,000. The current rate of return on the library's investments for September 2010 is estimated to be 6.56%.

As all Richmond Tweed Regional Library financial services functions are now integrated with Council, when existing investments mature they will be redeemed and reinvested as part of Council's total investment portfolio. The investment value and interest attributable to Richmond Tweed Regional Library will then be apportioned on the same basis as the current practice for Council's legislatively restricted Water and Wastewater Funds. This will result in this section of the report being deleted once the last investment matures and instead interest on RTRL funds will be reported to Council as part of the annual Budget and Financial Statements reporting processes.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Council's main objective in investing funds is to preserve the capital, i.e. prevent any loss to the amount invested, while gaining the most advantageous rate of return with minimum risk.

### Best-Practice Corporate Governance

The Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy require Council's investments to be reported monthly.

## Comments

### Finance

The sale of the Belo (Kalgoorlie) investment is consistent with Council's approach to either hold such investments to maturity or to accept a sale price near the par price. In this case, the sale price was 97.4% of the par price and approximately 130% of the reported market price.

This approach will be applied to any other opportunities as they arise.

## Other staff comments

Not Required

## Public consultation

Not Required

## Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. For 30 September 2010 investments total \$46,377,365 and the annualised rate of return was 5.26%.

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 included in Council's report.

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.

## Attachment/s

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

## Recommendation

That the report be received and noted.

Capital Value Movements  
Summary of Investments held as at  
30 September, 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)
<b>Cash Based Returns</b>								
Blackrock Care & Maintenance Fund	Managed Fund	A	High	15/10/2008	N/A	31/08/2010	\$ 1,863,300	\$ 2,076,360
CBA Business On Line Banking A/c	Cash Management Account	Cash	High	N/A	N/A	27/09/2010	\$ 4,893,500	\$ 4,893,500
Macquarie Cash Management Trust	Cash Management Account	Not Rated (Note 7)	High	1/9/2006	N/A	27/09/2010	\$ 255,686	\$ 255,686
ANZ High Yield Cash Account	Cash Management Account	AA	High	N/A	N/A	31/08/2010	\$ 2,553,422	\$ 2,553,422
Newcastle Permanent	Term Deposit	A2	High	2/7/2010	30/9/2010	02/07/2010	\$ 1,000,000	\$ 1,000,000
Police & Nurses Credit Society Ltd	Term Deposit	Not Rated (Note 7)	High	2/7/2010	30/9/2010	02/07/2010	\$ 1,000,000	\$ 1,000,000
New England Credit Union	Term Deposit	Not Rated (Note 7)	High	2/7/2010	30/9/2010	02/07/2010	\$ 1,000,000	\$ 1,000,000
Defence Force Credit Union	Term Deposit	Not Rated (Note 7)	High	2/7/2010	30/9/2010	02/07/2010	\$ 1,000,000	\$ 1,000,000
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	14/7/2010	13/10/2010	14/07/2010	\$ 2,000,000	\$ 2,000,000
Bank of Western Australia	Term Deposit	A1+	High	24/8/2010	25/10/2010	24/08/2010	\$ 2,000,000	\$ 2,000,000
National Australia Bank	Term Deposit	A1+	High	2/8/2010	1/11/2010	02/08/2010	\$ 2,000,000	\$ 2,000,000
Suncorp Bank	Term Deposit	A-1	High	10/9/2010	9/11/2010	10/09/2010	\$ 1,000,000	\$ 1,000,000
Savings & Loans Credit Union	Term Deposit	Not Rated (Note 7)	High	23/8/2010	23/11/2010	23/08/2010	\$ 2,000,000	\$ 2,000,000
Bank of Queensland	Term Deposit	A2	High	2/6/2010	2/12/2010	02/06/2010	\$ 2,000,000	\$ 2,000,000
Wespac Banking Corporation	Term Deposit	AA	High	4/12/2009	4/12/2010	04/12/2009	\$ 2,000,000	\$ 2,000,000
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	10/9/2010	15/12/2010	10/09/2010	\$ 1,000,000	\$ 1,000,000
Newcastle Permanent	Term Deposit	A2	High	18/12/2009	20/12/2010	18/12/2009	\$ 1,000,000	\$ 1,000,000
Community CPS Australia Ltd	Term Deposit	Not Rated (Note 7)	High	10/9/2010	11/1/2010	10/09/2010	\$ 1,000,000	\$ 1,000,000
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	10/9/2010	10/1/2011	10/09/2010	\$ 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
IMB Banking & Financial Services	Term Deposit	A2	High	26/8/2010	2/2/2011	26/08/2010	\$ 2,000,000	\$ 2,000,000
Suncorp Bank	Term Deposit	A-1	High	18/8/2010	14/2/2011	18/08/2010	\$ 2,000,000	\$ 2,000,000
Community CPS Australia Ltd	Term Deposit	Not Rated (Note 7)	High	18/8/2010	14/2/2011	18/08/2010	\$ 2,000,000	\$ 2,000,000
ING Bank Australia Limited	Term Deposit	A1	High	1/9/2010	1/3/2011	01/09/2010	\$ 2,000,000	\$ 2,000,000
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	6/9/2010	7/3/2011	06/09/2010	\$ 2,000,000	\$ 2,000,000
Bishopsgate (Wenworth)	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	31/03/2010	\$ 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
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 (Kekadu)	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	30/06/2010	\$ 662,600	\$ 759,450
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 (Glenelg)	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	31/06/2010	\$ 440,100	\$ 498,625
Elders Rural Bank Sub Debt	Subordinate Debt	Not Rated (Note 7)	Medium	1/9/2006	18/3/2016	31/08/2010	\$ 864,000	\$ 1,000,800
Zircon (Miami)	Floating Rate CDO	C	Low	1/9/2006	20/3/2017	30/06/2009	\$ -	\$ -
Local Government: Financial Services - RTRL	Term Deposit	A1	High	1/4/2010	28/9/2010	01/04/2010	\$ 90,000	\$ 90,000
Commonwealth Bank of Australia - RTRL	Term Deposit	A1+	High	30/11/2009	29/11/2012	30/11/2009	\$ 400,000	\$ 400,000
Local Government: Financial Services - RTRL	Term Deposit	A1	High	22/12/2009	16/12/2010	22/12/2009	\$ 250,000	\$ 250,000
<b>Investment on Hand</b>							<b>\$ 45,931,530</b>	<b>\$ 46,377,365</b>
<b>Investments Redeemed during period (Note 6)</b>								
Credit Union Australia (CUA)	Term Deposit	Not Rated (Note 7)	High	7/8/2010	6/9/2010	07/06/2010	\$ 2,000,000	\$ 2,000,000
BELO (Kalgoorlie)	Commodity Backed Security	AA+	High	1/9/2006	27/2/2012	30/06/2009	\$ 580,440	\$ 580,440

**\$ 48,511,970    \$ 48,957,805**

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	36,726,235
Internally Restricted	9,651,130
	<u>\$ 46,377,365</u>

**Estimated Interest  
Summary of Investments held as at  
30 September, 2010**

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value (Note 6)	Estimated Interest for Period	Weighted Interest for Period
<b>Cash Based Returns</b>						
Blackrock Care & Maintenance Fund	Managed Fund	A	0.00%	\$ 2,076,360	\$ -	0.00%
CBA - Business On Line Banking A/c	Cash Management Account	Cash	4.10%	\$ 4,893,500	\$ 16,490	0.43%
Macquarie Cash Management Trust	Cash Management Account	Not Rated	4.50%	\$ 255,686	\$ 946	0.02%
ANZ High Yield Cash Account	Cash Management Account	AA	5.00%	\$ 2,553,422	\$ 10,494	0.27%
Newcastle Permanent	Term Deposit	A2	6.07%	\$ 1,000,000	\$ 4,989	0.13%
Police & Nurses Credit Society Inc	Term Deposit	Not Rated	5.90%	\$ 1,000,000	\$ 4,849	0.13%
New England Credit Union	Term Deposit	Not Rated	5.87%	\$ 1,000,000	\$ 4,825	0.13%
Defence Force Credit Union	Term Deposit	Not Rated	5.90%	\$ 1,000,000	\$ 4,849	0.13%
Southern Cross Credit Union	Term Deposit	Not Rated	5.95%	\$ 2,000,000	\$ 9,781	0.25%
Bank of Western Australia	Term Deposit	A1+	5.60%	\$ 2,000,000	\$ 9,205	0.24%
National Australia Bank	Term Deposit	A1+	5.66%	\$ 2,000,000	\$ 9,304	0.24%
Suncorp Bank	Term Deposit	A-1	5.74%	\$ 1,000,000	\$ 3,145	0.08%
Savings & Loans Credit Union	Term Deposit	Not Rated	5.92%	\$ 2,000,000	\$ 9,732	0.25%
Bank of Queensland	Term Deposit	A2	6.15%	\$ 2,000,000	\$ 10,110	0.26%
Westpac Banking Corporation	Term Deposit	AA	6.80%	\$ 2,000,000	\$ 11,178	0.29%
Southern Cross Credit Union	Term Deposit	Not Rated	5.85%	\$ 1,000,000	\$ 3,205	0.08%
Newcastle Permanent	Term Deposit	A2	7.00%	\$ 1,000,000	\$ 5,753	0.15%
Community CPS Australia	Term Deposit	Not Rated	6.01%	\$ 1,000,000	\$ 3,293	0.09%
Credit Union Australia	Term Deposit	Not Rated	6.01%	\$ 1,000,000	\$ 3,293	0.09%
Summerland Credit Union	Term Deposit	Not Rated	6.50%	\$ 1,000,000	\$ 5,342	0.14%
IMB Banking & Financial Services	Term Deposit	A2	6.00%	\$ 2,000,000	\$ 9,863	0.26%
Suncorp Bank	Term Deposit	A-1	6.35%	\$ 2,000,000	\$ 10,438	0.27%
Community CPS Australia	Term Deposit	Not Rated	6.03%	\$ 2,000,000	\$ 9,912	0.26%
ING Bank Australia Limited	Term Deposit	A1	6.25%	\$ 2,000,000	\$ 9,932	0.26%
Credit Union Australia	Term Deposit	Not Rated	6.08%	\$ 2,000,000	\$ 7,996	0.21%
Bishopsgate (Wentworth)	Floating Rate CDO	AA	6.42%	\$ 435,100	\$ 2,638	0.06%
Herald Limited (Quartz)	Floating Rate CDO	B+	6.40%	\$ 13,572	\$ 158	0.00%
Cypress (Lawson)	Floating Rate CDO	BBB+	6.22%	\$ 379,500	\$ 2,556	0.05%
Deutsche Bank CG Yield Curve Note	Euro Bond	Not Rated	7.05%	\$ 247,500	\$ 1,448	0.04%
Magnolia (Flinders)	Floating Rate CDO	BB+	6.40%	\$ 210,000	\$ 1,578	0.03%
Omega (Henley)	Floating Rate CDO	CCC	5.70%	\$ 126,200	\$ 1,874	0.02%
Beryl (Esperance 2)	Floating Rate CDO	BB+	0.00%	\$ -	\$ -	0.00%
Corsair (Torquay)	Floating Rate CDO	CCC-	0.00%	\$ -	\$ -	0.00%
Zircon (Merimbula)	Floating Rate Note	C	0.00%	\$ -	\$ -	0.00%
Corsair (Kakadu)	Floating Rate CDO	CCC	6.30%	\$ 124,550	\$ 2,589	0.02%
Longreach - Series 25	Equity Linked Note	AA-	0.00%	\$ 759,450	\$ -	0.00%
Hellum (Scarborough)	Floating Rate CDO	CCC-	6.74%	\$ 2,200	\$ 1,108	0.00%
Beryl (Global Bank Note)	Floating Rate Note	C	0.00%	\$ -	\$ -	0.00%
Zircon (Coolangatta)	Floating Rate CDO	C	0.00%	\$ -	\$ -	0.00%
Aphex (Glenelg)	Floating Rate CDO	CCC+	6.60%	\$ 60,900	\$ 2,712	0.01%
Bendigo Bank FR Sub Debt	Subordinate Debt	Not Rated	5.31%	\$ 498,625	\$ 2,182	0.06%
Elders Rural Bank Sub Debt	Subordinate Debt	Not Rated	5.57%	\$ 1,000,800	\$ 4,578	0.12%
Zircon (Miami)	Floating Rate CDO	C	0.00%	\$ -	\$ -	0.00%
Local Government Financial Services - RTRL	Term Deposit	A1	6.25%	\$ 90,000	\$ 462	0.01%
Commonwealth Bank of Australia - RTRL	Term Deposit	A1+	7.00%	\$ 400,000	\$ 2,301	0.06%
Local Government Financial Services - RTRL	Term Deposit	A1	6.75%	\$ 250,000	\$ 1,387	0.04%
<b>Investment on Hand</b>				<b>\$ 46,377,365</b>	<b>\$ 206,498</b>	<b>5.14%</b>

Note 1,3

Note 2,5

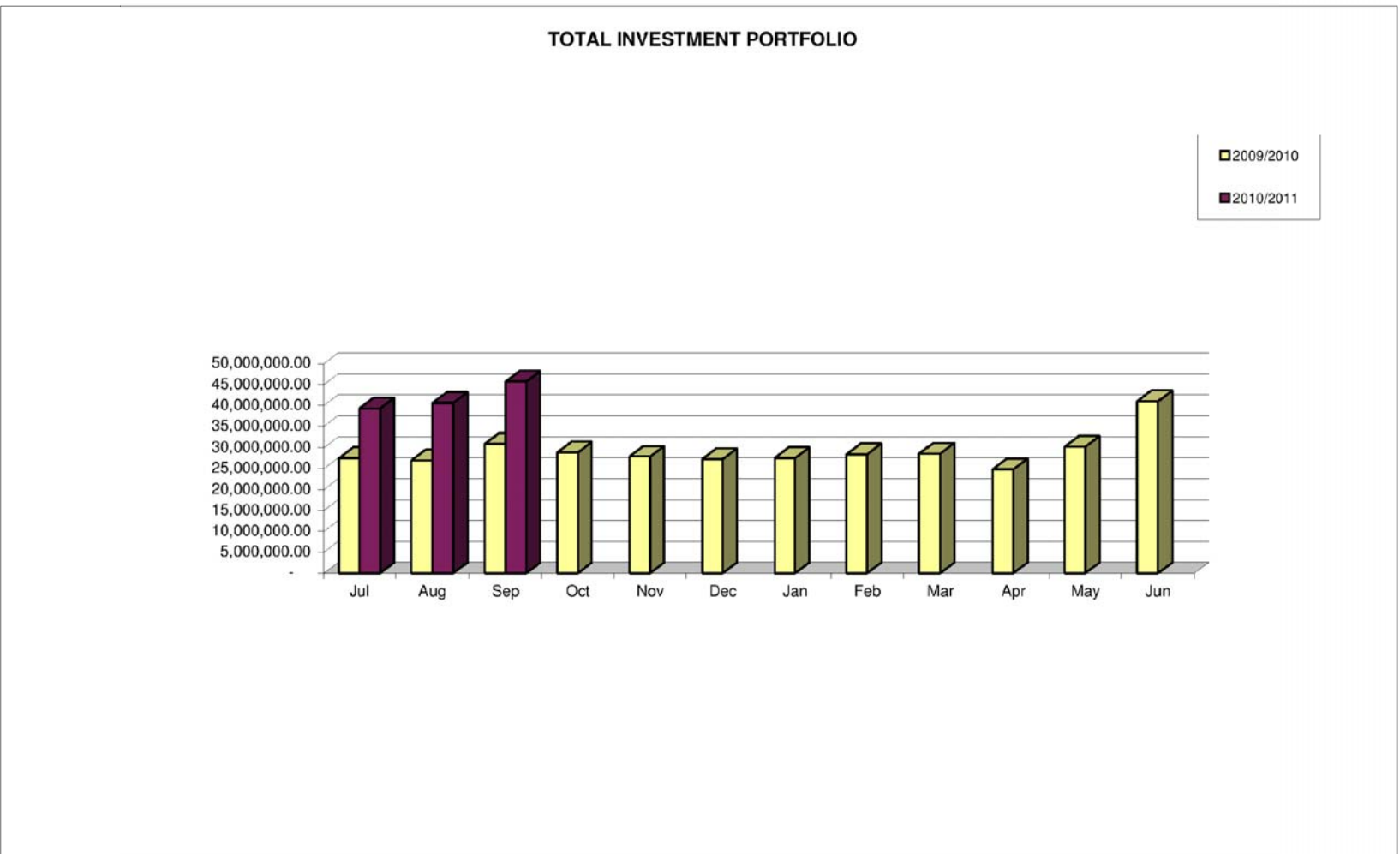
Note 4

<b>Investments Redeemed during period</b>						
Credit Union Australia (CUA)	Term Deposit	Not Rated	5.60%	\$ 2,000,000	\$ 1,841	0.05%
BELO (Kalgoorlie)	Commodity Backed Security	AA+	6.05%	\$ 580,440	\$ 3,249	0.07%

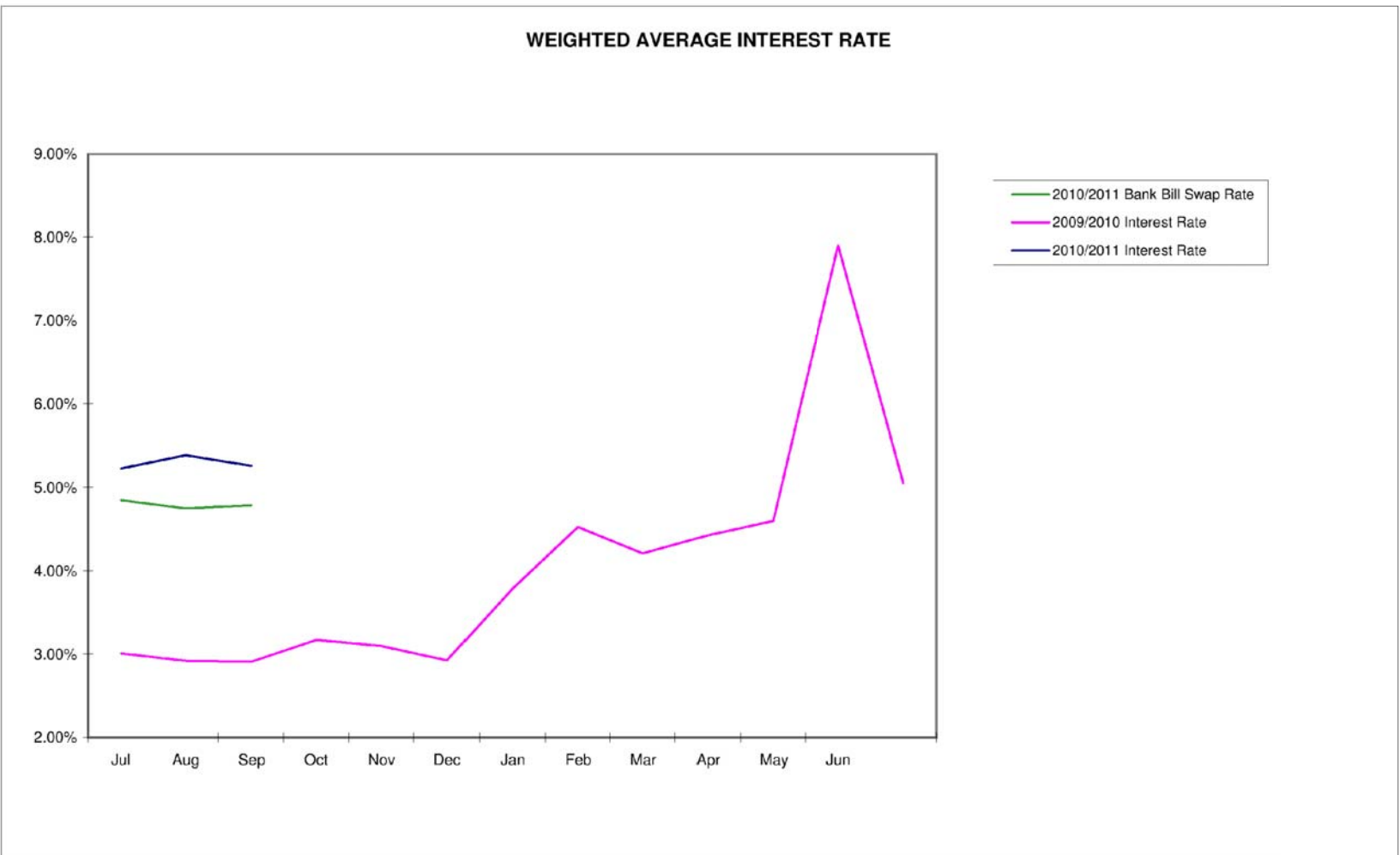
<b>30/9/2010</b>		<b>5.26%</b>
<b>\$ 48,957,805</b>	<b>\$ 211,588</b>	

**Investment Income Earned v's Budget Year to Date**  
 Estimated interest earned to date \$ 584,362  
 Pro Rata annual budget \$ 252,825

- Note 1: Interest return is calculated on (actual interest + plus accrued interest + plus realised gains - losses on disposal - expenses) / principal value
- Note 2: Capital Guaranteed note if held to maturity
- Note 3: Blackrock interest rate is shown as zero as regular distributions are not being received. When a distribution is received the interest rate is adjusted for that month accordingly.
- Note 4: Estimated Interest for Period is calculated by multiplying the annualised rate by the purchase price and reflects both interest accrued and received.
- Note 5: No Coupon currently payable under terms of the investment.
- Note 6: Latest estimates based on information provided by investment managers and prior period performance.

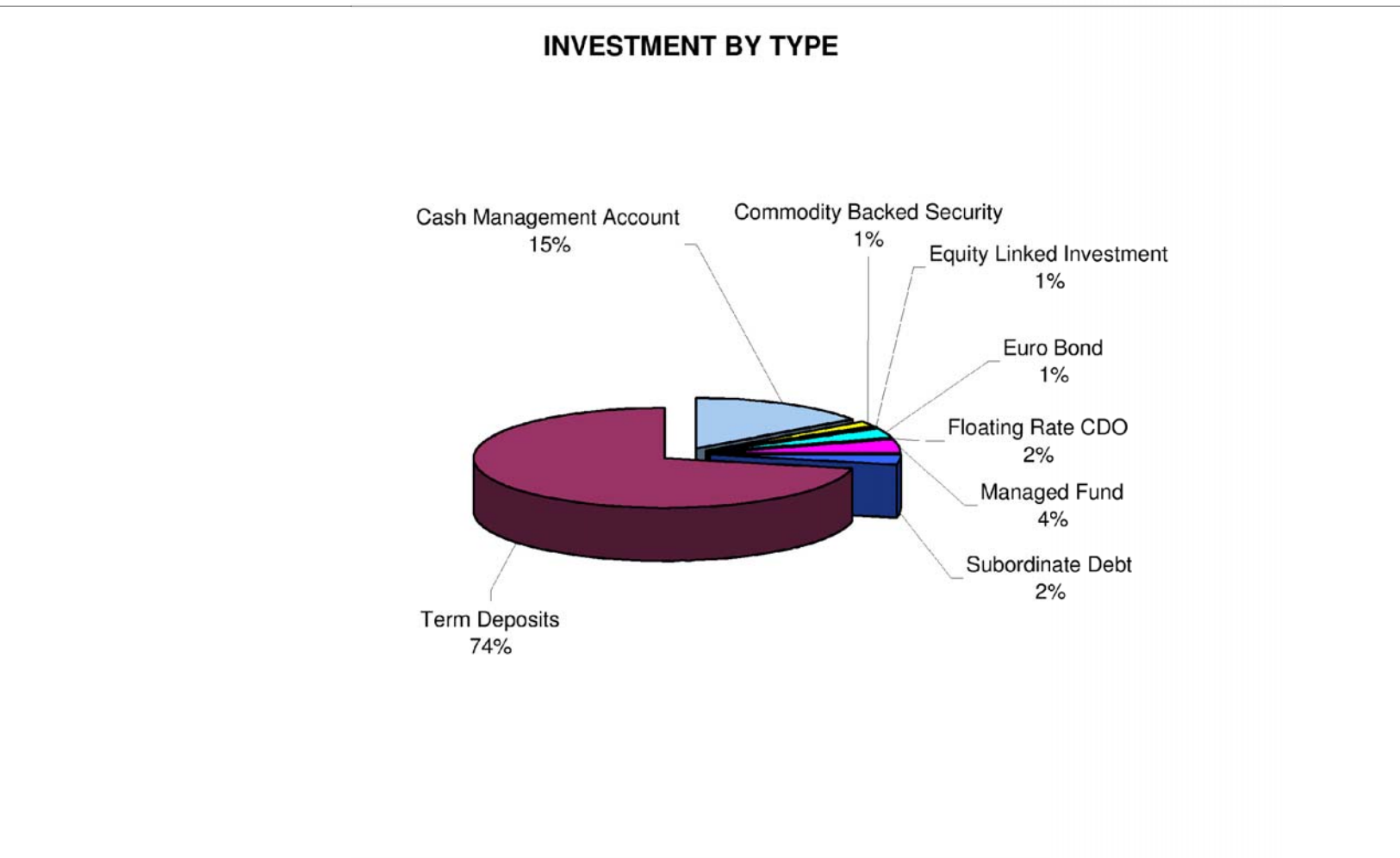


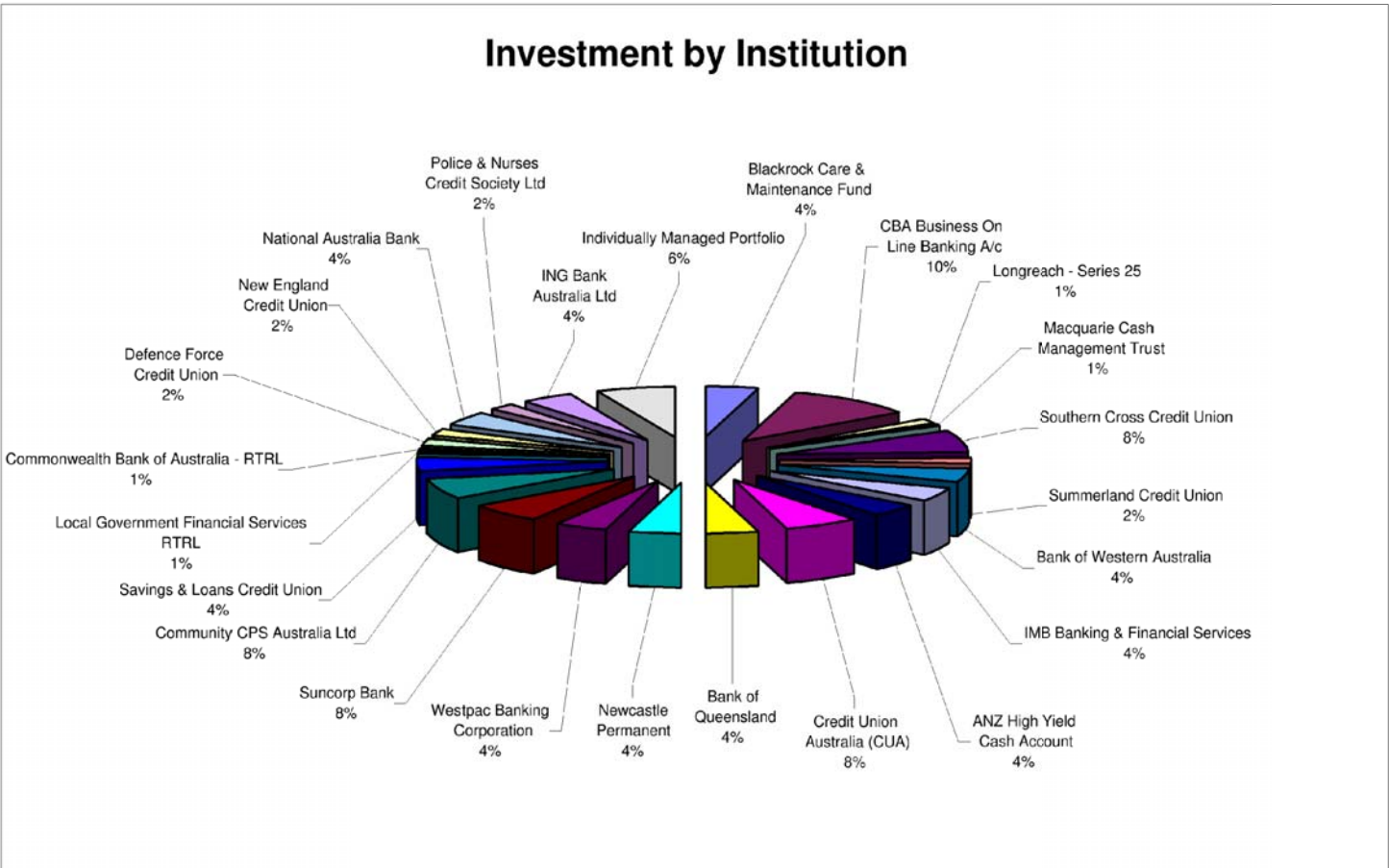
2010-11 Investment Report for council.xls



2010-11 Investment Report for council.xls







# Committee Recommendations

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## Committee Recommendation

**MINUTES OF THE TRAFFIC ADVISORY COMMITTEE HELD IN MAGELLAN ROOM, CBD CENTRE, 55 MAGELLAN STREET, LISMORE ON WEDNESDAY, 15 SEPTEMBER 2010 AT 10.00AM.**

### Present

Councillor Jenny Dowell (*Chairperson*), Frank Smallman (*RTA*) and Bronwyn Mitchell on behalf of Thomas George, MP (*Member for Lismore*).

### In Attendance

Lisa Marshall (*Road Safety Officer*)

### Apologies

**TAC91/10** Apologies for non-attendance on behalf of Snr Const Rob Clarke (*Lismore Police*). and Thomas George, MP (*Member for Lismore*) were received and accepted.

### Confirmation of Minutes

**TAC92/10** The Committee was advised that the minutes of the Traffic Advisory Committee held on 18 August 2010 were confirmed by Council on 14 September 2010.

### Disclosure of Interest

NIL

### Part 'A' – Committee Recommendations

NIL

### Part 'B' – Determined by Committee

#### **JN & HM Kerr - Dangerous Corner at Intersection of Donnans and Deloraine Roads**

Requesting Stop or Give Way signs at the intersection of Deloraine and Donnans Road, Lismore Heights. (CI10/22553/R7111/R7113)

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Mr & Mrs Kerr raised concerns about not having clear vision for cars entering Donnans Road from Deloraine Road, especially for drivers who are unfamiliar with the area.

The intersection of Donnans Road and Deloraine Road is a 'T' intersection although Deloraine Road does curve to the left on approaching Donnans Road. As pointed out there is no accident history at this location and motorists would be predominately local.

Whilst regulatory controls are not considered warranted, a double white centre line on Deloraine Road would assist in ensuring motorists stayed on the correct side of the road and give some indication of the approaching intersection.

**TAC93/10** **Agreed** that a double white centre line be painted on Deloraine Road for a distance of 20m-30m up to its intersection with Donnans Road.

# Committee Recommendation

## **Chris Crawford, NCAHS - Parking Issues at 29 Uralba Street**

Requesting Council assign four (4) car parking spaces outside the Breastscreen building at 29 Uralba Street. (C110/22759/R6058-04)

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Advising that due to the very busy location in Uralba Street, finding somewhere to park is difficult for most women visiting the Breastscreen building. Some women arrive late for their appointments and this in turn causes delays to the appointment schedule. Having four designated car spaces for women with appointments to the program will minimise frustration and streamline the appointment schedule.

Whilst preferential onstreet parking is not appropriate, discussions have been held with the Managers of both the Breastscreen Clinic and ACON next door with a view to implementing time limited parking. One hour parking is seen as the most beneficial and would provide sufficient turnover to accommodate the needs of clients.

**TAC94/10** That one hour parking be introduced on the southern side of Uralba Street from the eastern boundary of 29 Uralba Street down to Diadem Street.

### **Councillor Houston – Left Turn from James Road, Goonellabah**

Requesting, on behalf of people who travel east from Goonellabah and enter the Bruxner Highway via James Road, whether the last several metres of James Road where it approaches the highway might be widened to allow traffic to turn left at times where the pavement width is dominated by those travelling west to the CBD queuing in the right hand lane. (ED10/16843: R6466)

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The width of the eastern lane of James Road from the kerb to the centre line is approximately 5m. This would not allow two exit lanes particularly if motorists turning right were not close to the centre line when waiting to turn.

There is clear evidence that many motorists are driving up onto the earth footpath area to negotiate around propped vehicles to turn left and formalising the construction of a left turn lane would assist these movements.

**TAC95/10** **Agreed** that the Committee support the widening of James Road to allow two separate turning lanes and this matter be referred to Council's Roads Section for further investigation and consideration of funding in a future works program.

### **Mills Transport - Traffic Issue at Riverview Park, South Lismore**

Advising the street outside its premises at 210 Union Street, South Lismore, is used as the egress to its premises. Heavy vehicles are entering the street during the day and the company is concerned for the safety of children getting in and out of cars in the street. (C110/25173:R6938)

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Access to Mills Transport premises as well as an emergency entrance to Riverview Park is via an unnamed street off Union Street.

On days when school sports are being held at Riverview Park there is parking and traffic congestion on the unnamed street when cars are parked in the street as well as cars parking in the Mills' yard. A number of vehicles are being parked illegally in Union Street right up to the intersections.

## Committee Recommendation

An onsite meeting was held with Reg Mills and it was agreed that prohibiting parking on the southern side of the access road to Mills Transport would be sufficient to ensure safe movement of heavy vehicles as well as those seeking parking on large event days at Riverview Park. In addition to this, confirmation of parking set backs on Union Street either side of the access road was considered warranted.

**TAC96/10** **Agreed** that a 'No Stopping' zone be introduced along the southern side of the unnamed access road beside Mills Transport at 210 Union Street as well as on Union Street for a distance of 10m either side of the unnamed access road.

### **Numulgi Memorial Hall Committee – Traffic issues on Numulgi Road and Cross Road**

Requesting consideration of a speed limit at Numulgi Hall intersection due to stones from speeding motorists breaking Hall windows, outlining concerns relating to the culvert on Cross Road and the dangers created where the bitumen section of Cross Road changes to gravel. (C110/25339:R4201)

The introduction of a lower speed limit for an isolated section of road would not meet RTA guidelines, however this issue should be referred to Council's Roads Section with a view to investigating what action can be taken to remove the potential for property damage by loose stones.

The issue of raising the crossing on Cross Road would also be one for the Roads Section to investigate.

The erection of a 'Gravel Road Ahead' warning sign would assist in warning motorists of the change of conditions on Cross Road.

**TAC97/10** That a 'Gravel Road Ahead' warning sign be erected on Cross Road and further, that the issues of stone damage and raising the crossing on Cross Road be referred to Council's Roads Section for further investigation and action as appropriate.

### **Molly's Grass Road Quarry – DA09/10**

It was raised by Bronwyn Mitchell that there is community concern in relation to Molly's Grass Road for the proposed quarry development. Mayor Dowell advised that Council officers are currently conducting a review and this matter is expected to be presented to the October 2010 Council meeting. (DA09/10)

## Closure

This concluded the business and the meeting terminated at 10.25 am.

## Recommendation

That the minutes be received and adopted and the recommendations contained therein be adopted.

# Financial Assistance - Section 356

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## Financial Assistance – Section 356

**a) Mayor's Discretionary Fund (GL390.485.15)**

Budget:\$2,700

Spent to date:\$600.00

The Lions Club of Ballina are seeking support for the 9<sup>th</sup> World Festival of Magic, Lismore Workers Club on 9 November 2010 (ED10/19182). **\$100**

### Recommendation

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



Confidential Business

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## Confidential Matters–Closed Council Meeting

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

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

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

### Clause 34 of Council Code of Meeting Practice

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

### Recommendation

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

<b>Item</b>	<b>17.1 Champion's Quarry Land and Environment Court Appeal</b>
<b>Grounds for Closure</b>	Section 10A(2) (g):
<b>Public Interest</b>	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
<b>Item</b>	<b>17.2 Annual Performance Review 2009/10 - General Manager</b>
<b>Grounds for Closure</b>	Section 10A(2) (a):
<b>Public Interest</b>	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: personnel matters concerning particular individuals (other than councillors).

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**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBERS, 43 OLIVER AVENUE GOONELLABAH ON TUESDAY, 14 SEPTEMBER 2010 AT 6.00PM.**

## Present

Mayor, Councillor Dowell; Councillors Houston, Battista, Meineke, Clough, Chant, Graham, Yarnall, Ekins, Marks and Smith, together with the Acting General Manager, Executive Director-Sustainable Development, Executive Director-Infrastructure Services, Manager-Finance, Manager-Development and Compliance, Manager-Assets, Manager-Commercial Services, Compliance Coordinator, Acting Communications Coordinator, Corporate Compliance Coordinator and General Manager's Personal Assistant.

## Leave of Absence

186/10 **RESOLVED** that a leave of absence be granted for:

Councillor Meineke from 27 September to 30 October 2010.  
Councillor Marks from 25 September to 10 October 2010.  
Councillor Battista from 12 October to 15 October 2010.  
Councillor Yarnall from 25 September to 10 October 2010.

(Councillors Clough/Chant)

## Confirmation of Minutes

187/10 **RESOLVED** that the minutes of the Lismore City Council held on 10 August 2010 be confirmed.

(Councillors Clough/Marks)

## Disclosure of Interest

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

**Report – DA2009/450 -262 Rous Road, Goonellabah – proposed subdivision and acquisition**

Opponents to the proposed DA are family friends. As I have discovered last Friday that they live adjacent to the site, I declare a conflict of interest and will leave the chamber.

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

**Report – DA2009/450 -262 Rous Road, Goonellabah – proposed subdivision and acquisition**

I have used Mr John Morton Solicitor of McIntosh Barr and Gordon. This firm is used by the applicant, although I am unsure which solicitor is being used.



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

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**Financial Assistance – Section 356**

My wife is the fundraising officer for Our Kids. I will leave the Chamber and not participate in the vote.

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

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**Report – Tender No. T2011-03 Supply of Various Materials**

One of the applicants contributed in a small way to my election campaign.

At this juncture the Mayor left the meeting and the Deputy Mayor (Councillor Smith) took the Chair.

## 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:

**Bryan Larrescy – Report – DA2009/450 – 262 Rous Road**

Mr Larrescy thanked Councillors who attended the site meeting. He detailed his history with the property with emphasis on the role of the land as a wildlife corridor. He asked that Council proceed with the process identified in the Business Paper.

At this juncture the Mayor returned to the meeting and took the Chair.

**Sgt Wayne Crotty – Report – Outdoor Dining Policy – Lismore City Centre**

Sgt Crotty detailed the relationship between alcohol and assaults, particularly in the CBD. He stressed the efforts made to successfully reduce such assaults by Lismore Police. He raised concerns that alcohol consumption at such premises would be detrimental to the Lismore Police effort.

**Annie Kia – Report – Review of Policy No. 8.11.1 Smoke Free Areas**

Ms Kia stressed the damage that smoking caused to individuals and the cost to the community of smoking. She stressed a multi-task approach was needed to support people trying to quit smoking and that smoke-free zones were a useful tool in this regard.

**Robert Cameron – Report – Lismore Levee Repairs – Property Acquisition**

Mr Cameron advised that NewTrain are in negotiations to acquire a new premises and are committed to working with Council staff so that there would be no delay in necessary works. Mr Cameron stressed NewTrain's commitment to the North Coast.

## Mayoral Minutes

### 8.1 NSW Local Government Modernisation

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188/10 **RESOLVED** that Council provides the attached submission to the Local Government and Shires Associations in response to the *Modernising Local Government – Local Government for the 21<sup>st</sup> Century* discussion paper, subject to the inclusion under point 5 the following comments:

Local government is playing an increasingly important role in reducing carbon emissions (mitigation) in both its own activities and within the wider community. Adapting to the impacts of climate change in land use planning and preparing for extreme weather events and other climate change impacts is a vital and growing responsibility for local government. Adequate funding for both the mitigation and adaptation activities related to climate change are required from both state and federal governments.

(Councillors Dowell/Smith)

**Voting for:** Councillors Houston, Clough, Chant, Marks, Smith, Battista, Dowell, Yarnall and Ekins.

**Voting against:** Councillors Meineke and Graham.

(BP10/415:EF10/4)

## Election of the Deputy Mayor

### 9.1 Election of the Deputy Mayor

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189/10 **RESOLVED** that Council elect a Deputy Mayor and that the period of appointment for the Deputy Mayor be until September 2011.

(Councillors Smith/Ekins)

190/10 **RESOLVED** that the method of election for Deputy Mayor be by open voting.

(Councillors Graham/Clough)

#### **Nominations**

Nominations were received for the position of Deputy Mayor from Councillors Clough and Meineke.

#### **Election**

At the conclusion of the counting the Returning Officer (Corporate Compliance Coordinator) declared Councillor Clough elected as Deputy Mayor until September 2011.

(BP10/407:EF10/4)

## Notice of Motion

### 11.1 Policy 1.2.23 Payment of Expenses and Provision of Facilities to Mayors and Councillors

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191/10 **RESOLVED** that the Council amend Item 4.2 (I) (Stationery Allowance) of Policy 1.2.23 Payment of Expenses and Provision of Facilities to Mayors and Councillors, to include postage that is incurred in writing to ratepayers on Council business.

(Councillors Clough/Battista)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Yarnall and Ekins.

**Voting against:** Councillor Graham.

(BP10/409:EF10/4)

## Altering Order of Business

192/10 **RESOLVED** that the order of business be altered to debate the following matters raised in Public Access:

DA2009/450 – 262 Rous Road, Goonellabah – proposed subdivision and acquisition

Outdoor Dining Policy – Lismore City Centre

Review of Policy No. 8.11.1 - Smoke Free Areas

Lismore Levee Repairs – Property Acquisition

(Councillors Chant/Marks)

At this juncture the Mayor left the meeting and the Deputy Mayor (Councillor Clough) took the Chair.

## Reports

### 13.1 DA2009/450 - 262 Rous Road, Goonellabah - proposed subdivision and acquisition process

---

A MOTION WAS MOVED that:

1. The applicant (Newton Denny Chapelle) be requested to withdraw Development Application No. 2009/450 for the reasons outlined in the report.
2. The landowner be requested to engage a valuer approved by both parties to provide valuations on possible acquisition schemes for the land that is required to support a formal notice of acquisition.

3. That Council act promptly in response to any notice of acquisition received, (by referral to a meeting of Council) in order to provide some certainty to Mr Larrescy about the future of the land and Council's intentions in acquiring all or part of the land.

(Councillors Meineke/Marks)

AN AMENDMENT WAS MOVED that:

1. The applicant (Newton Denny Chapelle) be requested to withdraw Development Application No. 2009/450 for the reasons outlined in the report.
2. A report be prepared by Council's Integrated Planning staff in conjunction with further consideration of the Draft Local Environmental Plan 2010 on the future need, use, environmental value and land use zoning of Lot 1 in DP118525, with particular regard to the provisions of the Lismore Contributions Plan 2004, and a preferred timetable for the acquisition of all, or part of Lot 1 in DP118525.
3. Council writes to the owner of Lot 1 in DP118525 and express regret about the process that has been followed in this matter and any misunderstanding or inconvenience that has resulted.
4. In the event that Council receives an owner initiated acquisition notice in the proper form from the owner of Lot 1 in DP118525, that the matter be referred to a meeting of Council prior to any formal response being provided to the owner or their representative.

(Councillor Ekins)

The AMENDMENT lapsed due to want of a seconder.

193/10

**RESOLVED** that:

1. The applicant (Newton Denny Chapelle) be requested to withdraw Development Application No. 2009/450 for the reasons outlined in the report.
2. The landowner be requested to engage a valuer approved by both parties to provide valuations on possible acquisition schemes for the land that is required to support a formal notice of acquisition.
3. That Council act promptly in response to any notice of acquisition received, (by referral to a meeting of Council) in order to provide some certainty to Mr Larrescy about the future of the land and Council's intentions in acquiring all or part of the land.

(Councillors Meineke/Marks)

**Section 375A Voting Record**

**Voting for:** Councillors Houston, Meineke, Chant, Marks, Smith, Battista, Graham and Yarnall.

**Voting against:** Councillors Clough and Ekins.

(BP10/404:DA09/450)

At this juncture the Mayor returned to the meeting and took the Chair.

**13.2 Outdoor Dining Policy - Lismore City Centre**

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A MOTION WAS MOVED that:

1. Council's Carriageway and Kerbside Land Use Policy, 5.2.24 be revoked.
2. The Outdoor Dining Policy – Lismore City Centre as amended and attached to Councillor's business papers be adopted with the exception of the closing time for outdoor dining areas being not beyond 12 midnight and item 5.5 being amended to read in the second sentence, 'after the fee-free period expires', instead of 'after two years from the date of adoption of this policy'.
3. The two-year free outdoor dining licence fee period commence on 1 January 2011 and extend no later than 31 December 2012.
4. Outdoor dining areas licensed in accordance with the policy be excluded from the Alcohol-Free Zone.
5. Council advise the business community of the new policy through the Lismore Chamber of Commerce and the Lismore Business Promotion Panel.

(Councillors Smith/Marks)

AN AMENDMENT WAS MOVED that:

1. Council's Carriageway and Kerbside Land Use Policy, 5.2.24 be revoked.
2. The Outdoor Dining Policy – Lismore City Centre as amended and attached to Councillor's business papers be adopted with the exception of the closing time for outdoor dining areas being not beyond 12 midnight and item 5.5 being amended to read in the second sentence, 'after the fee-free period expires', instead of 'after two years from the date of adoption of this policy'.
3. The two-year free outdoor dining licence fee period commence on 1 January 2011 and extend no later than 31 December 2012.
4. Outdoor dining areas licensed in accordance with the policy be excluded from the Alcohol-Free Zone.
5. Council advise the business community of the new policy through the Lismore Chamber of Commerce and the Lismore Business Promotion Panel.
6. That alcohol can only be served with meals in the outdoor dining area.

(Councillors Yarnall/Graham)

On submission to the meeting the AMENDMENT was DEFEATED.

**Voting for:** Councillors Graham and Yarnall.  
**Voting against:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell and Ekins.

194/10

**RESOLVED** that:

1. Council's Carriageway and Kerbside Land Use Policy, 5.2.24 be revoked.
2. The Outdoor Dining Policy – Lismore City Centre as amended and attached to Councillor's business papers be adopted with the exception of the closing time for outdoor dining areas being not beyond 12 midnight and item 5.5 being amended to read in the second sentence, 'after the fee-free period expires', instead of 'after two years from the date of adoption of this policy'.
3. The two-year free outdoor dining licence fee period commence on 1 January 2011 and extend no later than 31 December 2012.
4. Outdoor dining areas licensed in accordance with the policy be excluded from the Alcohol-Free Zone.
5. Council advise the business community of the new policy through the Lismore Chamber of Commerce and the Lismore Business Promotion Panel.

(Councillors Smith/Marks)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/357:EF10/43)

### **13.3 Review of Policy No. 8.11.1 - Smoke-Free Areas**

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A MOTION WAS MOVED that:

1. The following public lands be considered for inclusion in the Council's revised draft smoke-free environment policy including options for the way these areas are included:
  - Playing fields, sporting grounds and sporting facilities;
  - Events run or sponsored by Council; and
  - The area within 10 metres of all outdoor dining areas and licensed premises.
2. The proposed additions in (1) above to the smoke-free environment policy be subject to an informal consultation process with the key stakeholders as outlined in the report as well as the Lismore Police and Hotel owners/operators.

3. Council liaise with the Population Health section of the North Coast Area Health Service (NCAHS) with a view to satisfying the objective of 'raising community awareness of the issues associated with public smoking', including applying for the Cancer Council's Regional Grants Program and developing advertising, possibly supported by NCAHS.
4. Following consultation a revised draft smoke-free environment policy be reported to Council for formal consideration and exhibition before being finalised by Council. This report is to include the indicative budget implications of the revised policy.

(Councillors Clough/Marks)

AN AMENDMENT WAS MOVED that:

1. The following public lands be considered for inclusion in the Council's revised draft smoke-free environment policy including options for the way these areas are included:
  - Playing fields, sporting grounds and sporting facilities;
  - Events run or sponsored by Council; and
  - The CBD centre as defined by Council's Outdoor Dining Policy (Attachment 1).
2. The proposed additions in (1) above to the smoke-free environment policy be subject to an informal consultation process with the key stakeholders as outlined in the report as well as the Lismore Police and Hotel owners/operators.
3. Following consultation a revised draft smoke-free environment policy be reported to Council for formal consideration and exhibition before being finalised by Council. This report is to include the indicative budget implications of the revised policy.

(Councillors Smith/Ekins)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

**Voting for:** Councillors Houston, Chant, Smith, Dowell, Yarnall and Ekins.

**Voting against:** Councillors Meineke, Clough, Marks, Battista and Graham.

195/10

**RESOLVED** that:

1. The following public lands be considered for inclusion in the Council's revised draft smoke-free environment policy including options for the way these areas are included:
  - Playing fields, sporting grounds and sporting facilities;
  - Events run or sponsored by Council; and
  - The CBD centre as defined by Council's Outdoor Dining Policy (Attachment 1).
2. The proposed additions in (1) above to the smoke-free environment policy be subject to an informal consultation process with the key stakeholders as outlined in the report as well as the Lismore Police and Hotel owners/operators.

3. Following consultation a revised draft smoke-free environment policy be reported to Council for formal consideration and exhibition before being finalised by Council. This report is to include the indicative budget implications of the revised policy.

(Councillors Smith/Ekins)

**Voting for:** Councillors Houston, Clough, Chant, Smith, Battista, Dowell, Yarnall and Ekins.

**Voting against:** Councillors Meineke, Marks and Graham.

(BP10/402:EF09/1187)

### **13.5 Lismore Levee Repairs - Property Acquisition**

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196/10

**RESOLVED** that:

1. The report be received and noted.
2. Council proceed to purchase the property at 9 Club Lane and the General Manager be authorised to finalise negotiations with NewTrain.
3. Any necessary documentation required to complete the purchase be executed under seal of Council.
4. In accordance with Sections 31 and 34 of the *Local Government Act*, 1993, Council give notice of its intention to classify the land as operational upon purchase of the property and invite public submissions.
5. Lismore City Council underwrite the initial costs of \$160,000 for the design costs. This underwriting will be limited to funds expended by Richmond River County Council which are net of any grants of funding received.

(Councillors Chant/Graham)

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

**Voting against:** Councillor Ekins.

(BP10/396:EF09/162)

### **13.4 South Lismore Soccer**

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197/10

**RESOLVED** that Council determine the \$20,000 Urban Sports Facility Fund grant that was originally allocated to the South Lismore Celtic Football Club for the installation of concrete modular grandstand seating be reallocated for the construction of a second playing field as outlined in the report.



(Councillors Graham/Clough)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/400:EF09/725)

At this juncture Councillor Yarnall left the meeting.

### **13.6 Tender No. T2011-03 - Supply of Various Materials**

198/10 **RESOLVED** that Council adopts the order of priority for the provision of Various Materials and Services (Tender No. T2011-03), as per the recommendations in the body of this report.

(Councillors Smith/Graham)

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

**Voting against:** Nil.

(BP10/397:T11/3)

At this juncture Councillor Yarnall returned to the meeting.

### **13.7 Northern Rivers Climate Change Collaboration**

199/10 **RESOLVED** that:

1. Council resolve to become signatories to the Northern Rivers Climate Change Collaboration Agreement as outlined in the attachment.
2. The Executive Director Sustainable Development be the representative on the Sustain Northern Rivers Steering Committee.
3. The Council's involvement in Sustain Northern Rivers be within the existing resource base and focus on Delivery Plan projects.

(Councillors Clough/Smith)

**Voting for:** Councillors Houston, Clough, Smith, Battista, Dowell, Yarnall and Ekins.

**Voting against:** Councillors Meineke, Chant, Marks and Graham.

(BP10/394:EF09/125)

**13.8 Appointment of members to the Sustainable Environment Policy Advisory Group (SEPAG)**

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200/10 **RESOLVED** that Council endorse the appointment of both Richard Billson and Peter Entwistle to fill the two existing vacancies on the Sustainable Environment Policy Advisory Group.

(Councillors Clough/Marks)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/403:EF09/1925)

**13.9 Investments - August 2010**

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201/10 **RESOLVED** that the report be received and noted.

(Councillors Houston/Battista)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/398:EF09/586)

## Committee Recommendations

**13.1 Traffic Advisory Committee Minutes 18 August 2010**

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202/10 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted.

(Councillors Graeme/Marks)

**Voting for:** Councillors Houston, Meineke, Clough, Marks, Smith, Dowell, Battista, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/338:EF09/1963)

## Documents for Signing and Sealing

### S.1 Documents for Signing and Sealing

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203/10 **RESOLVED** that the following documents be executed under the Common Seal of the Council:

**Lease – part Lot 170 DP 877907 – Shop 3, 46 Cullen Street, Nimbin (P26721)**

Council has negotiated to take a lease of the above shop for the purpose of the Nimbin Visitor Information Centre. The Lease is for a period of five years from 9 August 2010 with an option for a further five years. The commencing rental is \$19,200.00 per annum plus GST and a proportion of outgoings.

(Councillors Smith/Chant)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/437:EF10/4)

At this juncture Councillor Battista left the meeting.

## Financial Assistance – Section 356

### S.1 Financial Assistance – Section 356 Report

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204/10 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

(Councillors Graham/Clough)

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

Budget:\$21, 400 Spent to date:\$0

**Novaskill** is requesting Council discount hire fees (\$129) for the annual recruitment driving aiming to recruit quality school leavers for traineeships and apprenticeship vacancies at the City Hall on 22 September 2010. An entrance fee will not be charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies. **\$32.25**

**African Women Group** is requesting Council discount hire fees (\$348) for a fashion parade and dinner at the City Hall on 23 October 2010. An entrance fee will be charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 20% of the hire fee applies. **\$69.60**

**The Fatherhood Project** is requesting Council discount hire fees (\$129) for the launch of the Building Better Dads Program at the City Hall on 21 October 2010. An entrance fee will not be charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies. **\$32.25**

**St Vincent de Paul Society/South Sudanese Dinka Community Association** is requesting Council discount hire fees (\$348) for the Association's meeting at the City Hall on 28 August 2010. An entrance fee was not charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies. **\$87.00**

**Lismore Christadelphians** is requesting Council discount hire fees (\$1,059) for a Bible exhibition at the City Hall on 26 - 28 June 2010. An entrance fee was not charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies. **\$264.75**

*In accordance with policy.*

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

Budget: \$700      Spent to date:\$0

The Friends of the Koala Inc. are requesting the waiving of one weeks banner hire for their up-coming *Friends of the Koala Week* (C110/21599).

**Recommendation:** That the donation is approved and that the hire fee of \$124 be transferred from Section 356 funds to the appropriate Parks Income Ledger.

**\$244.00**

*In accordance with policy.*

**Council Contributions to Charitable Organisations**

**Waste Facility – Policy 5.6.1 (GL390.965.15)**

Budget:\$11,000      Spent to date: \$1920.79

Animal Right & Rescue \$14.55  
Multitask \$216.50  
Five Loaves \$290.90  
Friends of the Koala \$33.17  
1st Lismore Scout Group \$0.00  
Lismore Soup Kitchen \$38.18  
LifeLine \$290.90  
Saint Vincent De Paul \$14.55  
Westpac Life Saver Helicopter \$72.75

**Total** **\$971.50**

*In accordance with policy.*

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

Budget:\$2,700 Spent to date:\$200

Richmond River High School is seeking sponsorship for their Year 12 Academic Award (CI10/24606). **\$100.00**

Corndale School P & C Association are seeking a donation to their Trivia Night on 16 October 2010, which is a fundraiser towards the information technology program. **\$100.00**

Dunoon Public School Marimba Ensemble has been invited to perform at the Sydney Opera House as part of the Primary School Choral Festival and the *Schools Spectacular* concert at the Sydney Entertainment Centre. The School is seeking financial assistance towards transport and food costs (CI10/22319). **\$100.00**

Northern Rivers Anti-Bullying Alliances are seeking financial support for their inaugural Freedom from Bullying Expo at the Lismore Workers Club on 12 November 2010 (CI10/26122). **\$100.00**

**Miscellaneous**

Lismore and District Junior Cricket Association request that Council waive 90% of the fee for the use of six synthetic wickets and three grass turf wickets for their annual Under 12 State Cricket Carnival to be held in January 2011. The carnival is over a period of 4 days with an overall fee for field and canteen hire being \$4,186. Council has supported this event and this proposed donation for at least the past 6 years (CI10/20647).

**Recommendation:** The fees (totalling \$3,767.40 - being 90% of the total fees) be waived. The Association will be requested to pay 10%, being the sum of \$418.60.

**\$3,767.40**

**Our Kids, Northern Rivers Children's Health Fund** is requesting Council financially support for the Lismore Samson Fitness Challenge to be held in Lismore on 10 October 2010.

The Challenge is a new event that consists of teams of four people who push their bodies and minds through a gruelling course throughout the CBD of Lismore. The Challenge will be majority based on Mortimer Oval, Corner of Uralba and Brewster Street with a 3.5km run that will take participants to the Lismore Memorial Baths for the swim leg and then returning to Mortimer Oval for the completion of the event.

The support requested includes:

1. Consider contributing to the Traffic Control Fees This will help keep costs down for the event and allowing Our Kids to channel these allocated funds elsewhere to make the event successful.
2. To have access to Steve Neilson, the City Business Manager and the Lismore Business Promotion Plan to help the event as 'legs' of the event are staged throughout the Lismore City Business District

3. To have permission to link the event to the Lismore City Tourism promotions and website
4. To donate a year's membership from the Goonellabah Sports and Aquatic Centre to the event as one of the prizes and incentives for the participants (CI10/19840).

**Comment:** Events, Tourism and GSAC staff have been working with organisers of the event. Support so far has included:

- 'Incentives for Events' budget is to contribute to traffic control costs;
- City Centre Manager is aware of event and will inform the business community in due course;
- The event has been added to the 'Events Calendar' Events staff are assisting in with equipment and set up arrangements;
- The event details have been uploaded to [www.visitlismore.com.au](http://www.visitlismore.com.au);
- Placement of posters and flyers for event in the Lismore and Nimbin Visitor Information Centres;
- Promotion of event through VIC client database;
- Promotion of event to locals and visitors;
- Limited access to the Lismore Memorial Baths for the event; and
- Providing four rowing machines, including transport to and from downtown Lismore, for use during the event.

While the majority of the support provided is mainly considered in-kind, the request for a GSAC membership is considered on the basis of the promotional/marketing value to the Centre. As such, a six month gym/swim membership valued at \$625 is recommended.

**Recommendation:** That Council support the request noting the in-kind support being provided and in addition donate a six month GSAC gym/swim membership

**\$625.00**

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

(BP10/438:EF010/4)

At this juncture Councillor Battista returned to the meeting.

## Confidential Matters – Closed Council Meeting

205/10 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters;

**Item** 17.1 Expression of Interest T2010-33 - Purchase of Old Airport Terminal and Hangar

**Grounds for Closure** Section 10A(2) (c):

**Public Interest** Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

(Councillors Marks/Chant)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

**Voting against:** Nil.

## Resumption of Open Council

When the Council had resumed its former sitting, the Acting General Manager reported that Council, meeting in Closed Council, had RECOMMENDED:

### 18.1 Expression of Interest T2010-33 - Purchase of Old Airport Terminal and Hangar

206/10

**RESOLVED** that:

1. Having conducted an expression of interest process for the sale of the hangar and old passenger terminal building at the Lismore Airport, in accordance with Clause 168(4)(a) of the *Local Government (General) Regulation*, Council conduct a selective tender process for sale of the property.
2. Having considered the responses to the expression of interest process, Council invite Northern Region SLSA Helicopter Rescue Service and Centreshop Pty Ltd to participate in the selective tender process.
3. Council investigate an appropriate recognition of Habib Habib at the Lismore Airport.

(Councillors Chant/Clough)

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

**Voting against:** Councillor Ekins.

(BP10/362:EF09/1706)

## Closure

This concluded the business and the meeting terminated at 9.28pm.

CONFIRMED this TWELTH DAY of OCTOBER 2010 at which meeting the signature herein was subscribed.

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**MAYOR**