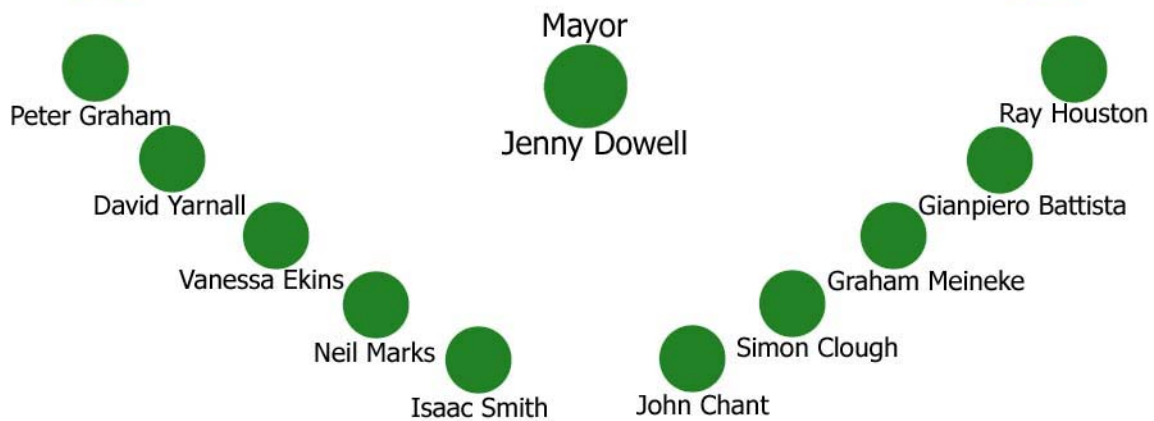


Notice of Council Meeting



Council

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, 43 OLIVER AVENUE GOONELLABAH on Tuesday, 14 December 2010 at 6.00pm.

Members of Council are requested to attend.

Paul G O'Sullivan
General Manager

7 December 2010

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Lismore City Council Community Strategic Plan 2008 - 2018



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

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

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

Mayoral Minutes



Mayoral Minute

Subject Recruitment of the General Manager

TRIM Record No BP10/723:EF10/195

That Council approves the engagement of Blackadder Associates as the consultant to facilitate the recruitment of Council's General Manager.

Background

At the November Council meeting, a Selection Panel of the Mayor and Councillors Clough, Graham and Yarnall was formed for the engagement of a consultant to facilitate the process for recruitment of a General Manager.

Council determined at that meeting that the Mayor was to arrange for the three consultants to be interviewed and assessed by the Selection Panel.

This Mayoral Minute reports on the implementation of those resolutions and makes recommendations for Council's consideration and determination.

Interviews of Consultants

Interviews and assessments were arranged with the three consultants from whom Expressions of Interest had been sought and reported upon at the November Council meeting. McArthur and Blackadder Associates were interviewed on Thursday November 18 and Local Government Management Solutions was interviewed on Monday November 22. All members of the Selection Panel were present

During one-hour separate interviews, each consultant was asked nine questions developed by the Selection Panel. The questions covered:

- The change in the role of General Managers over the past decade
- Recent recruitment experience in similar sized Councils
- Flexibility and creativity of the consultant's approach to differing Council's requirements
- The alignment of applicants for the General Manager's position to the Council's needs and community vision and culture
- Recruitment methodology including advertising, shortlisting, psychometric testing and whole-of-Council involvement in final interviews
- Costs and time frames.

The consultants had all made written Expressions of Interest prior to the November Council meeting. A matrix of the EoI inclusions was prepared prior to interviews to highlight similarities and differences between the three Consultants. This matrix also resulted in several individualised clarifying questions to the Consultants in response to their submissions.

Consultants interviewed were:

- McArthur- Gary Withyman and David Jackson
- Blackadder Associates- Stephen Blackadder
- Local Government Management Solutions – Christian Morris

Assessment of Consultants

The assessment of the consultants was based on their presentation of their business, responses to the structured questions and further clarifying points and questions from both the panel and consultants.

McArthur undertook the last GM appointment for Lismore City Council and have extensive experience in executive recruitment.

Blackadder Associates is a relatively new executive recruitment business but has extensive recent experience in recruiting General Managers and Executive Directors.

Local Government Management Solutions have been working in executive recruitment for some time. More recently, they have been primarily working with Director level roles.

Selection Panel members assessed each response with a numerical value, the totals of which were compared.

There was unanimity in the ranking:

1. Blackadder Associates
2. McArthur
3. Local Government Management Solutions

Costs

All consultants were questioned on their cost structure during the course of the interviews.

McArthur's initial proposal was 14% of the Total Remuneration Package (TRP) but will negotiate their fee to 10% of the TRP. In addition, there are costs for advertising, travel costs for Consultant visits and candidates shortlisted for interview and the costs of psychometric testing.

Blackadder Associates have a fixed fee of \$18K. In addition, there are costs for advertising, travel costs for Consultant visits and candidates shortlisted for interview and the costs of psychometric testing.

Local Government Management Solutions charge 9% of the TRP. In addition, there are costs for advertising, travel costs for Consultant visits and candidates shortlisted for interview and the costs of psychometric testing.

Referees

Following the Selection Panel's unanimous preference for Blackadder Associates, the Mayor asked a set of questions, developed by the Selection Panel, of Mayors from three Councils who had engaged Blackadder Associates in 2010.

The Councils selected were:

- Burwood Council (Mayor)
- Tamworth Regional Council (Mayor and ex-Mayor)
- Wagga Wagga City Council (Mayor and ex-Mayor)

In both Tamworth RC and Wagga Wagga CC, Mayors had changed in September 2010 but both the Mayor and ex-Mayor were closely involved in the selection of their Council's new General Manager with the assistance of Blackadder Associates.

The questions asked of referees covered Blackadder Associates' process, facilitative style, engagement and communication with Councillors, flexibility of approach, costs, follow-up and whether there were any challenges, whether the Council would engage Blackadder Associates in the future and if the Council would recommend them to others.

Without exception, the comments were extremely positive. The comments included: 'Brilliant', 'He worked with us to make sure we got what we wanted', 'We were amazed by his contacts', 'It was the best recruitment process we've ever been through- after 3 GMs in 5 years', 'Impressed by the sensitive way he managed the final selection', 'He was reassuring and did not pressure us', 'Extremely good value', 'He's the only one you should be looking at', 'Best thing we've ever done to get the result we all wanted'

The three Councils would engage Blackadder Associates again and, indeed, all are doing so for other senior recruitments, performance assessments and, for one Council, strategic planning.

Next steps

Following Council's resolution on the selection of a Consultant, the next steps, in accordance with the November Council resolution, will be for the Selection Panel to prepare, in conjunction with the consultant and other Councillors, a position description, selection criteria, employment package and the recruitment process. This information will be presented to council at the 8 February 2011 Council meeting for determination.

Sustainability Assessment

Sustainable Economic Growth and Development

The selected Consultant has the proven skills and experience to facilitate the selection of an outstanding General Manager who has a commitment to Lismore and to Council's aim of sustainable economic growth and development.

Social Inclusion and Participation

The wide range of the recommended consultant's contacts in local government will enhance the opportunity to engage a General Manager with a commitment to social inclusion and participation.

Protect, Conserve and Enhance the Environment and Biodiversity

Council's commitment to protecting and enhancing Lismore's ecology provides a clear direction to the consultant when seeking applications who align with Council's vision.

Best-Practice Corporate Governance

The consultant's experience and skill is evident in the interview process and in the questioning of Mayors in other Councils' recent recruitment of General Managers. The engagement of the consultant ensures that Council maintains its commitment to best- practice governance.

Conclusion

All three consultants have experience and skill to facilitate the process of recruitment of Lismore's General Manager. All three would ensure that Council meets its legislative requirements and abides by best-practice in human resource management.

Stephen Blackadder from Blackadder Associates is the preferred consultant based on his recent experience, knowledge of the local government arena, style and approach, fees and the feedback from recent clients.

Attachment/s

There are no attachments for this report.

TRIM Record No: BP10/723:EF10/195

Notice of Motions



Notice of Motion

Cr Simon Clough has given notice of intention to move:

That Council reconsider the allocation of the economic development component of the Nimbin Special Business Levy – Economic Development Fund in April 2011 with a view to changing the method of allocation of the levy to incorporate the inclusion of the Nimbin Chamber of Commerce in decision making.

Councillor Comment

Council has not consulted with the Nimbin Chamber of Commerce about the allocation of the Economic Development Fund. It is reasonable that funds raised mainly from Chamber members should be spent in consultation with the Chamber of Commerce.

Staff Comment

Manager-Finance

A request from the Nimbin Chamber of Commerce to change the way the Nimbin Business Rate Levy (NBRL) was being spent was reported to Council at its August 2010 meeting. In regards to the economic development component, Council resolved that from 2011/12, only \$2,000 be directed to the Nimbin Visitor Information Centre and the balance (approximately \$2,576 + rate pegging increase) of the indexed money be redirected to other projects in consultation with the Nimbin Chamber of Commerce.

On the basis that the desired outcome from the Notice of Motion is to reduce the amount allocated to the Nimbin Visitor Information Centre (\$2,000) and increase the amount available for other projects in consultation with the Nimbin Chamber of Commerce, then being considered during the 2010/11 Operational Plan process is the most appropriate time.

As reported in August 2010, during the first four years of the NBRL, Council staff worked very closely with the Nimbin community on the community economic development aspect through the Economic Development Unit. It was a result of this involvement that the need for the Nimbin VIC came to prominence. From Council's perspective, there is a very strong linkage between economic development and tourism in Nimbin, hence the use of the NBRL for this purpose.

TRIM Record No: BP10/726:EF10/4

Notice of Motion

Cr Simon Clough has given notice of intention to move:

That Council staff report on putting street and other signs in the Goonellabah area in both English and the Bundjalung language.

Staff Comment

Coordinator Community Services

The idea of bi-lingual (Bundjalung/English) *Welcome to Goonellabah* signage was raised at Council's recent Village Well training. The idea which Councilor Clough has proposed through his Notice of Motion would expand this idea to incorporate both street signs and other signage within the Goonellabah suburb.

While this expansion of the original idea may be possible, it would require consultation with both the RTA and the wider community.

It is proposed that this idea be raised through the 2011 consultations which will happen as part of the development of both Council's Goonellabah Project and the Reconciliation Action Plan.

Manager – Assets

In considering this request Council needs to be mindful of the costs involved. Without additional funds, changes to signage could only occur as existing signs fall due for replacement. This would take a considerable time to complete. It may also be prudent to consider the ramifications of adopting this approach in Goonellabah and not other parts of the city.

TRIM Record No: BP10/724:EF10/4

Notice of Motion

Cr David Yarnall has given notice of intention to move:

That Council:

1. Unreservedly support the request of the NSW Farmers Association for a moratorium on all Coal Seam Gas (CSG) mining in NSW.
2. Write to the Premier and the Minister for Environment Climate Change and Water as well as the Leader of the Opposition and the Shadow Minister for the Environment, Local Member to strongly urge a moratorium on CSG mining and particularly the practice of hydraulic fracturing in NSW until an extensive and independent environmental impact statement has been concluded on the effects of CSG mining on the environment and in particular the effects of CSG mining on groundwater.
3. Write to the Prime Minister, Federal Minister for the Environment and the Local Federal Member as in point 2.

Councillor Comment

Coal Seam Gas mining exploration has recently been conducted in the Lismore LGA in the Kerrong Valley. Experience of similar mining across the Surat and Bowen Basins in Queensland brings into question the process of CSG mining and in particular the use of hydraulic fracturing. Several mining wells in Queensland have reported issues with contaminants in ground water suspected to be the result of the process of hydraulic fracturing or 'fracking' during mining. A Geoscience report in September questioned the assumptions made in the respective mining company's environmental modeling. The report further raises concerns regarding the potential impact on the Great Artesian Basin, local aquifers, and surface water. The implications for farmers and urban residents in the Lismore LGA if ground water becomes contaminated are enormous. Currently there is a lack of adequate data to assess the implications of the process of hydraulic fracturing on ground water. A moratorium should be implemented until an appropriate independent assessment of the environmental impacts of CSG mining is conducted.

Staff Comment

Manager Integrated Planning

Council's Environmental Strategies staff are aware of exploration activities for coal seam gas resources in the Clarence-Morton Basin, including the Lismore LGA. We have also received a summary of a community information session held in Lismore on 25 August 2010 by Arrow Energy Ltd, which includes a map of the exploration areas.

The issues around the exploration and subsequent mining of coal seam gas are complex. Council would prefer any representation to the State Government to be reasoned, accurate and well researched. For this reason staff require adequate time to properly research the relevant issues, including the NSW Farmers position on coal seam gas.

Our Sustainability/Climate Change Officer currently has a high immediate workload focussed around Delivery Plan projects and meeting end of year milestones on the 'CBD Greenovation' Project. Sufficient time to research these issues will be available in the new year and we request that they be presented at a Councillor Briefing early in 2011. A letter can be drafted subsequent to the briefing.

TRIM Record No: BP10/725:EF10/4

Notice of Motion

Cr David Yarnall has given notice of intention to move:

That Council act to limit the impact on the solar industry in the local region of the recent 40c reduction per kwh in the gross electricity feed in tariff. In order to limit the negative economic and environmental impact of this decision Council should:

1. Immediately write to the NSW Premier and the NSW Opposition Leader condemning the decision to reduce the gross feed in tariff for photo voltaic systems from 60cents to 20cents.
2. Inform the Premier and Leader of the Opposition of the likelihood of job losses and of the lost opportunity to employ more workers in the northern rivers region as a result of the above decision.
3. Recommend that the Premier and Leader of the Opposition set a bulk feed in solar tariff of approximately 45c per kwh to bring the rate in line with other states and territories.
4. Urge the state government to require electricity savings through demand management strategies from network providers in the energy sector by the introduction of smart technologies and demand reduction programs.

Councillor Comment

All of us are aware of the recent hasty change in policy by the State Labor Government to reduce the gross electricity feed in tariff to the lowest rate in Australia. This appears to be a cynical move to persuade voters in NSW that as a result of the GFT reduction electricity prices will be stabilised or reduced. However, the real story on electricity price rises has more to do with the need for upgrading the transmission lines to cope with the extra load to power air conditioners and massive TV's rather than either the supply of solar panels or mains power. In other words it is quite likely that electricity prices will continue to increase as Transmissions lines are upgraded.

While the Lismore LGA had one of the highest take up rates for the GFT in NSW the sudden reduction in GFT will have a detrimental effect on small businesses and jobs in our region. The fact that the lowest GFT now applies in NSW will only make the situation worse. Lismore will lose jobs to Queensland as businesses readjust to this overreaction to rising electricity prices.

Staff Comment

Manager Integrated Planning

Council staff recognise the serious impact the sudden reduction of the NSW gross electricity feed-in tariff will potentially have on local businesses connected to the solar industry. We also appreciate the value in making representation to govt leaders on this issue. It is our preference that such a letter be reasoned, accurate and well researched. For this reason staff require adequate time to properly research the issues raised in the Notice of Motion, e.g:

- quantifying the impacts of the decision on local job losses and lost employment opportunities;
- an appropriate rate to bring the gross feed-in tariff in line with other states and territories; and
- the nature of existing demand management strategies and alternative technologies.

Notice of Motion

Our Sustainability/ Climate Change Officer currently has a high immediate workload focussed around Delivery Plan projects and meeting end of year milestones on the 'CBD Greenovation' Project, which has seen the installation of solar systems on the CBD Office, ACE Building, Lismore Gallery and Neighbourhood Centre (amongst other retrofits). Sufficient time to research these issues will be available in the new year and we request that they be presented at a Councillor Briefing early in 2011, together with that of Coal Seam Gas. A letter can be drafted subsequent to the workshop.

TRIM Record No: BP10/727:EF10/4

Notice of Motion

Cr David Yarnall has given notice of intention to move:

That the General Manager report to Council on the actions taken to ensure that new tender contracts are initiated when the previous tender contract expires.

Councillor Comment

This is a motion to ensure that Council processes are functioning according to the proscriptions of the tender process as stipulated by law.

Recently two tender contracts expired and were renewed without the appropriate tender process taking place. It is necessary that Council is made aware of the reasons for the oversight and the actions taken to ensure that this situation does not occur again.

Staff Comment

Manager Assets

No contract was renewed as suggested in the Notice of Motion. The contracts which expired have since operated on a month to month basis on the same terms and conditions as the old contract. This does not represent a renewal of a contract. A number of measures have been put in place to deal with the situation that has arisen recently. A report can be presented to the Council early in the New Year.

In regard to the Security Contract, tenders for these services were recently called and close in December. In regard to the Cleaning Contract, Council has been in discussions with the Department of Commerce about making use of the existing State Government contracts that exist for cleaning services. It is expected that this matter will be resolved early in the New Year.

TRIM Record No: BP10/728:EF10/4

Reports



Report

Subject	Development Application 5.10.267 Woolworths Supermarket
TRIM Record No	BP10/698:DA10/267-02
Prepared by	Development Assessment Officer (Planning)
Reason	For determination by Council
Community Strategic Plan Link	Sustainable Economic Growth and Development

Overview of Report

The development site is at 2 Simeoni Drive, Goonellabah, Lot 74 DP 1149576 for the development of a shopping centre, comprising a Woolworths Supermarket, retail specialty shops, Woolworths Petrol Plus and a takeaway food restaurant. The development will have a total gross floor area (GFA) of 4990.5m² and is a significant development for Lismore City Council. When complete there is potential for creation of 100 jobs locally and the construction phase also generating significant employment opportunities.

The main issues arising from the assessment of the proposal relate to urban design considerations, interconnection with adjoining development, noise and traffic impacts. The Development Application (DA) is recommended for approval on a Deferred Commencement basis with the imposition of appropriate conditions on consent.

Background

The development site is at 2 Simeoni Drive, Goonellabah, Lot 74 DP 1149576. The site forms part of a commercial precinct to service the Goonellabah area. The development application was notified and advertised in accordance with Lismore Development Control Plan Part A Chapter 10 – Notification and Advertising of DAs.

The subject parcel of land was created by development application for subdivision approval No. 09/388. Prior to this subdivision the land was known as Lot 73 DP 1137726 that comprised formerly of Lots 3, 4, 5 and 6 DP 1011282, all in the ownership of Lismore City Council.

Other relevant development history for the adjoining land to the east (GSAC) includes:

DA Number	Proposed Development	Determination
2007/425	Construction for Recreation Centre	Approved 21/11/2007
2007/507	Goonellabah Recreation Centre, Bulk Earthworks and Retaining Wall	Approved 12/12/2007
2009/158	Recreation area ancillary to GSAC (skate plaza and bowl etc)	Approved 9/6/2009
2009/461	Community facility (Rekindling the Spirit)	Approved 20/1/2010

Council sold the subject land on 28 June 2010 to Fabcot Pty Ltd. There were no restrictions or stipulations placed on the future development of the subject site as part of this sale process.

The application is submitted to Council for consideration and determination based on its value and importance to the Local Government Area.



Plate 1 – Aerial View – Site context

Description of Proposal

Proposed is the development of a shopping centre, comprising a Woolworths Supermarket, retail specialty shops, Woolworths Petrol Plus and a takeaway food restaurant. The development will have a total gross floor area (GFA) of 4990.5m².

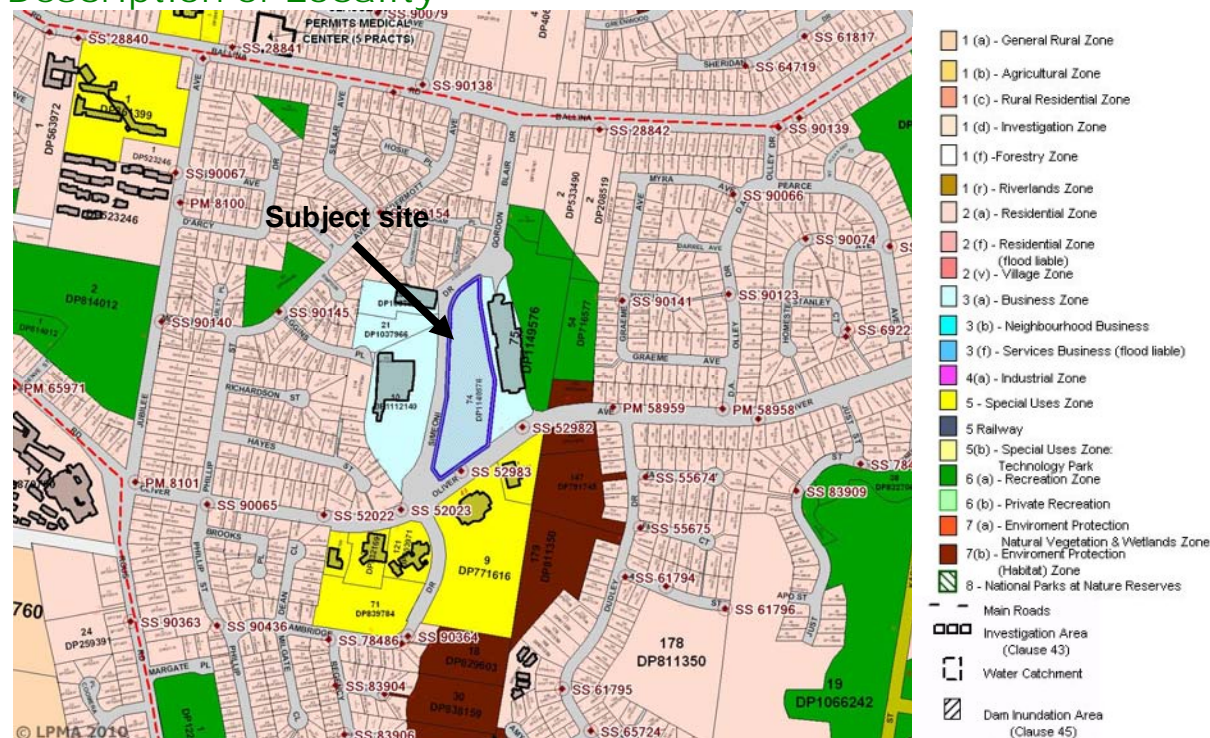
The commencement of the proposed development shall create local employment opportunities, particularly for younger workers. The proposed centre would be expected to generate the equivalent of approximately 100 employment positions for full-time, part-time and casual workers.

The development proposed for the subject land provides the following components:

- Development of Supermarket with 3,400m² GFA, inclusive of 200m² mezzanine for office and ancillary kiosk (26.5m²)
- Retail shops with combined GFA of 1,244m²
- Petrol Station with 74m² of convenience retail GFA and capacity for three (3) bowsers
- Takeaway restaurant with drive through facility and internal GFA of 272.5m²
- Car parking for 265 vehicles and on-site loading zone
- Construction of associated advertising structures
- Infrastructure service provision for water, sewer, stormwater, bulk earthworks and retaining walls.

In relation to the takeaway food outlet, a future tenant of this premises has not been specified or identified within the application, and will need to be the subject of future approval as appropriate any future use.

Description of Locality



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

The property is described in cadastral terms as Lot 74, DP 1149576, 2 Simeoni Drive, Goonellabah.

The subject land is located in the south-eastern area of the Goonellabah Town Centre fronting Oliver Avenue to the south and Simeoni Drive to the west. The site is approximately 5 kilometres east of the Lismore CBD, and comprises a total site area of 1.88 hectares. The subject site slopes significantly from Simeoni Drive south easterly towards Oliver Avenue and north easterly towards the roundabout on Simeoni Drive. The level of RL 154 at the highest area at the western boundary of Simeoni Drive drops away to RL 146 on the south eastern corner of the site.

The property is adjoined to the north by residential development.

To the west is a Coles Supermarket and specialty shops development, which is located on the opposite side of Simeoni Drive.

The Goonellabah Sports and Aquatic Centre (GSAC) site located to the east at a level approximately 7.0m below the subject site's proposed finished levels. Existing on the western boundary of the GSAC site is a concrete block retaining wall which ranges in height up to 6.3m. This retaining wall is a significant structure in terms of its height and appearance.

Commercial land uses comprising the Telstra Call Centre and Lismore City Council Chambers are located north-west and south respectively of the development site.

Vehicular access to the site is from Simeoni Drive and Oliver Avenue. The development site is not constrained by any environmental attributes and in this respect is suitable for the proposed shopping centre. The primary constraint relates to the topography of the land. The site grades have resulted in greater assessment of the building design and associated earthworks.

Relevant Statutory Controls

Lismore LEP 2000
Zoning – 3(a) Business
Item of Heritage – No
In vicinity of Heritage Item – No
Conservation Area – No
Draft Lismore LEP 2010 – B2 Local Centre
S94 Contributions Plan
Environmental Planning & Assessment Act 1979
SEPP No. 33 – Hazardous and Offensive Development
SEPP No. 55 – Remediation of Land
SEPP No. 64 - Advertising and Signage
SEPP (Infrastructure) 2007
North Coast REP
Advertised Development
Local Development

Relevant Policy Controls

Lismore DCP
5.2.30 Social Impact Assessment
5.3.3 Provision of Public Transport Infrastructure
8.2.1 Public Art Policy

Relevant Development History

A pre-lodgement meeting was held on 25 May 2010 with Woolworths representatives and the various consultants working on the project with relevant Council staff. Issues relating to the development were raised for discussion and minutes of the meeting forwarded to all attendees. The minutes raised some points for further consideration by the applicant relating to traffic and design, specifically to address “connectivity” to adjoining developments. A copy of the plans presented at this pre-lodgement meeting and the minutes are attached to this report.

The minutes of that meeting identify interconnectivity between adjoining sites as a key design issue for the proposal. In response the applicant advised that *“the site has a considerable slope from west to east and will need significant cut and fill to create a level area for the shops and carpark. Due to the topography of the site connections to the adjacent Aquatic Centre and Skate Park can only be via the external footpaths. The change in level between these sites and the floor level of the shops is too large to allow equitable access via a direct route. Additionally the Aquatic centre has its entrance on the opposite side of the building and does not address its entrance or pedestrian connections towards our site.”*

The connectivity between the existing Coles development and the proposed Woolworths supermarket was addressed by use of the existing traffic calming as a pedestrian connection between the sites linking directly to the entry of both buildings. The Development Engineer has recommended that this speed hump be moved marginally to the south of its current location to facilitate a better outcome and an appropriate condition imposed on the consent to ensure that the pedestrian connectivity is not offset from the entry to the Coles and Woolworths sites.

Unfortunately due to the constraints presented by the construction of a high retaining wall on the western side of the Goonellabah Sports and Aquatic Centre (GSAC) site and steepness/levels of the proposed site, there are limited opportunities for direct connection with the proposed Supermarket.

There is, however, an opportunity to connect the Centre and Supermarket by the construction of a 2 metre wide footpath that would be a “shared zone” for pedestrians, cyclists and skaters.

Following lodgement of the application and preliminary review the applicant provided a perspective view of the development from Oliver Avenue to address concerns relating to the height of the building on the south-eastern corner.

After receipt of all referral comments a request for further information was forwarded to the applicant on 13 September 2010. The information requested related to the Acoustic Report and potential contamination of the site. Comments from the Lismore Traffic Advisory Committee were also provided as well as concerns raised by Council’s Social Planner. These concerns related to engagement with the local Aboriginal community and opportunities for people with a disability and it was requested that these issues be pursued separately with the Social Planner.

The proposed service station operating hours were originally proposed to be 24 hours. Concern was expressed to the applicant that the proposed 24 hour trade at the service station would not be appropriate in the initial trading phase for crime prevention and safety reasons. It was conceded that there were already 24 hour service stations operating in Lismore, however, they are located on Bruxner Highway and have a high level of passive surveillance from passing traffic on a 24 hour basis. At the location on Simeoni Drive this is not the case and it was recommended that the applicant re-consider the proposed 24 hour trading to establish what potential existed in the area for crime and anti social behaviour. The applicant subsequently modified the proposed operating hours to 6am – 11pm on 23 September 2010.

At that time it was also requested that the applicant consider the inclusion of vertical elements on the eastern elevation fronting GSAC. The applicant agreed to this request and the architectural feature with plans is discussed under “Design” later in the report.

The additional acoustic information and details of sampling of the site for contamination were subsequently submitted to Council on 19th October 2010. This information was satisfactory to allow further assessment of the application and is discussed later in the report by the comments from Council’s Environmental Health Officer.

Council’s Development Engineer had concerns relating to “right turn out” from the service station / takeaway restaurant entrance / exit and this was pursued by a request for further details from the applicant’s traffic consultants. These issues have been satisfactorily resolved and are discussed in the report under “Traffic”.

Discussions have also been held with the applicant relating to the blank “canvas” presented by the eastern elevation on the northern section of this wall. It has been agreed that a condition will be imposed on the consent requiring murals to be included on this wall that could incorporate indigenous art or representation of skaters.

Internal Referrals

Building

No objections to the proposed development subject to recommended conditions of consent.

Environmental Health

Council's Environmental Health Officer provided the following comments in regard to the development proposal:

Contaminated Land

The CLA dated May 2010 is mainly focused on the extensive fill materials that occupy much of the site. From the information contained in this report and the *Preliminary Soil Testing of Unconsolidated Fill* report carried out by Landpartners dated 22 October 2007 it appears likely that the site meets the HBIL requirements for contaminants of concern. Accordingly no further investigation is necessary in regard to this matter.

Noise Matters

The applicant has advised Council that the service station could operate from 6.00am to 11.00pm.

A PSNL of 38dB(A) has been calculated by me from the consultants data and in accordance with the INP for the evening/night shoulder period of 10.00pm to 11.00pm and 40dB(A) for the morning shoulder period of 6.00am to 7.00am.

The reviewed acoustic report has not addressed noise from fixed plant but the other matters raised in Councils request for further information are discussed. The acoustic report advises that *"experience with similar projects indicates that it is possible to achieve the criteria with appropriate acoustic design."* This can be adequately conditioned and compliance demonstrated prior to the issue of a CC. The acoustic report includes recommendations to reduce noise impacts including time restrictions on deliveries and waste collection activities. These matters will be further reviewed and appropriate conditions will be nominated.

The acoustic report demonstrates that the PSNL can be complied with for all assessment time periods and with garbage collection removed as an adjustment for duration from the daytime assessment for Receiver 1 (15 Allingham Place). It should be noted that the predicted noise level for the evening is the same as the PSNL for the evening at Receiver 1. Also there is a predicted impact of up to 4.6dB(A) due to meteorological conditions which may impact on Receiver 1 at an occurrence rate of: Day – 16%, Evening – 12% and Night – 8%. These impacts are commonly due to prevailing winds and may be considerably negated by an increase in the background noise level which is likely to accompany an increase in wind speed. As can be seen from the above all the potential impacts appear to be on Receiver 1 but do not (except for the meteorological impacts) exceed the PSNL.

Provided that the noise generated by the fixed plant does not increase the projected noise levels it would appear that the noise outcomes from the development can reasonably satisfy the NSW Industrial Noise Policy. It is considered to be reasonable to limit the hours of operations on the development to between 6:00am to 10:00pm daily. This is consistent with the limitations placed on the neighbouring Coles development the subject of DA99/360. Appropriate noise conditions are nominated for this development.

Lighting

There may be detrimental impact from vehicle headlights on the adjoining residential areas in the vicinity of Allingham Place from vehicles resorting to the service station and the takeaway food premises. This matter should be addressed by appropriate condition. Other obtrusive lighting matters can be effectively managed through the imposition of conditions referencing AS4282.

Stormwater Management and Erosion and Sediment Control

As this is a significant development, WSD matters and erosion control matters will be assessed by the development engineer. Some proposed conditions have been provided including construction dust management.

Waste Management

A waste management plan in accordance with Lismore DCP is required but can be conditioned and this is alluded to in the SEE. The general management of waste can also be taken up by conditions.

Storage and Sale of Hazardous Goods

An Environmental Management Plan (EMP) has been prepared for the development. The EMP contains a SEPP33 hazards analysis and references compliance with AS1596-2008, AS1940-2004, AS4897-2008, POEO (Underground Petroleum Storage Systems) Regulation 2008 and will incorporate Stage 1 Vapour Recovery which will collect all vapour discharged during site refuelling activities back to the delivery tanker. Spill management infrastructure and procedures are also included in the EMP and satisfy contemporary standards. Certification processes verifying compliance with the EMP will be included in conditions of any consent.

Sun Protection

Council's *Community Sun Protection Strategy* is not directly applicable to this development. The application does include some shade structures covering some 48 car parking spaces and native tree and shrub plantings that are proposed to provide some shade to parking and footpath areas.

Other Matters

The incidence of shopping trolley dumping is high in Lismore. Because of this Council conducted an awareness/education program in February 2010. The incidence of trolley dumping arising from the Goonellabah shopping centre is the highest in real terms in Lismore LGA. This may be related to the low socioeconomic circumstances of many residents in and about the Goonellabah shopping area. The applicant will be requested to address the management of shopping trolleys and consider a range of management options including coin/token deposit locks, perimeter wheel lock systems etc. Appropriate management will be included in conditions of any consent.

Conclusion

From the information provided with the application it appears that the development can satisfy contemporary environmental health standards subject to the imposition of the proposed conditions.

Social Planner

Council's Social Planner provided the following comments in relation to the proposed development:

The SIA does not adequately address the following:

- 1. How will the proposed 24 hour facilities (food and fuel) be managed to minimise noise, litter and antisocial behaviour?*
- 2. How will the proponents engage with the local Aboriginal community during and after construction? E.g. during construction of GSAC, the local Aboriginal community were invited to tour the site via a viewing platform and on site tours. Additionally, local Aboriginal people were encouraged to apply for positions at GSAC. The SIA lists programs that have been implemented in other areas. What commitment can Woolworths make to implement an indigenous program with respect to this location?*
- 3. Opportunities for people with disability – what specific local partnerships will be developed? Lismore has a number of regional disability employment organisations. Will Woolworths work with these local organisations to provide employment opportunities for people with disability?*
- 4. Trolley management is an issue of concern. Abandoned trolleys have a significant negative social impact on the surrounding community.*
- 5. The buildings and parking need to comply with Disability Standards (Access to Premises), 2010.*
- 6. As previously discussed, the CPTED report should consider the 24 hour operation of the fast food and fuel outlets.*

These matters have been addressed as follows:

- Trading hours are now from 6.00am to 11.00pm as discussed previously in the report to address matters 1 and 6.
- The applicant has been encouraged and has indicated their intention to work closely with Council's Community Services team in relation to matters 2 and 3.
- Trolley management and compliance with Disability Standards (Access to Premises) can be addressed through conditions of consent in relation to matters 4 and 5.

Water and Sewer

Council's Water and Sewer Section have advised there is no objection to the proposed development subject to the imposition of recommended conditions of consent.

Landscaping

Council's Environmental Strategy Officer reviewed the proposal provided comments on 8 November 2010 as follows:

1. Vegetation buffer - eastern boundary

The applicant is to demonstrate how landscaping will be used to provide an acceptable interface between the proposed development and the existing skate facility. It is desirable that retaining walls are stepped in order to reduce the height of the walls and to provide a series of landscaped terraces of adequate width to accommodate planting of large trees and shrubs of a scale that can adequately reduce the visual impact of the development, when viewed from the skate facility.

Please provide a series of section drawings which clearly show the proposed landscape treatment along the eastern boundary of the site. The section drawings are to show the location, height and width of the proposed rock retaining wall and the extent of any footings associated with the wall or the building, which are in the vicinity of the garden bed. The drawings should also show the location and treatment of the proposed swale drain, the site boundary and the location, width and depth of proposed garden bed(s) in relation to these structures.

2. Vegetation wall - southern boundary

The applicant is to demonstrate that the proposed green wall located on the southern side of the building will succeed without direct sunlight, as this area will be in full shade all day.

These issues were discussed with the applicant, who is confident that the landscaping can be achieved as proposed, this will also be addressed by the imposition of a condition on consent requiring the submission of a detailed landscape plan prior to the issue of a Construction Certificate.

Concern was also expressed by the Coordinator Environmental Strategies relating to litter and stormwater problems which will be addressed by the imposition of appropriate conditions on consent.

Further comments were received from Council's Environmental Strategy Officer on 26 November 2010 as follows:

The subject site is located centrally within the existing "suburban centre" or "village hub" of Goonellabah.

Although the extent of the 'Goonellabah Suburban Centre' has not been formally defined by a master plan, structure plan or development control plan, it can be considered as the cluster of both commercial and community facilities comprised of: the Council Corporate Centre, Community Centre, Library and childcare facility on the southern side of Oliver Avenue and GSAC, the skate facility, existing retail shops Coles supermarket and Telstra Call Centre on the northern side of Oliver Avenue. The 'centre' also incorporates Cambridge Drive, Simeoni Drive and Gordon Blair Drive.

Vehicular roundabouts at the junctions of Simeoni Drive / Oliver Avenue and Simeoni Drive / Gordon Blair Drive can be considered as the entry "gateways" to the suburban centre precinct.

As it is centrally located within the precinct, the proposed development has the potential to “pull the precinct together” by providing an attractive central hub of high activity and high amenity that contributes to a desired character, sense of place and identity for the village of Goonellabah and provides connections to the other buildings and facilities within the precinct through a well designed series of pathways and inviting outdoor spaces.

It is not an exaggeration to say that this development has the transformative potential to either make or break the successful creation of an attractive commercial and cultural precinct, as the village heart of the suburb. Sensitive and considerate design of this development is crucial. Good design will promote social interaction, social inclusion, economic exchange, community pride and prosperity, while poor design will significantly hinder these potentials.

To achieve good design outcomes, the proposed development needs to aspire beyond the Site Planning Objectives stated in section 3.2 of the Statement of Environmental Effects (prepared by Newton Denny Chapelle) to include broader urban design objectives about maximising the potential of the development to be an integrating, unifying and iconic element within this formative suburban centre precinct.

The applicant should be asked to reconsider the design and demonstrate how the proposal achieves the following objectives:

- *Contributes positively to the unification of the suburban centre precinct (which includes the Council owned facilities on the southern side of Oliver Street, GSAC, youth plaza and Coles complex)*
- *Provides shaded accessible pedestrian linkages to all adjoining and adjacent developments within the precinct, which follow desired lines of travel (ie shortest possible route)*
- *Provides measures to slow traffic and provide safe road crossing points for pedestrians*
- *Provides attractive open space areas as nodes and linking elements within the suburban centre precinct (including shaded lunch space for the many workers in the precinct)*
- *Improves the legibility of the precinct and provides strategically positioned signage and visual cues to help with way-finding*
- *Provides active building frontages in key locations which help to activate the footpath, create activity nodes and linkages within the precinct and encourage community surveillance and safety*

These matters are addressed under the “Design” heading towards the end of this report.

Traffic

Impact on Ballina Road and Oliver Avenue

The traffic impact assessment prepared by TTM consulting group demonstrates that although there is an increase in traffic flow resulting from the proposed development at both the Ballina Road / Gordon Blair and the Oliver / Simeoni Drive intersections, the effect is negligible on the level of service of both intersections as they will experience only a minor increase in saturation and queuing times.

Simeoni Drive

Simeoni Drive is a collector road with a varying pavement width of 10m to 17m. Although TTM confirms that Simeoni Drive has sufficient capacity for the projected traffic volume several issues were raised by the Traffic Advisory Committee and are addressed below.

Traffic counts taken in 2007 indicate that Simeoni Drive currently carries over 4,000 vpd (intersection counts were taken by TTM Group and verified against automatic tube count data collected by Council). Based on the RTA “Road Design Guide” Table 1.2.6, a collector road can carry up to 5,000 vpd in residential areas and up to 10,000 vpd in non-residential areas; on this basis, it is considered that Simeoni Drive currently operates appropriately as a collector road with respect to road classification as per the RTA’s guidelines.

TTM Group's previous assessment for the GSAC site addressed Council's proposal to re-classify and upgrade Simeoni Drive to sub-arterial standard; this report concluded that Simeoni Drive should function at no higher order than a collector road

Several issues including those raised by Traffic Committee are considered as follows

1. The vehicular access to the Fuel Outlet and the take away food store must operate as a left in/left out manoeuvre. A right turn from this must be discouraged to prevent traffic confusion and to encourage an orderly traffic flow. To achieve this, the applicant will extend the Simeoni Drive median to the south but without restricting vehicles from entering the Telstra call centre.
2. A low profile raised traffic median will be provided at the main entrance to provide pedestrian separation and compliance with AS 2890.1. This median will be designed in a manner to allow the articulated vehicle that delivers fuel to the fuel outlet to drive over it.
3. The right turn bay into the main entrance of the retail complex has been increased from 12.5 m to 19m to accommodate a standard articulated vehicle there by allowing for increased vehicle storage as well.
4. The level of the main carpark is approximately 1.5 to 1.8m below the level of the Simeoni Drive footpath and the level of the staff carpark is approximately 4m to 6m below Simeoni Drive. Although the footpath will be landscaped there is still a moderate to high risk that a pedestrian and specifically a child may fall from the footpath to the carpark. To mitigate against this problem, a fence will be required for the full length of the Simeoni Drive and possibly the Oliver Avenue frontage of the complex where risk of falling is probable.
5. To ensure that the vehicular access to the staff carpark and the loading area is controlled as a left in left out manoeuvre the existing painted Oliver Avenue median shall be replaced with a raised concrete median.
6. As the complex will promote increased pedestrian and cycle traffic it is critical to provide connectivity between the GSAC facility, the Coles complex, the Telstra call centre and various bus stop and Taxi rank locations on Simeoni Drive. The applicant will be required to provide a 2m wide combined pedestrian/cycle pathway along the entire frontage of the proposed development, linking the existing 2m wide pathway in Oliver Avenue through to the existing pathway at the northern end of the shopping complex in Simeoni Drive. This will require the widening of the existing narrow Oliver Avenue pedestrian pathway.
7. The existing Simeoni Drive pedestrian crossing is located in a position to provide benefit as a traffic calming device but is poorly positioned in regard to pedestrian connectivity between the existing Coles shopping complex and the proposed Woolworths complex. As there will be a temptation for pedestrians to cross Simeoni Drive 10 -15m to the south of the current crossing location the applicant will be required to relocate the combined pedestrian crossing and raised platform (traffic calming device) to a position which aligns with the pedestrian access with the Woolworths complex. As the new location will encroach on the existing taxi rank position, the applicant will be required to establish another taxi rank on the eastern side of Simeoni Drive.
8. The applicant is required to remove the slow point/chicane within the road reserve immediately north of the entrance to the proposed Takeaway Food entry. A no standing zone will be required prior to this entrance so as to provide an unrestricted left turn into the Takeaway Food area.
9. The traffic committee required further investigations into the operation of the combined staff parking area and loading area. The applicant has submitted wheel path diagrams to demonstrate that an articulated vehicle can manoeuvre in this area with out encroaching on the car parking spaces. Although the reversing of trucks in the staff carpark is considered undesirable, the risk to the public is considered low given that the car parking is reserved for staff only. It is a low speed environment and the likely hood of peak staff carpark traffic and delivery of goods coinciding, is small.
10. The applicant will be required to relocate to the west, the existing Oliver Avenue pedestrian crossing clear of the turn in taper to the staff carpark / loading area.



Traffic Calming in Simeoni Drive / Relationship with GSAC and Woolworths Development

Prior to the construction of GSAC it was intended that Gordon Blair Drive be extended to the western boundary of that site to provide a “collector” street from Oliver Avenue to Bruxner Highway for the Goonellabah area.

During design of GSAC it became apparent that this would reduce the site area significantly and that the proposed development could not fit on the site. Concern was raised that the carpark at the GSAC site could become an ad hoc collector street with potential “rat running” through the site. The matter was resolved by the imposition of a condition on that DA consent requiring the relocation of traffic calming devices from Simeoni Drive so that it could become the identified “collector” street.

Discussions on this matter in relation to the proposed Woolworths Supermarket took place at an ExCom meeting recently. The consensus reached was that Simeoni Drive retains the traffic calming devices to ensure safe pedestrian / traffic access to the existing and proposed supermarket developments. There has been no noticeable use of the GSAC carpark for “rat running” and the matter of the bond monies paid as a result of the condition on consent will be dealt with as a separate matter. The opportunity for a collector street in this vicinity has been lost, however, there is adequate capacity on Rous Road to connect the Goonellabah area with Bruxner Highway.

Stormwater Drainage

The proposed development of this site has resulted in a large increase in non-permeable surfaces. Unless controlled, the stormwater runoff from the site will have a higher peak discharge and shorter duration. The applicant proposes to detain stormwater on site while passing the runoff through a treatment train thereby complying with the Lismore Urban Stormwater Management Plan 2007, which will also capture any litter collected within the stormwater system.

Drainage from Simeoni Drive discharges to drainage easements located within the proposed site at 3 locations. The applicant proposes to reroute this water underground through the site while at the same time collecting drainage from various pits in the carparks or driveways. The applicant will be required to amend these easements so that they cover the realigned drainage network. Only infrastructure conducting drainage from Simeoni Drive will be contained in easements. The stormwater drainage collection is divided into two systems i.e. clean and dirty. The dirty system collects the stormwater runoff from the main carpark and fuel outlet. This water passes through a humeceptor prior to discharge into the existing system located in the GSAC site.

For environmental reasons and to ensure that Council's existing stormwater drainage system capacity is not exceeded, Council will apply the standard stormwater condition to limit the discharge from the site to the predevelopment flow.

The applicant will be required to relocate the existing Council stormwater entry pit to the uphill side of the Oliver Avenue driveway access. There shall be no discharge of stormwater to Oliver Avenue via the access driveway.

Geotechnical

The site is currently undeveloped. In the past it has been used as a stockpile site and has mounds of stockpiled soil and rock boulders. The bore logs indicate a fill layer of 1 to 3.5m in depth across the site. The fill could be uncontrolled or poorly compacted; consequently precautions must be taken regarding foundation design. The site clay is moderate to highly reactive and care must be taken regarding foundation design. Given the topography of the site the applicant proposes extensive use of retaining walls with heights up to 3.5m. Ground water maybe expected on site.

The report has identified that a large portion of existing fill may be unsuitable for re-use resulting in the cartage of material from the site and the corresponding importing of material. The applicant will be required to provide a detailed traffic management plan to ensure that the impact of transporting such material for other road users is kept to a minimum.

External Referrals

Local Traffic Advisory Committee

The application was referred to the Traffic Advisory Committee and considered at its meeting of 14 September 2010 and it was agreed that the following issues be addressed when DA conditions are being considered:

- that the centre median in Simeoni Drive be extended opposite the secondary entry/exit to ensure left in and left out only
- that the right turn storage bay in the centre of Simeoni Drive be doubled in length to ensure adequate storage length for right turn vehicles
- provide separation of main entry/exit
- investigate modification of delivery bay beside service to eliminate the need to reverse onto bay
- provide concrete centre medians to replace the existing painted medians either side of the pedestrian refuge in Oliver Avenue.

These issues have been addressed by Council's Development Engineer in the comments relating to traffic above.

NSW Police Service

The application was referred to NSW Police Service for comment and there is no objection to approval of the development, however some concerns were expressed that have been addressed in the DCP Compliance Table for Chapter 13 – Crime Prevention through Environmental Design Principles, and conditions of consent that would need to be incorporated into any approval.

The matters raised by NSW Police include:

- Design of the toilet complex
- The area adjoining the trolley corral provides an entrapment area. Screens to the trolley corral should not create concealment or predator traps
- Support the establishment of secure area for staff parking on southern end of the building
- Support the complete separation of the proposed development and the GSAC complex
- Safe corridor cues for pedestrians from car park 22 or 33 into main entry area

- The installation of CCTV that has good facial recognition capture should be installed as a crime prevention strategy
- Security of goods/property and cash storage and handling within the proposed specialty shops;
- Provision of security lockers for staff
- Low level vegetation should not exceed 600mm in height
- Fences to the side and rear of building should be a minimum of 1.8m high, with no foot holes allowing easy access over fencing
- Lighting to the area should provide high illumination in operational hours.

Roads and Traffic Authority

The application was referred to the Roads and Traffic Authority (RTA) for their comment in accordance with Schedule 3 SEPP (Infrastructure) 2007. The RTA concurred with the comments made by the local Traffic Advisory Committee regarding the subject proposal. The RTA is also satisfied that increases in traffic at the roundabout at the intersection of Bruxner Highway and Gordon Blair Drive will be within the capacity constraints of the roundabout.

Submissions

The application was placed on public exhibition in the Northern Rivers Echo and notified to surrounding residents for thirty (30) days and no submissions were received.

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

Zoning: The subject land is zoned 3(a) Business under Lismore LEP 2000. The proposed commercial (shopping centre) building is defined under Lismore LEP 2000 as 'shop', 'refreshment room' and 'service station' which are permissible uses within the zone, subject to development consent from Council.

- 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 subject lot is not a place or site of known or potential Aboriginal heritage significance or potential archaeological sites of relics of non-Aboriginal heritage significance.
- 3. Preservation of trees (cl. 18)**
An assessment of the site and proposed development proposal has not identified any tree(s) of significance requiring preservation.
- 4. Development for the purpose of advertisements (cl. 24)**
Signage proposed as part of this development has been considered in accordance with the requirements of this clause.

Zone objectives and zoning control tables

5. Zone No 3(a) (Business Zone) (cl 58)

The site of the commercial (shopping centre) building is located within the 3(a) Business zone.

In regard to the zone objectives the proposed shopping centre is consistent with encouraging the expansion of retail facilities for the residents of Lismore and surrounds. The provision of a modern shopping facility with adequate on site car parking on the site further strengthens the function of the Goonellabah Town Centre.

Having regard to the provisions of Lismore LEP 2000 and the abovementioned comments 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 commercial neighbourhood within which the development is carried out.

As such, consent to the development may be granted.

Commercial Zones

6. Zone No 3 (a) (Business Zone) (cl 58)

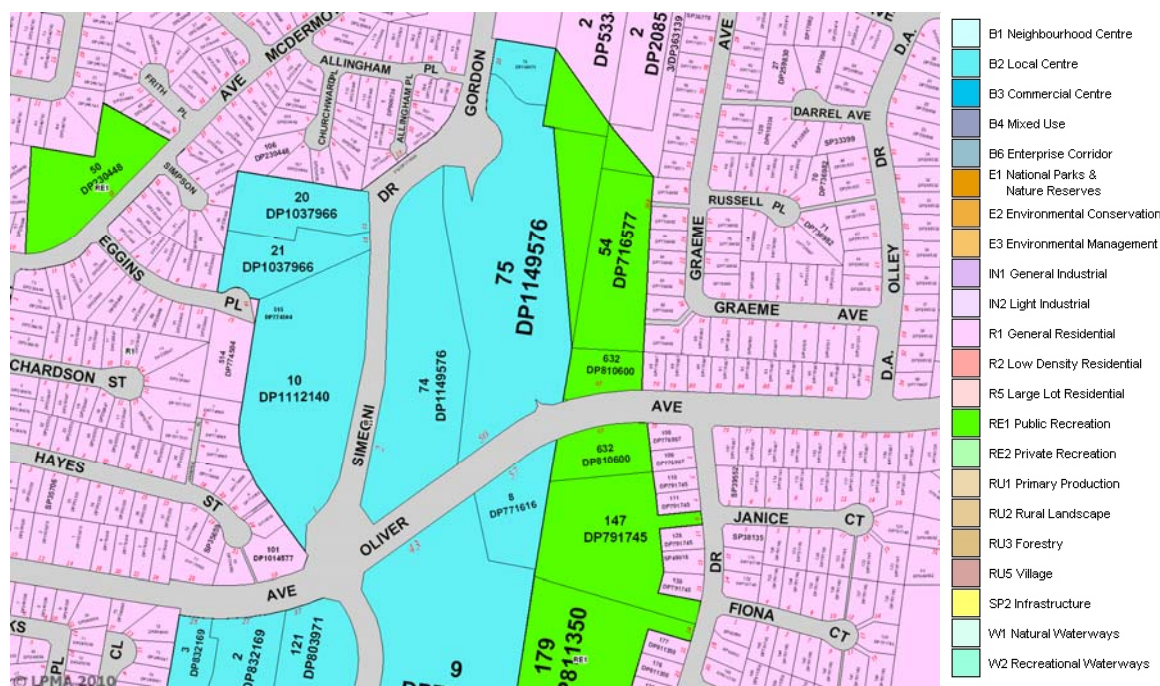
In accordance with the provisions of this clause the proposed development meets the objectives of the zone and is permissible with development consent.

7. Excavating and filling of land in business areas (cl 61)

This clause applies to land within the 3(a), 3(b) or 3(f) zone. Under the provisions of clause 61(2), any excavation of land to which this clause applies to a depth exceeding one (1) metre or any filling of the land shall not be carried out without development consent.

Draft LEP 2010

The application has been assessed against the relevant numeric controls in Draft LEP 2010 as indicated in the following compliance table. Additional more detailed comments with regard to the major issues are provided after the table.



Map 2 - Locality Plan shows subject site and the proposed town planning zones.

Compliance Table

STATUTORY CONTROL – Draft Lismore Local Environmental Plan 2010				
Site Area – 80,700m²	Existing Site	Proposed	Control	Complies
Residential				
Building Height (Cl. 4.3) (max)	N/A	15.6m (max)	11.4m	NO
Floor Space (Cl. 4.4) (max)	N/A	N/A	N/A	YES

The site is located within the B2 – Local Centre zone under the provisions of the Draft Lismore LEP 2010. The proposed commercial (shopping centre) building is defined under the Lismore 'draft' LEP 2010 as 'shops' which is a permissible use within the zone as is the proposed 'food and drink premises' and 'service station', subject to development consent from Council.

The proposed commercial (shopping centre) is a consistent and permissible type of development within the B2 – Local Centre zone under the Lismore Draft LEP 2010. It is noted that the building height does not comply with the proposed 11.4 metre (Cl. 4.3) provisions of the Draft Lismore LEP 2010.

- (1) The objectives of this clause are as follows:
- (a) to establish the maximum height for which a building can be designed,
 - (b) to provide for taller buildings in the city centre and to enable a transition in building height in response to varying urban character and function,
 - (c) to protect the amenity of neighbouring properties and public places with particular regard to visual bulk, scale, overshadowing, privacy and views.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The building has been designed to meet the constraints of the site and provide a level area large enough to accommodate the proposed supermarket, specialty shops, refreshment room, service station and associated carparking for the convenience and accessibility of patrons. The applicant has ensured varying levels of architectural detail to improve the visual amenity of the building to break up the visual bulk and scale of the external wall elements. There is no detrimental impact on neighbouring properties in relation to overshadowing, privacy and views.

The bulk and scale of the building is considered to be in proportion with the adjoining GSAC complex (approx. 10.68m max. height) and associated retaining wall.

Clause 4.6 of the DLEP relates to exceptions to development standards and provides flexibility in applying development standards to achieve better outcomes for and from development. This development standard for height could be varied with justification in accordance with this clause. It is also pointed out that whilst the draft LEP 2010 has been exhibited and submissions received at this time, Council has not yet re-considered the document.

Given the above justification the variation to the building height development standard in the DLEP is considered reasonable and is supported.



Perspective View from Oliver Avenue

SEPP No. 33 – Hazardous and Offensive Development

An extensive assessment prepared by Myros Design Pty Ltd in accordance with the provisions of this SEPP has demonstrated that the risk is negligible and that the development will satisfy the requirements of WorkCover Authority NSW and meet AS/NZS Standard 1596:2008.

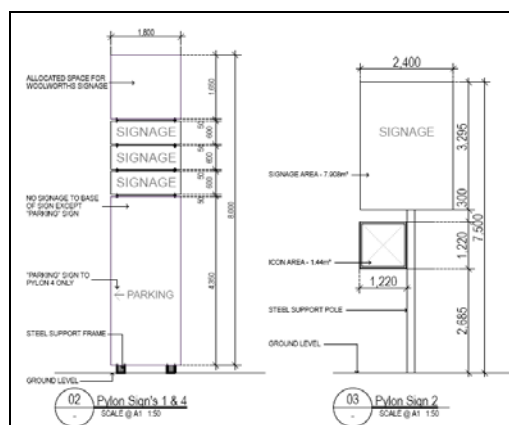
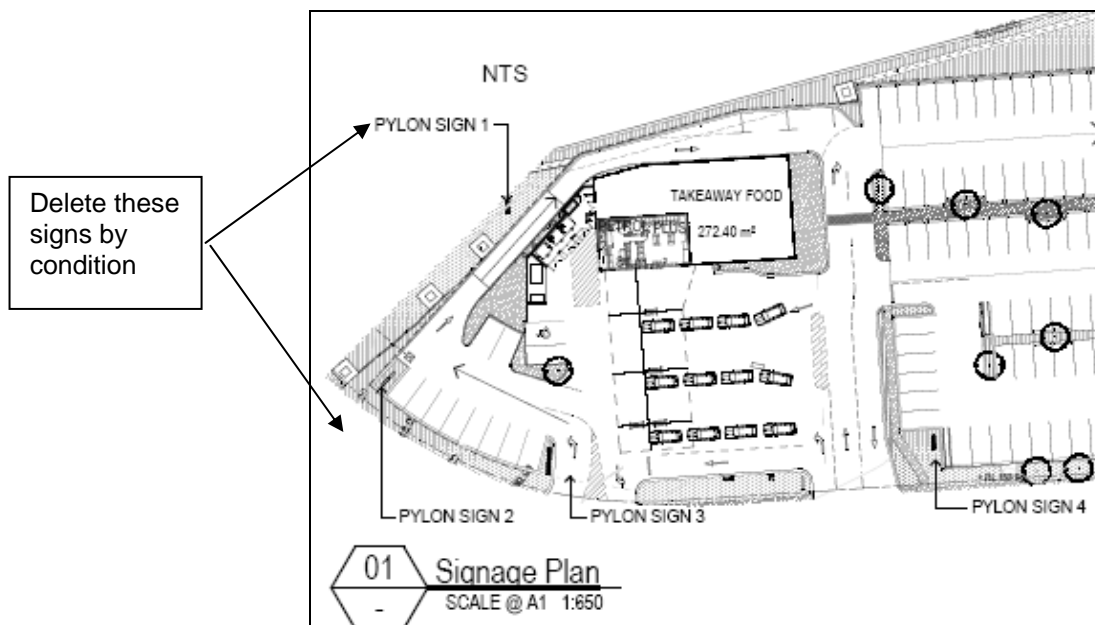
SEPP No. 55 – Remediation of Land

The applicant has undertaken a preliminary contaminated land assessment in accordance with Council's Policy undertaking a systematic grid sampling program to support the basic historical review. The analytical results identify that the soil environment has contaminant levels below recognised Health Based Investigation Levels (HBIL) and as such it is reasonably concluded that the site is suitable under the provisions of SEPP No.55 for the proposed mixed land use.

SEPP No. 64 - Advertising and Signage

Pursuant to Clause 13 of the SEPP, Schedule 1 provides the matters for consideration by Council when assessing advertising structures. The proposed signage has been assessed against these provisions and is considered to be satisfactory. It is considered the proposed signage is sympathetic in bulk and scale to the commercial context whilst being of a practical and reasonable type and size to promote and facilitate the proposed shopping centre development. The proposed signage is will not have any adverse impact upon the amenity of the surrounding locality.

However, it is considered that the proposed number of signs that exceed the relevant DCP controls (in terms of height and area – see DCP assessment) for signage is excessive, and that in order to ensure that the proposed signage is not visually dominant in appearance, that proposed signs 1 and 2 should be deleted from the proposed development at this time, and further approval sought at a later date if considered necessary.



SEPP (Infrastructure) 2007

Development of the subject type (i.e. shops with an area >2,000m²) is listed in Schedule 3 within the SEPP (Infrastructure) 2007. Development of this type must be referred to the Roads and Traffic Authority (RTA). The RTA has concurred with the comments made by the Local Traffic Advisory Committee. These comments have been converted into conditions of consent and are included as part of the proposed development consent conditions.

North Coast REP

The objectives of this plan in relation to the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) subject to the opportunity for public comment, and
- (b) assessed for their local impact and regional significance.

The subject proposal was put forward for public comment and has been assessed for its local impact and regional significance.

These matters have been addressed under the Draft LEP 2010 Compliance Table.

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. 2002 Compliance Table

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies	Comments
Part A: Chapter 7 - Off-street parking		
Shops: Shopping Complex (i.e. proposed supermarket and specialty shops). The DCP requires: 4.4 car spaces per 100m ² of gross floor area for supermarket, retail and service station components and 12/100m ² plus 1 per employee for the refreshment room.	Yes	The proposed development has a gross floor area of 4990.5m ² which requires 241 car parking spaces in total and the plans submitted detail a car parking plan with 265 car parking spaces. Car parking is calculated as follows: Supermarket 3400m ² @ 4.4/100m ² = 149.6 Retail 1244m ² @ 4.4/100m ² = 54.7 Service Station 74m ² @ 4.4/100m ² = 3.3 Refreshment Room 272.5m ² @ 12/100m ² + 1/employee = 34 Total requirement is 241 spaces
Satisfactory loading bays and manoeuvring area for articulated vehicles.	Yes	Council's development engineer has advised that the proposed loading bays and manoeuvring area for articulated vehicles is considered satisfactory.
Chapter 9 - Outdoor advertising structures		
<i>Pole Signs</i> Height - 7.5m Surface Area - 4m ²	No	Proposed Pole Signs 1 & 4 Height - 8m Surface Area 7.29m ² Some variation is considered reasonable and is supported given the scale of the development. Sign 1 to be deleted by condition.
<i>Pole Signs</i> Height - 7.5m Surface Area - 4m ²	No	Proposed Pole Sign 2 Height - 7.5m Surface Area 7.908m ² This proposed sign is not supported in context of other signage and other variations sought for signs 3 & 4 and is to be deleted by condition.
<i>Pole Signs</i> Height - 7.5m Surface Area - 4m ²	No	Proposed Entrance Pole Sign 3 Height - 8.4m Surface Area 24.1m ² Assessment in accordance with SEPP No. 64 criteria is considered reasonable and variation to standard supported. Coles signage is approximately 7 metres in height with a surface area in excess of 4m ²
<i>Wall Signs</i> - should generally not exceed 15m ² in area and be limited to one per wall	Yes	Woolworths Wall Sign 1 - 8.076m ² Takeaway Food Wall Sign 1 - 1.8177m ² Takeaway Food Wall Sign 2 - 2.8m ² Signs are exempt from requiring consent

<i>Fascia Sign</i> Advertising sign that is painted on or attached to the fascia or return of an awning, but does not exceed the height of the fascia or the return of the awning.	Yes	There are 14 fascia signs proposed as part of the development. Signs are permissible without Consent
<i>Internally 'illuminated' Sign</i> "Internal" illuminated signs should not exceed 8m ² in area per premises/shop.	No	Woolworths Entry Signage Box – 14.166m ² The variation is considered reasonable and is supported given the scale and nature of the development.
Chapter 11 – Buffer Areas		
Separation distance between the development to a river / watercourse of 30 metres	Yes	The development exceeds the prescribed setback to Tucki Tucki Creek
Chapter 13 - Crime prevention through Environmental Design		
13.3 Surveillance Siting and Design of Buildings Landscaping Lighting	Yes	Toilet design and location is considered appropriate with glass providing adequate passive surveillance of the corridor from the supermarket, the female toilets being accessed first and that the centre manager's office and cleaner's room are located at the end of the corridor. A condition on consent will require that all landscaping is designed to meet CPTED principles Lighting will be required as a condition on consent to ensure appropriate levels of lighting for the development
13.4 Access Control and Target Hardening	Yes	The development has been designed to decrease crime opportunity by denying access to crime targets and creating a perception of risk to offenders. Public and private space is clearly delineated. The choice of construction material, including window locks and dead bolts for doors as well as co-ordinated regular maintenance can achieve this requirement. Appropriate conditions will be imposed on consent to ensure compliance.
13.5 Territorial Reinforcement	Yes	The design of the development establishes and reinforces ownership.
13.6 Defensive Space	Yes	The applicant proposes to keep a well-maintained environment that demonstrates to the general public that the property is well cared for and regularly maintained. A condition will be imposed on consent to ensure compliance with this requirement.
Chapter 14 - Tree Preservation Order		
Tree Removal	Yes	None of the vegetation cover proposed to be removed require approval under this Chapter as they are either noxious species or exempt.
Chapter 15 - Waste Minimisation		
Waste management	Yes	Council's Environmental Health Officer has reviewed the development application in respect to waste management and raised no objections subject to conditions.

Chapter 21 – Public Art		
21.2 Provision of Public Art New commercial, retail and tourist development to which this Chapter applies must either provide public art as a component of that development or else enter into an arrangement with Council to contribute towards the funding of public art at a location other than the development site.	Yes	This Chapter applies to commercial and retail development in the Business zones and to tourist development in the Business and 2(a) Residential zones where the value of the development is greater than \$2 million. The applicant has offered a contribution of \$15,000 towards a public art project other than the development site. This will be a condition on any consent to be managed in accordance with Council's Public Art Policy.
Part B: Chapter 1 – Urban Land		
Strategic road network, constraints to development and services	Yes	The proposed development meets the objectives of this Chapter and there are no constraints or conflicts identified as an issue

Section 94 Contributions Plan

The proposed commercial development and residential subdivision require the payment of Section 94 contributions by appropriate conditions in accordance with the following table:

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Transport Plan				
Strategic Urban Roads				
Commercial Development	574	4,990.5	\$43 per m ² (GFA)	\$214,591
SES				
All areas	584	16.97	62	\$1,052
Total				\$215,643

Applicable Regulations

Section 79C of the Environmental Planning & Assessment Act, 1979 applies to the proposed development. In accordance with the Act, a Statement of Environmental Effects (SEE) addressing the provisions of Section 79C accompanied the application. The proposed development has been assessed by Council in accordance with the provisions of Section 79C of the Act.

Council Policies

5.2.30 – Social Impact Assessment

The proposed development required a social impact assessment under this policy. The development included an economic impact assessment and social planning consideration within the SEE. The social planning consideration assessment within the SEE was referred to Council's Social Planner. The Social Planner provided comments on the development and it is considered the proposed development is in accordance with the intent of this policy, and that issues raised can be addressed by conditions of consent or appropriate community programs in liaison with the developer/operator.

5.3.3 Provision of Public Transport Infrastructure

The proposed development was considered by the Sustainable Transport Reference Group and it was recommended that consideration be given to improve access to the site for cyclists and walkers. This issue has been addressed by Council's Development Engineer with the imposition of appropriate conditions on consent, including an increased width of footpath between GSAC and Woolworths to 2.0 metres and sign post as a "shared zone".

8.2.1 Public Art Policy

In accordance with Council's Public Art Policy the applicant has offered to provide a financial contribution of \$15,000 towards a mutually agreed public art project at a location other than the development site. This will be reflected within a condition on consent and will be implemented within the Public Art Procedures and overseen by the Public Art Reference Group (PARG).

Urban Design and Placemaking

Executive Director's Overview

This is one of the most significant town centre development sites in Lismore and it is the central site in the Goonellabah town centre. Therefore it is critical that this development captures quality urban design and placemaking outcomes. Of note 'urban design' focuses on managing the built form whereas 'placemaking' focuses on people and creating great places. Because of the site's importance, staff and I have spent a significant amount of time working with Woolworth's representatives to try and achieve these outcomes. This was helped through a recent Goonellabah Community Plan scoping day facilitated by Village Well attended by a Woolworth's representative.

The following are the key considerations including changes staff are recommending to Council:

1. The four biggest urban design challenges in achieving quality outcomes on this site are; ensuring pedestrian connections in the face of the town centre's steep grade, the absence of an overall town centre master plan, creating a sense of entry/exit into the centre and the fact that Simeoni Drive will have to some extent a dual function i.e. it will be a busy link road to Ballina Road whilst providing pedestrian access between major parts of the centre.
2. Goonellabah has high levels of Aboriginal unemployment and separate to the regulatory process Council will partner with Woolworths to maximise employment opportunities in the proposed development. This will become acute in future years with 42% of Goonellabah's Aboriginal population aged between 0 – 14 years.
3. A convenient pedestrian connection from the Coles centre through the proposed development site to Goonellabah Sport and Recreation Centre/Youth Plaza is a critical objective with this DA consent. This has been achieved through a condition of consent and with the applicant's agreement via a realigned crossing on Simeoni Drive and then a set of stairs at the rear of the subject site through to the rear of the Goonellabah Sport and Recreation Centre /Youth Plaza. It is important that this connection is under cover (as far as is possible) and that safety measures (termed CPTED) are in place especially at the rear of the Goonellabah Sport and Recreation Centre. This will also provide a more direct link through to the Tucki Tucki Creek walkway on Oliver Avenue.
4. Through discussions with Woolworths, changes have been made to avoid as much as possible 'blank walls' particularly on the eastern elevation of the building facing the Youth Plaza. This has been achieved through varying materials, use of murals, introducing windows to ensure active surveillance and building a movie screen into the wall overlooking the Youth Plaza. These aspects will be built into the consent.

5. That the new development given its central location provides a focal point or heart for the town centre by providing a meeting/gathering place. The applicant is redesigning the space around where the pedestrian access to the site to create a meeting/gathering place similar to the Coles site i.e. the seating area next to the existing café. Possibly children's play equipment could be used to create an activity. This gathering/meeting place can be conditioned in the consent. It would be preferable for the applicant to relocate the proposed café area to the tenancy nearest this space. This cannot be required as I am advised in the consent, but can be strongly encouraged.
6. Finally, this is an opportunity to provide 'gateway' entrances to the centre both at the Gordon Blair Drive roundabout and possibly on the applicants land on the corner of Oliver Avenue/Simeoni Drive. The money allocated with this development for public art could be considered to part fund this.

Detailed Comments

Good urban design outcomes are best achieved by the development of guiding principles and planning concepts implemented through master plans or development controls. Ideally, had there been a master plan or development control plan developed many years ago applying to this commercial precinct to guide site integration within the precinct, opportunities for legibility, connectivity and the ability to effectively implement contemporary place making principles would have been greatly improved.

Unfortunately over time, individual sites in this precinct have been developed in relative isolation with limited opportunities remaining to provide connections to the other buildings and facilities within the precinct through a well designed series of pathways and inviting outdoor spaces. The proposal represents a functional design in response to the operation of a shopping centre, and provides for the creation of a contemporary development that will add feature and appeal to the streetscape of Simeoni Drive.

The contemporary design of the proposed development has provided concept detail addressing many of the urban design issues raised by Council staff in the pre-lodgement and assessment process. However, following detailed assessment further work is required in relation to the plans provided to incorporate more detail to ensure:

- *shaded accessible pedestrian linkages to all adjoining and adjacent developments within the precinct, which follow desired lines of travel (i.e. shortest possible route)*
- *measures to slow traffic and provide safe road crossing points for pedestrians*
- *attractive open space areas as nodes and linking elements within the suburban centre precinct (including shaded lunch space for the many workers in the precinct)*
- *provide strategically positioned signage and visual cues to help with way-finding*
- *active building frontages in key locations which help to activate the footpath, create activity nodes and linkages within the precinct and encourage community surveillance and safety.*

These matters are addressed within recommended conditions to be imposed on any consent for this development.



View from Simeoni Drive Footpath

Retail development must be designed with functional purpose in mind and this is the case with the proposed shopping centre. The proposal incorporates a level of landscaping and façade variation that will ensure the proposed structure is neither monotonous nor imposing in its articulation to the primary street frontages.

Access to the site for customer vehicles to a central carpark is from Simeoni Drive with a separate staff carpark and loading facilities on the south side of the building with access from Oliver Avenue. The specialty shops are arranged to flank the carpark on two sides with a covered walkway that joins all the shops together and providing a continuous covered link between the entrances of all the shops to the entrance of the supermarket forecourt.

The enclosed forecourt at the fulcrum of the shops and supermarket will provide a focal point for the centre with a distinctive raised roof structure and ample natural day light and a café/kiosk as a local meeting point for shoppers. Staff have asked the applicant to create a gathering or meeting place on the site near the pedestrian entrance to the site next to the Simeoni Drive crossing. In order to support this place the café/kiosk would be better relocated to the tenancy adjoining this gathering/meeting place.

The location and orientation of the building on the site has been determined with consideration to the site constraints. The carpark needs to be level with the trading floor of the supermarket and the proposed arrangement allows the building to be elevated to meet the carpark level. This creates an undercroft area under part of the building where the ground levels slope away too much to allow for fill. The architects sought to avoid the appearance of a building raised “on stilts” so created a datum line of gabion rock walls to create a base line for the building and ensure the elevations are not dominating or bland in appearance.

The eastern façade of the building is expansive which is as a result of the function of the building. Considerable design consideration and agreement has resulted in an articulated façade and roofline to reduce the bulk of the eastern elevation appearance and create visual interest, and is reflected in the following perspective.



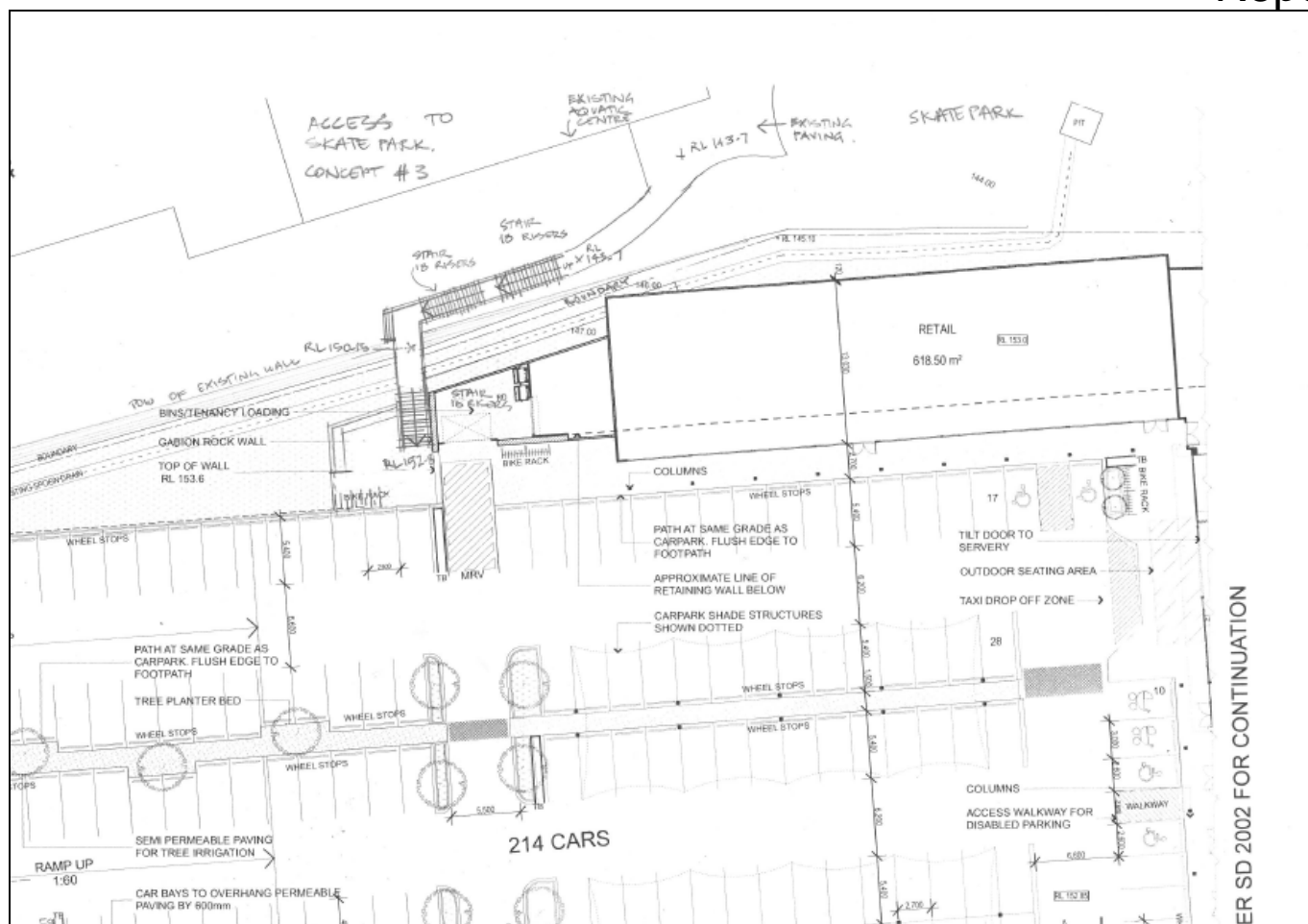
Conditions will be imposed to ensure the provision of windows, ability to project visual art/movies onto this façade, artworks and design elements as part of the construction plans.

The remaining urban design issue requiring resolution is connectivity between the proposed development and the GSAC building and skate park to the east. Various options have been considered, and the proposal provided for improved pedestrian linkages around the perimeter of the site. Direct connectivity between these two sites was discounted by the developer in their proposal, due to topographical constraints (changes in level), retail viability, cost, maintenance and liability issues. A pedestrian ramp would need to be 150m-200m in length in order to comply with accessibility standards and is not considered practical in the circumstances.

A possible solution to this issue was the provision of a staircase from the proposed retail level to the adjoining GSAC ground level, immediately adjacent to the skate park. The proposed stair design would need to be contemporary to match the eastern façade, and would need to demonstrate compliance with Building Code requirements, as well as owner consent and easement issues to address ongoing maintenance and liability issues. Crime prevention issues also arise from such a proposal. These issues are not impossible to overcome by conditions, however, there may be some uncertainty in design outcomes if all of the above matters are not properly considered.

While the provision of a staircase in this location and manner would provide pedestrian access, it should be recognised that such a requirement would not fully comply with accessibility standards, and persons with mobility restrictions may need to use alternative footpath routes around the site, which may also not be fully compliant with accessibility standards in terms of footpath grades.

As an alternative to a stair attached to the eastern elevation façade, the applicant has proposed an alternative location for the provision of stairs between the development and the GSAC site. The location and layout of the stairs is indicated in the following diagram



The applicant's connective stair proposal eliminates many of the issues associated with provision of a stair case attached to the eastern elevation. The only remaining issues are whether this is the preferred location, and how crime prevention issues may be overcome. The provision of appropriate lighting, security cameras and signage may be an acceptable compromise.

A condition is recommended to be imposed requiring design details for such a direct connection stair in the location on the preceding plan.

Materials and Energy Efficiency

The wall cladding for the supermarket and shops has three main materials to articulate the façade and provide a sense of scale to the walls. Insulated tilt panels are to be used on the east and south elevations for their thermal performance and will have a modulated pattern to create texture and scale down a large wall area.

The western façade of the supermarket is to be constructed from Insulated Cladding Panels (ICP) that are lightweight and can be removed and reused on site if required in the future. These panels have an architectural metal clad finish that will be placed in alternating colours to form a pattern and visually reduce the scale of the wall. This wall and the southern facade will also have vertical landscaping elements that are a modular system for growing "Living Walls" with a fully self contained growing medium and irrigation system to support a variety of landscaping species.

To the rear of the specialty shops, facing GSAC, insulated lightweight architectural cladding panels will be used to provide a clean modern effect that reinforces the modern materials used on the entry canopy. The gabion rock walls that are used for the base of the building facing the Skate Park have also been employed in certain areas at the front of the building to tie this feature element together around the site.

The proposed development has proposed to be built using the latest, sustainable design, including advanced energy saving lighting, refrigeration and air-conditioning that will help meet Woolworths target of a 40% reduction in carbon emissions by 2015.



Example of vertical landscape element and view south from the car park to the main supermarket and kiosk entrance

Amenity

Accessibility

The proposed development will be conditioned to provide equitable accessibility in accordance with the provisions of the Disability Discrimination Act and relevant Australian Standards. It is considered that the proposed site works to provide a level car park area will assist in ensuring compliance with these standards.

Overshadowing

The proposed Woolworths development will overshadow the existing GSAC / Skatepark site, however, this is considered a positive outcome in some respects during the summer months to reduce the impact from the harsh or late afternoon sun on users of the skatepark and adjacent GSAC premises.

Roads Act Approvals

Proposed or required works within the road reserve will require prior approval from Council under the provisions of s.138 of the Roads Act 1993, and any consent will be conditioned accordingly.

Local Government Act Approvals

Proposed stormwater drainage works will require prior approval from Council under the provisions of s.68 of the Local Government Act 1993, and any consent will be conditioned accordingly.

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.	Climate Change and ESD Principles	YES
10.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	YES

Sustainability Assessment

Sustainable Economic Growth and Development

The proposed shopping centre development will boost the local economy by creating local employment opportunities, particularly for younger workers. The proposed centre would be expected to generate the equivalent of approximately 100 employment opportunities for full-time, part-time and casual workers. Additionally, the availability of a greater variety of consumer goods in Goonellabah will encourage shopping locally by the residents of the area.

Social Inclusion and Participation

The proposal involves the provision of a larger and more modern supermarket, additional refreshment room, introduction of a local service station and accompanying convenience specialty shops that will provide for a much greater proportion of Goonellabah's core food shopping and convenience needs. The provision of a larger and more modern supermarket and shops with easily accessible, level parking will enhance customer convenience. Appropriate conditions of consent will be imposed to ensure community engagement is incorporated into a plan of management for the ongoing operation of the development.

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 and suitable landscaping will ensure the protection of the environment and biodiversity at the proposed shopping centre.

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 to obtain Council's decision on the approval or refusal of the proposed commercial (shopping centre) development.

Comments

Finance

Not applicable.

Public consultation

The public exhibition of the development has been considered and addressed within this report.

Conclusion

All legislative requirements relating to the proposed commercial (shopping centre) development have been dealt with in the body of this report. Apart from a minor variation to the height requirements in Lismore Draft LEP 2010 the proposal meets prescribed development standards and all other legislation requirements.

There were no submissions made on the proposal. The main areas of concern on this development related to connectivity with adjoining sites, noise, crime prevention and traffic safety and these issues can be addressed by the imposition of appropriate conditions on any development consent. The conditions aim to ensure mitigation of any detrimental impacts resulting from the shopping centre, refreshment room and service station. It is acknowledged that the proposed shopping centre will result in some impacts to local residents, however, it is concluded in planning terms that these impacts are not unreasonable and approval of the application is recommended.

Attachment/s

1. Plans 25/5/10 for pre-lodgement meeting (Over 7 pages)
2. Minutes for Pre-lodgement Meeting - Woolworths (Over 7 pages)
3. Associated plans and maps (Over 7 pages)

Recommendation

That Council as the consent authority, grant deferred commencement development consent to Development Application No. 2010/267 proposing a commercial (shopping centre) development at 2 Simeoni Drive, Goonellabah, subject to the following conditions:

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 satisfaction.

- A1 A complete set of amended plans incorporating the following amendments and detail shall be submitted to Council for written approval:
- (a) The provision of access stairs between the adjoining site to the east (Goonellabah Sports and Aquatic Centre) in a manner consistent (or equivalent) with the detail provided in the sketch drawing provided to Council on 1 December 2010, including any proposed measures for crime prevention and any amendments necessitated by (but not limited to) the following:
 - (i) The provision of appropriate directional and security signage and security cameras;
 - (ii) The provision of security lighting;
 - (iii) Maximising sight lines and limiting concealed areas or opportunities for entrapment;
 - (iv) The provision of windows in adjoining building elements to maximize opportunities for casual surveillance;
 - (v) Continuous provision of shelter on the proposed connecting walkway through to the permanent awning on the proposed shopping centre.
 - (vi) The connecting walkway shall have a 2 meter minimum width.

Note: Council will provide owner's consent for any Construction Certificate relating to works on the adjoining Goonellabah Sports and Aquatic Centre site.
 - (b) The provision of an activity node adjacent to the pedestrian entry from Simeoni Drive. Consideration must be given to the installation of children's play equipment/seating in this area, which may require the deletion of car parking spaces to be achieved. Attention shall also be given to crime prevention principles and provision of useable space. It is noted that it is highly desirable to locate a café in the nearest adjoining tenancy to this meeting/seating place, and this should be encouraged through the design addressing the above criteria. This matter is further reiterated in condition A2 (landscaping plans) below.
 - (c) The amendments to the eastern elevation façade, consistent with the detail provided in the sketch drawing provided to Council dated 3 December 2010 including window space and murals. The eastern elevation is to include windows adjoining the pedestrian walkway to provide active surveillance. The plan will need to be amended to include provision for a movie screen for the Youth Plaza to the satisfaction of the Council.
 - (d) Deletion of proposed pylon signs 1 and 2 from drawing SD 6001: Signage Plan, which are not approved under this consent.

- (e) Details of proposed crime prevention strategies in relation to the staff car park shall be submitted to address how restriction of access to the car park to staff and delivery personnel only and safety of staff and delivery personnel will be achieved.
- (f) Provision of CCTV for the entire development site
- (g) A shopping trolley management plan (STMP) must be prepared for implementation within the development. The STMP must include best practice and consider implementation of a coin/token deposit lock system, perimeter wheel lock systems etc. It is recommended that the management of shopping trolleys is discussed with existing retailers in the precinct with the objective of a coordinated approach into trolley management.

All relevant plans and documents are to be amended to reflect the above details, and written concurrence obtained from Lismore City Council, prior to the activation of this consent.

Reason: *To facilitate urban design principles and ensure a clear and complete set of plans with appropriate detail are provided to reflect amendments assessed and considered in the determination of this development application and comply with Crime Prevention through Environmental Design Principles (EPA Act Sec 79C(b))*

- A2 A detailed landscaping plan (in duplicate) shall be submitted and approved by Lismore City Council. Landscaping plans shall be in accordance with Council's Landscape Guideline and relevant Development Control Plans. Species identified in Council's Landscape Guideline shall be planted wherever possible. Landscaping plans shall include:
- a) At the main Simeoni Drive pedestrian entrance to the development, provision of a shaded attractive outdoor meeting space/ social node with provision of either simple sculptural elements suitable for young children to play on (e.g. sculpted boulders and sand pit) or play equipment and a nearby seating area. This meeting place ideally should be developed in conjunction with a compatible adjoining use (e.g. café/ outdoor dining) which helps activates the Simeoni Drive street frontage of the development and promotes social interaction and casual surveillance. This may well necessitate the use of space currently designated for some car parking. It should not be developed in the area currently designated for trolleys given its location next to a blank wall.
 - b) Development of the adjoining residue parcel of land within the public road reserve at the junction of Oliver Avenue and Simeoni Drive, as a central plaza/ park incorporating public art, shaded seating and pathway links between the Council community facilities (on the southern side of Oliver Avenue) and the Coles/ Target and Woolworths shopping centres (on the northern side of Oliver Avenue). The intent is that this area is developed as a linking node and pedestrian gateway within the 'Goonellabah suburban centre precinct'. This area should also be included as a potential public art site to provide a gateway entrance to the centre.
 - c) Incorporation of irrigated garden beds and/or planter boxes into the full extent of the west facing shop frontage (beneath the eave overhang) to provide shade from afternoon summer sun to the footpath area, improve microclimate and visual amenity. Planting to include shade trees, groundcovers and flowering vines to upright posts.
 - d) Provision of shaded accessible pedestrian linkages to adjoining/ adjacent developments within the 'Goonellabah suburban centre precinct', which follow desired lines of travel (ie shortest possible route).
 - e) Provision of attractive open space areas as nodes and linking elements within the 'Goonellabah suburban centre precinct' including provision of shaded lunch space for the many workers in the precinct.
 - f) Provision of a suite of signage within the development and visual cues in hard and soft landscaping elements to assist pedestrian way-finding.

- g) Provision of attractive, visually permeable (see-through) metal fencing to the top of retaining structures greater than 1.0 metre in height.
- h) A 'Surface Finishes Plan' that indicates:
 - treatment of hard landscape areas (eg materials palette showing areas of concrete, asphalt, paving, exposed aggregate, garden edging, pram ramps etcetera)
 - location of garden beds and grassed areas
 - details of retaining walls, fencing and other structures showing finished levels at critical points (ie top and bottom of retaining walls)
 - location of overhead powerlines and underground services including Council's sewer
 - location of street furniture (seating, bins, bike racks, pedestrian lighting, balustrade, planter boxes)
- i) A detailed 'Planting Plan' that indicates:
 - proposed location and mature size of proposed trees, shrubs and groundcovers
 - A 'Plant Schedule' including botanical name, common name, pot/container size, planting density and quantity, of all species
 - Existing trees to be removed/ retained including those on land adjacent to the development
 - Schedule of garden bed preparation, including depths of imported soil, mulch and details of irrigation
 - Planting details/ section drawings
- j) Planting throughout the site in accordance with CPTED principles, such that clear sightlines are maintained beneath the canopy of trees and over the top of understorey planting. Low shrubs and groundcovers < 1 metre in height and clear trunked tree species, are to be used.
- k) Provision of mature tree stock (minimum container size 100 litre) in the following locations:
 - along the full extent of the eastern boundary interfacing with the youth plaza
 - shade trees within carpark areas
 - the full extent of the Oliver Avenue and Simeoni Drive frontages
- l) Detailed drawings (including sections) of the eastern side boundary of the site showing how landscaping will be used to mitigate the visual impacts of the development on the adjoining youth plaza and provide integration and safe access between the two developments. The section drawings are to show the relative locations of the buildings, site boundary, gabion retaining wall, access stairs, fencing, swale drain, garden beds, tree planting and proposed pedestrian lighting to stairs.
- m) Species proposed to grow on the 'green wall' on the southern side of the building, keeping in mind that this area is likely to be in full shade all day long.
- n) Possible location of a 'gateway' piece of public art (from the public art contribution) on the land on the corner of Oliver Avenue/Simeoni drive depending upon the considerations of the PARG.

All landscaping plans are to be amended to reflect the above details, and written concurrence obtained from Lismore City Council, prior to the activation of this consent.

Reason: *To ensure that appropriate landscaping is provided in accordance with urban design principles. (EPA Act Sec 79C(c))*

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.

STANDARD

1 In granting this development consent, Council requires:

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

and be in accordance with the stamped approved plan(s):

Plan reference	Issue	Date
SD 0402: Aerial View		
SD 0403: View to Main Entry		
SD 0404: View from Simeoni Drive Footpath		
SD 1003: Site Plan		
SD 2002: Ground Floor Plan		
SD 2003: Roof Plan		
SD 2004: Undercroft Plan		
SD 3001: Western Elevation		
SD 3002: Southern Elevation		
SD 3003: Eastern Elevation		
SD 3004: Takeaway Food/Petrol Station Elevations		
SD 6001: Signage Plan		
10045-SK7: Service Station Signage		
LA01: Landscape Concept		
LA02: Landscape Concept		
LA03: Landscape Concept		
LA04: Landscape Concept		

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

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

2 A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: *To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)*

PLANNING

3 A Centre Management Plan (CMP) in accordance with the requirements of this consent must be submitted to and be approved in writing by Council **prior to the issue of any Occupation Certificate.**

The CMP must be prepared by a suitably qualified professional and properly address individually all of the following matters:

- a) Proposed methods of managing litter on site on a daily basis;
- b) Management of defensive space to be well maintained, access control and target hardening;

- c) The provision of public waste receptacles that separate recyclable materials, including receptacles that enable the disposal of waste from within a vehicle;
- d) What commitment Woolworths will make to implement an indigenous program with respect to this location
- e) Opportunities for people with disability – what specific local partnerships will be developed to provide employment opportunities for people with disability?

The CMP 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 CMP.

The approved plan shall be developed, reviewed and updated in consultation with Council's Community Services staff every 5 years to reflect contemporary practice and the matters identified above.

Reason: *To ensure the ongoing operation of the development accords with best planning practice for social inclusion and environmental responsibilities.*

HOURS OF OPERATION

- 4 The approved operating hours for all business operation on the site for trading and for display lighting (other than for lighting required for reasonable security) are:

6:00 am to 10:00 pm daily.

Reason: *To ensure an appropriate level of amenity is maintained to surrounding residential areas. (EPA Act Sec 79C(b))*

- 5 The hours for loading and unloading of goods within the development including the Woolworths Supermarket and heavy vehicle goods deliveries elsewhere on the premises to any other occupiers (and including the use of trolley/pallet jacks) and to the Fuel Service Station and food/drink premises are limited to 7:00am to 10:00pm daily. All goods deliveries must be completed and delivery vehicles vacated from the premises within these hours.

Reason: *To ensure an appropriate level of amenity is maintained to surrounding residential areas. (EPA Act Sec 79C(b))*

- 6 The hours for waste collection services to any occupiers on the premises are limited to 8:00am to 6:00pm daily.

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

PUBLIC ART

- 7 **Prior to the issue of any Construction Certificate** the person acting on this consent shall enter a written agreement with Lismore City Council in accordance with Council's Public Art Policy and Procedures towards a mutually agreed public art project to a value of at least \$15,000 as proposed in the application, that is to be provided in a location that is readily accessible to members of the public, of a permanent and durable nature.

The agreement shall include timing of proposed payment and procedures for determining the preferred art project.

Reason: *To ensure compliance with the provisions of Council's Policy No 8.2.1 Public Art (S79C)*

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

- 8 Lighting is to be provided which satisfies the requirements of *Australian Standard AS 1158.3.1 - Road Lighting - Pedestrian Area Lighting – Lighting Categories for Outdoor Car parks* Lighting Subcategory P11b. Vandal resistant light fittings and fixtures are to be used. Details demonstrating compliance with this requirement are to be provided for **approval with the Construction Certificate**.

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

- 9 Anti graffiti paint is to be used on all exterior surfaces of the buildings in the development that is not taken up by glass. Details demonstrating compliance with this requirement are to be provided for **approval with the Construction Certificate**.

Reason: To comply with the requirements of Crime Prevention through Environmental Design Principles (S79C)

- 10 Extension of the glass window past the entry to ladies toilets on the wall separating the Woolworths supermarket and the corridor servicing the WC facilities. Details demonstrating compliance with this requirement are to be provided for **approval with the Construction Certificate**.

Reason: To comply with the requirements of Crime Prevention through Environmental Design Principles (S79C)

LANDSCAPING

- 11 Approved landscaping shall be completed prior to the **release of any final Occupation Certificate** and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

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

FOOD PREMISES

- 12 Details of the food premises fit out and operations shall be submitted to and approved by Council **prior to the issue of a Construction Certificate**. The premises fit out and operations shall comply with *AS 4674 – 2004 Design, construction and fit-out of food premises*, the *Food Act 2003*, the *Australia and New Zealand Food Standards Code* and associated legislation.

Reason: To comply with the relevant legislative requirements and to ensure public health and safety.

- 13 **Prior to commencement of operation**, the food business must be Licensed with the NSW Food Authority (If Licensing is required) and registered with Lismore City Council and at the completion of works an inspection by Council's Compliance Officer (Public Health) is required.

Reason: To comply with NSW statutory requirements.

BUILDING

- 14 The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing or by photographic record, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council **prior to the issuing of any Construction Certificate**.

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)*

- 15 Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, shall be submitted to the Certifying Authority for approval **with the Construction Certificate**. A copy of this documentation must be provided to the Council for record purposes.

Reason: *To ensure the protection of existing public infrastructure and adjoining properties*

- 16 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.*

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

- (a) That unauthorised access to the site is not permitted, and
- (b) Showing the name of the builder or person responsible for the site and a telephone number at which such person can be contacted outside working hours.

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

- 18 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.*

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

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

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

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

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

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

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

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

- 23 Disabled toilet facilities must be unisex.
Reason: Required by Policy 05.02.10 of the Lismore City Council.
- 24 Access for people with disabilities in accordance with AS1428.1 is to be provided to the main entrance of the building.
Reason: Required by Clause D3.2 of the Building Code of Australia.
- 25 Approved baby change facilities must be provided within toilet facilities for people with disabilities and the facility must be provided with appropriate signage.
Reason: Required by Policy 05.02.10 of the Lismore City Council.
- 26 Structural Engineering details for the structural steelwork and reinforced concrete components must be submitted and approved by the Principal Certifying Authority prior to the work commencing.
Reason: To ensure the adequate structural design of the building components.
- 27 Where an external hydrant serves a building the maximum length of hose shall be 60 metres, providing a maximum 10 metres horizontal jet of water.
Reason: Required by Clause E1.3(b) of the Building Code of Australia.
- 28 Provide portable fire extinguisher/s, suitable to address the relevant risk, in accordance with AS2444.
Reason: Required by Clause E1.6 Building Code of Australia.
- 29 Doors forming exits, paths of travel to exits and parts of exits must comply with the relevant provisions of Clause D2.19, D2.20 and D2.21, Building Code of Australia in respect of the type of door, direction of swing and method of latching.
Reason: Required by Section D of the Building Code of Australia.
- 30 An illuminated exit sign must be provided to all exit doors that form a path of travel.
Reason: Required by Clause E4.5 of the Building Code of Australia.

ENVIRONMENTAL HEALTH

- 31 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))

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

Prior to work commencing on the site a copy of the CNMP must be submitted to the Consent Authority (LCC) for record purposes.

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

- 33 The proposed development shall not result in the emission of offensive noise.

Offensive noise means:

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

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

- 34 The noise generated by the post construction/operational phase of the development when assessed in accordance with the *NSW Industrial Noise Policy* must not exceed the assigned project specific noise levels (PSNL) as determined from the acoustic report. The assigned PSNL are:

Daytime 7am to 6pm	43dB(A)
Evening 6pm to 10:00pm	40dB(A)
Night 10:00pm to 7:00am	36dB(A)
Evening/Night Shoulder period 10:00pm to 11:00pm	38dB(A)
Night/Morning Shoulder Period 6:00am to 7:00pm	40dB(A)

No audible security or equipment alarm devices, forklifts or an audible alarm on the tyre air hose system are to be used on the premises. The noise generated from the development (and including all activities, machinery, plant, and equipment) must not exceed the PSNL at all assessment time periods at any receiver.

Within six (6) months of the issue of an Interim or Final Occupation Certificate, a document prepared by a suitably qualified noise assessment professional, must be provided to the Consent Authority (LCC) certifying compliance with this condition.

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

- 35 **Prior to the issue of a Construction Certificate** a detailed assessment of noise emissions from plant and equipment must be carried out by a qualified acoustic consultant. The assessment must include certification which demonstrates that the development with the operational plant and equipment will comply with the assigned PSNL for the development.

Plant and equipment must be acoustically treated where necessary and have soft start capability to prevent noise emissions from adversely impacting on receivers.

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

- 36 A noise management plan (NMP) must be prepared and be implemented to put in place appropriate management practices to ensure that the requirements of this consent and the PSNL are complied with at all times. The NMP must be written in plain English and be regularly reviewed and reflect contemporary best practice. A nominated responsible person including 24 hour contact details must be included for the implementation of the plan. The requirements of the NMP must be properly communicated to all appropriate stakeholders.

Prior to the occupation of the development a copy of the NMP must be provided to the Consent Authority (LCC) for record purposes. Any copy of any subsequent reviews of the NMP must be also be immediately provided to the Consent Authority for record purposes.

Reason: To ensure compliance with the requirements of this Consent and to minimise the impact of noise arising from the development on the neighbourhood.

- 37 Waste collection is limited to one collection event of no more than one hour duration in any 24 hour period. It is recommended that waste collection activities for the fuel service station, the takeaway food outlet and all other wastes that are stored and collected from the northern half of the site must be coordinated between occupiers to ensure compliance with this condition. This matter must be included in the Noise Management Plan.

Reason: To provide with the requirements for a noise adjustment for duration as detailed in the NSW Industrial Noise Policy.

- 38 All cardboard bailing activities must take place between the approved operating hours and must be carried out inside the loading dock and with all doors closed.

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

- 39 Any new underground petroleum storage systems (UPPS) must:
- Be appropriately designed, installed and commissioned by duly qualified persons in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation, 2008*
 - Have minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overfill protection devices
 - Have groundwater monitoring wells installed and tested in accordance with the Regulation, and
 - Have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.
 - A new UPSS can only be commissioned once all these requirements have been met.

Prior to the issue of a Interim or Final Occupation Certificate for the service station details demonstrating compliance with this condition must be submitted to the Certifying Authority. A copy of the approved documentation must be provided to the Consent Authority (LCC) for record purposes.

Reason: *To protect public health and the environment and to comply with the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation, 2008.*

- 40 The installation of all infrastructure on the service station site and the operation of the facility must comply with the requirements of the Environmental Management Plan (EMP) contained within the Statement of Environmental Effects and all requirements of the NSW WorkCover Authority. The EMP must be regularly reviewed to ensure that it remains consistent with contemporary standards.

Prior to the issue of a Interim or Final Occupation Certificate for the service station details demonstrating compliance with the installation requirements of this condition must be submitted to and be approved by the Certifying Authority. A copy of the approved documentation must be provided to the Consent Authority (LCC) for record purposes.

Reason: *To protect the environment and the community and to certify compliance with the relevant standards referenced in the EMP.*

- 41 The fuel dispensing containment area and canopy must be sized to encompass all fuel dispensing operations. The containment area must be properly bunded or otherwise drained to ensure that any spilled materials do not leave the containment area and to prevent the entry of any external surface waters. The canopy must overhang the bund with a minimum 10° from vertical overhang to prevent rain entering the bunded area.

Prior to the issue of a Construction Certificate details demonstrating compliance with this condition be submitted to and be approved by the Certifying Authority. A copy of the approved documentation must be provided to the Consent Authority (LCC) for record purposes.

Reason: *To ensure the proper sizing and integrity of the containment area.*

- 42 **Prior to work commencing on the site** erosion and sediment control measures must be put into place and be properly maintained to prevent soil erosion and the transport of sediment from the development site or into natural or constructed drainage lines or watercourses.

The measures must:

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

All control measures must be properly designed in accordance with the *Managing Urban Stormwater-Soils and Construction - 4th Edition* (blue book) and be regularly inspected and be managed and maintained to ensure the measures operate to the design requirements and to meet all relevant environment protection standards. Weather patterns must be monitored and be coordinated in with the inspection and management and maintenance procedures. Control measures are to remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent soil erosion or the transport of sediment from the development site.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites.*

- 43 **Prior to the issue of the Construction Certificate** a Soil Erosion and Sedimentation Control Plan (SECP) demonstrating compliance with the requirements of the preceding condition shall be submitted to the Certifying Authority for approval. **Within 7 days of approval** a copy of the submission and approval documentation must be provided to the Consent Authority (LCC) for record purposes.

The SECP must detail what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site. The SECP must be in accordance with the *Managing Urban Stormwater-Soils and Construction - 4th Edition* (blue book). It must have a summary sheet and be 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 SECP.

The SECP must be implemented and remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent soil erosion or the transport of sediment from the development site.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites.*

- 44 **Prior to the issue of a Construction Certificate** a dust management plan (DMP) must be prepared and be submitted to the Certifying Authority for approval. The DMP may be incorporated into the Soil Erosion and Sedimentation Control Plan (SECP).

The management of all construction phase activities must ensure that no dust leaves the site or any haulage vehicles associated with the development. The following dust control practices may be employed to assist in complying with this requirement:

- properly cover haulage loads and including delivery of imported fill materials from source and to the site
- The erection of dust screens around the perimeter of the site
- Securely covering all loads entering or exiting the site
- Use of water sprays across the site to suppress dust
- Covering of all stockpiles of soil remaining more than 24 hours; and
- Keeping excavation surfaces moist.

The DMP must reference appropriate standards, and be a practical document written in plain English and 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 full 24 hour per day contact details for the purposes of the DMP.

The DMP must be implemented and remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent the creation of dust on the development site.

Within 7 days of approval a copy of the approved DMP must be provided to the Consent Authority (LCC) for record purposes.

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

- 45 All waste materials generated from construction works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008'. All contractors must be properly supervised and auditing procedures put into place to ensure compliance with this condition.

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

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

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

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

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

- 48 **Prior to the issue of a Construction Certificate**, a waste management plan in accordance with the provisions of Chapter 15 - Waste Minimisation of the Lismore Development Control Plan, must be prepared and be submitted and be approved by the Certifying Authority.

A copy of the approved documentation must be submitted to the Consent Authority (LCC) for record purposes.

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

- 49 All car park and external lighting must be designed and installed to ensure no adverse impact on neighbouring premises and motorists. Appropriate light selection and shielding and/or other measures must be implemented, and the installation must comply with AS4282 *Control of the Obtrusive Effects of Outdoor Lighting*.

There must be no detrimental impact on the neighbouring residential areas from vehicle headlights arising from trafficking on the premises and particularly in the service station and takeaway food area. The impact must be assessed and include appropriate recommendations.

Prior to the issue of a Construction Certificate details prepared by an appropriately qualified person and demonstrating compliance with this condition shall be submitted to and be approved by the Certifying Authority. A copy of this documentation must be provided to the Consent Authority (LCC) for record purposes.

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

- 50 All fill imported onto the site must be clean fill and free from any contamination, within the meaning of the *Managing Land Contamination – Planning Guidelines – SEPP55 – Remediation of Land* document published in 1998 by the NSW Government. All fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act, 1997*.

All fill imported to the site must be validated to ensure the fill is suitable for the proposed land use. Further, fill imported onto the site must also be compatible with the existing soil characteristics for site drainage and geotechnical purposes. All fill imported onto the site must be validated by either one or both of the following methods:

- documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material or the known past history of the site where the material is obtained; and/or
- sampling and analysis of the fill material conducted in accordance with the NSW EPA *Sampling Design Guidelines*, 1995 to ensure that the material is not contaminated.

Prior to any work progressing beyond filling activities details demonstrating compliance with this condition must be submitted to and be and approved by the Certifying Authority.

A copy of the approved documentation must be submitted to the Consent Authority (LCC) for record purposes.

Reason: *To prevent land contamination and to protect human health and the environment.*

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

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

Note: Council is in the process of finalising the implementation of Water Sensitive Design criteria into the Lismore DCP. It is recommended that these standards also be considered in implementing the requirements of this condition.

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

WATER and SEWER

- 52 A Certificate of Compliance issued by Lismore City Council, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to being issued with a Construction Certificate**.

Notes:

- a) A Notice of Requirements advising of the matters that must be completed prior to issuing the Certificate of Compliance should have been forwarded to the applicant with this notice of determination.
- b) Applicants are advised via the Notice of Requirements of any water authority requirements that must be met prior to being issued with a Construction Certificate, prior to construction commencing, during construction and prior to occupation.
- c) If you are intending to act upon this consent and have not obtained a Notice of Requirements please contact Lismore Water. Go to web site www.lismore.nsw.gov.au, or telephone Lismore Water on 1300 87 83 87.

Reason: To ensure compliance with the statutory requirements of Lismore City Council.

- 53 A Certificate of Compliance from **Rous Water**, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to being issued with a Construction Certificate**.

Notes:

- a) The Certificate of Compliance confirms all money payable to Rous Water in respect of the load the development imposes on the Regional Bulk Water Supply has been paid.
- b) Lismore City Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.
- c) Rous Water's Development Servicing Charge is set out in the Notice of Requirements attached to this notice of determination.

Reason: To ensure compliance with the statutory requirements of Rous Water

ENGINEERING

Geotechnical

- 54 **Prior to being issued with a Construction Certificate**, certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:

- proposed civil engineering works, including retaining walls, have been assessed as structurally adequate,
- proposed civil engineering works will not be affected by landslip either above or below the works,
- proposed civil engineering works will not be affected by subsidence either above or below the works, and
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works .

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))

- 55 **Prior to being issued with a Construction Certificate** a qualified practising structural engineer shall provide **Council** with a design certification for any proposed retaining walls in the development. The certification shall state that the walls have been designed to resist soil and water loadings for full saturation of the height of the wall and surcharge from any structure within the zone of influence of the wall. Retaining walls shall be founded on residual soil or weathered rock. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

Reason: To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))

- 56 **Prior to release of Occupation Certificate** a qualified practising structural engineer shall provide Council with a certificate of structural adequacy for any structures, including retaining walls, constructed as part of the development.

Reason: To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))

- 57 Bulk earthworks shall not commence on site **prior to the release of the Construction Certificate.**

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))

- 58 Any filling shall be with clean fill only. Building rubble and contaminated material is not to be used.

Reason: To protect the environment.

- 59 The slope of any cut or fill batter shall not exceed 1:4 unless specific geotechnical advice as to the stability of the proposed batters is provided by a suitably qualified geotechnical engineer.

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))

- 60 During construction any area of seepage identified at the base of filling or behind filling shall be brought to the attention of the supervising geotechnical engineer and treated by the provision of a suitable drainage mechanism. Details of any necessary works are to be provided to Council.

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))

- 61 **Prior to the release of any Occupation Certificate**, a NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any fill material has been placed in accordance with Australian Standard 3798 "Guidelines on earthworks for commercial and residential developments". The completion report must note that the; foundation, fill materials, workmanship, fill compaction density and fill moisture contents are acceptable for the intended and certified use of the fill and meet the specifications of the site. Filling in excess of 2m of height must be accompanied by a geotechnical slope stability analysis of the final construction undertaken using limit equilibrium techniques and site specific parameters.

Reason: To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))

Roads

- 62 **Prior to the issue of the Construction Certificate** approval under section 138 of the Roads Act for the all works upon the public road shall be obtained. 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) 64, 65, 66, 67 and 69. 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.

63 **Prior to commencement of work** a Construction Traffic Management Plan shall be submitted to, and approved by, Council. Such plan shall include:

- a) The proposed phases of construction works on the site, and the expected duration of each construction phase and scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community;
- b) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, haulage access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and disruption to traffic flows and noise in the area, and provision for vehicles leaving the site in a forwards direction. (Access across public parks and open space reserves is prohibited.);
- c) traffic control plans prepared by an RTA accredited person for any works that impact upon the movement of vehicles or pedestrians upon the public road;
- d) a requirement for any damage to road infrastructure arising from construction activities to be reinstated at the developers cost prior to completion of the project;
- e) a Safe Work Method Statement;
- f) Provisions to ensure through traffic is maintained at all times;
- g) How access to neighbouring properties will be maintained at all times;
- h) The proposed method of pedestrian management to comply with AS1742.3 and AS1742.10, including pram ramp details;
- i) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- j) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials;
- k) The location and operation of any on site or mobile cranes (if required). On site craning is a requirement of this consent. Mobile cranes if used should be located wholly within the site;
- l) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- m) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- n) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified engineer and practising structural and shall not involve any permanent or temporary encroachment onto Councils property;
- o) Proposed protection for Council and adjoining properties. Details are to include site; and
- p) The location of any Construction Zone (if required) to be approved.

All traffic control work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Plan and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible.

Reason: *To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community and ensure activities relating to the development do not interfere with the movement of traffic along the public road. (EPA Act Sec 79C(b))*

64 The proponent shall provide the following works and where necessary the associated stormwater drainage structures. The geometric design of the road network shall comply with all details set out in the Lismore Development Control Plan – and section D1 Geometric Road Design of the Northern Rivers Local Government Development and Design manual (as amended).

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required works include:

- a) The egress of vehicles from the northern vehicular access is prohibited from turning right on Simeoni Drive. Left turn only signage and line marking are required and the existing Simeoni Drive median shall be extended to the south. There is to be no restriction to vehicles turning right into the Telstar Call centre. Details shall comply with the TTM Group drawing 34381-001.2 RevA.
- b) The slow point/chicane immediately north of the entrance to the proposed Takeaway Food entry shall be removed. A no standing zone is required prior to this entrance so as to provide an unrestricted left turn into the Takeaway Food area.
- c) A low profile raised traffic median shall be provided at the main entrance of the retail complex to provide pedestrian separation and compliance with AS 2890.1. This median will be designed in a manner to allow an articulated vehicle to drive over it. Details shall comply with the TTM Group drawing 34381-001.2 RevA.
- d) The vehicular access to the staff carpark and the loading area shall be controlled with signage and line marking as a left in left out manoeuvre. The existing painted Oliver Avenue median shall be replaced with a raised concrete median to prevent vehicles from turning right while exiting this area.
- e) The existing Council stormwater entry pit located at the proposed Oliver Avenue vehicular access to the staff carpark and the loading area is to be relocated to western side of the access driveway.
- f) There shall be no discharge of stormwater to Oliver Avenue via the access driveway
- g) The Simeoni Drive right turn bay into the main entrance of the retail complex shall have a minimum storage length of 19m to accommodate a standard articulated vehicle. Details shall comply with the TTM Group drawing 34051-101.3 RevA.

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

65 **Prior to the release of any Occupation Certificate** the proponent shall construct a 2m wide combined pedestrian/cycle pathway including signage, along the entire frontage of the proposed development, linking the existing 2m wide pathway in Oliver Avenue through to the existing pathway at the northern end of the shopping complex in Simeoni Drive. This will require the widening of the existing narrow Oliver Avenue pedestrian pathway. Any costs shall be the responsibility of the proponent.

Reason: *To ensure an adequate pedestrian network in accordance with adopted standards*

66 **Prior to the release of any Occupation Certificate** the proponent shall relocate the combined Simeoni Drive pedestrian crossing and raised platform (traffic calming device) to a position which aligns with the pedestrian access with the Woolworths complex. As the new location will encroach on the existing taxi rank position, the applicant will be required to establish another taxi rank either internally or on the eastern side of Simeoni Drive. Any costs shall be the responsibility of the proponent.

Reason: *To ensure an adequate pedestrian network in accordance with adopted standards*

67 **Prior to the release of any Occupation Certificate** the proponent shall relocate, the existing Oliver Avenue pedestrian crossing to the west so that it is clear of the turn in taper to the staff carpark / loading area while ensuring continued pedestrian connection with the Lismore City Council office complex. Any costs shall be the responsibility of the proponent.

Reason: *To ensure an adequate pedestrian network in accordance with adopted standards*

68 **Prior to the release of any Occupation Certificate** the proponent shall construct an open style picket fence as detailed in the approved plans. Any costs shall be the responsibility of the proponent.

Reason: *To ensure an adequate pedestrian network in accordance with adopted standards*

69 **Prior to the release of any Occupation Certificate** the applicant shall obtain a certificate of completion for the roadworks and associated stormwater drainage structures 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 roadworks, 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 and to specify requirements for approval under section 138 of the Roads Act.*

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

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

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

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

72 **Prior to the issue of a Construction Certificate** the proponent shall lodge a bond equivalent to 5% of the cost of the proposed civil works with Council to cover any damage to infrastructure within the road reserve arising during the construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public infrastructure. Any damage arising from construction activities to roads, kerb and gutter, footpaths or any other infrastructure within the road reserve shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended) to Council's satisfaction prior to refund of the bond. Certification as to compliance with this condition shall be provided to Council

prior to the release of any Occupation Certificate.

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

- 73 **Prior to the issue of a Construction Certificate** the applicant shall provide bicycle parking spaces adjacent to the entrance to the proposed retail area/supermarket 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))

Stormwater

- 74 **Prior to being issued with a Construction Certificate** full design details of a 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. 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. These plans shall include a schedule that identifies each component of the stormwater management system and how that component satisfies the qualitative and quantitative objectives of the stormwater management plan.

The application must be accompanied by a Stormwater Management Plan (SWMP), which must be reviewed/updated to ensure compliance with contemporary standards and requirements with any subsequent renewal of the Section 68 approval. The SWMP must comprehensively address maintenance requirements (including timetabling of maintenance), access to facility, longevity for all stormwater devices, and the performance monitoring of the installation and discharges. The SWMP must be written in such a manner that it can be readily understood and be implemented by the person/s nominated to action the plan.

Reason: To manage stormwater quality and quantity and to protect the environment. (EPA Act Sec 79C(b))

- 75 **Prior to release of the Construction Certificate** detailed design showing that unobstructed overland flow path/s have been provided to prevent any inundation of future habitable structures and to drain all surcharge and surface waters for the major system design event. Appropriate easements shall be created to ensure that the flow paths will not be obstructed by any non approved structures, landscaping or the like, that will reduce flow path design capacity. Appropriate management practices must be put in place to ensure that the integrity of this condition is maintained at all times, and when the development is operational.

Reason: To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff. (EPA Act Sec 79C(b))

- 76 The proponent shall make satisfactory provision to dispose of stormwater without causing a nuisance to adjoining allotments. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from the proposed development can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements.

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))

77 **Prior to release of any Occupation Certificate**, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines receiving stormwater from Simeoni Drive are located within the respective easements,
- all stormwater has been directed to a Council approved drainage system.

Reason: *To ensure the development is completed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(a))*

78 The proposed internal drainage design and levels adopted for the proposed carparking and landscaping areas shall be appropriately designed to ensure the continued flow of stormwater from adjoining properties. The design shall not restrict flows from adjoining properties that would increase the ponding of water upon the adjoining property.

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))*

LEVIES

79 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Construction Certificate is granted**. The rates and amounts applying at the date of this notice, totalling **\$215,643**, as set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All levies, fees, contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

The levies are those applicable as at date of original consent. If these levies are not paid within twelve (12) months of the date of original consent, the rates shall then be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index (Sydney), as applicable at the time of payment.

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

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

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

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

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

Report

Subject	Development Application No. 2009/83 - Corndale Quarry
TRIM Record No	BP10/702:DA09/83
Prepared by	Senior Development Assessment Officer (Planning)
Reason	Council determination of Development Application
Community Strategic Plan Link	Sustainable Economic Growth and Development

Overview of Report

Corndale quarry is a Basalt quarry that has been operating in excess of 40 years. The quarry is currently operating under the terms and conditions of Designated Development Consent 5.1997.342, which was issued by the Land and Environment Court. This consent approved the total extraction of 910,000m³ of loose material out the gate, with a maximum rate of extraction of 70,000m³ per annum. The approved life of the quarry is either 13 years from the date of commencement of work, or upon the extraction of a total of 910,000m³, whichever occurs last.

The proposed development nominates a lateral expansion of the approved extraction area of the existing quarry. The proposed lateral expansion area is to the east of the existing extraction area and relates to a quantity of approximately 200,000m³ of extracted material that consists of basalt, top soil and overburden in unknown quantities. Despite expanding the extraction area of the quarry, the application outlines that the proposal will not:

- increase the quarries total extraction amount of loose material that will be transported out the gate from the approved 910,000m³;
- will not increase the approved maximum annual extraction rate of 70,000m³; and
- will not increase the life of the quarry.

The development application is reported to Council in response to the public exhibition of the DA which resulted in 31 submissions were received, of which 17 objected to the DA and 14 supported the DA and the key issues associated with the DA which include: compliance with buffers and noise, vibration, dust, visual, water and groundwater impacts.

In addition to the merits of the application, the approved Operational Plan of Management (OPOM) for the existing quarry requires a performance review of quarry operations once a year by an independent auditor. The audits submitted have not been undertaken to satisfy the requirements of the consent or the OPOM and therefore it is recommended that a Deferred Commencement Consent be granted, to require a comprehensive compliance audit of the existing quarry operations be undertaken by a independent auditor and submitted to and approved by Council, prior to any consent becoming operational.

Deferred commencement consent will require the submission of certain information to the satisfaction of Council prior to the consent becoming operational and acted upon.

Background

Development Application (DA) No. 5.2008.501 was lodged with Council on the 9 September 2008 and proposed an expansion of the existing quarry by an increase in the:

- Approved extraction area;
- Total extraction amount by 500,000m³; and
- Life of the quarry by approximately 15 years.

Following consideration of this DA, Council wrote to the applicant advising that in its opinion that the proposed expansion of the quarry did significantly increase the environmental impacts of the total quarry development and that pursuant to Schedule 3 (clause 35) of the Environmental Planning and Assessment Regulation 2000, the proposal was classified as Designated Development and required the submission of an Environmental Impact Statement.

Subsequent to this DA 5.2008.501 was withdrawn on 20 January 2009.

The subject Development Application was lodged with Council on 26 February 2009 and initially proposed the expansion of existing quarry by:

- an increase in the extraction area of 0.6ha;
- an increased total extraction amount by 200,000m³; and
- an increase in the life of the quarry by 2 to 4 years.

When lodged the DA related only to only one lot, being Lot 31 DP1090294, 406 James Gibson Road, Corndale. The DA was placed on Public Exhibition and was notified to adjoining owners. No public submissions were received.

During the assessment of this DA, Council and the Department of Environment, Climate Change and Water (DECCW) identified concerns regarding the noise impact upon the existing dwelling located on adjoining Lot 32 DP 1090294 (Residence G in the acoustic report). Despite the applicant making a number of attempts to address this impact, via the submission of additional information, Council's and the DECCW's concerns were not adequately addressed.

In response to these concerns the applicant amended the DA to include adjoining Lot 32 DP 1090294 (Residence G), No. 368 James Gibson Road, advising that the owner of the quarry had an option to purchase Lot 32 DP 1090294 should the subject DA be granted consent. The amended DA proposed that a positive covenant could be placed on Lot 32 DP 1090294 being a Restriction on Use requiring the occupant to sign a deed of agreement acknowledging the impact the quarry operations may have on the occupant and that the occupant agrees not to take action or complain to Council, the DECCW, the Police or the quarry operator about such impacts. Council would be the beneficiary of the Restriction on Use having the authority to modify or release the restriction.

The amended DA was placed on Public Exhibition and was notified to adjoining and surrounding property owners. 31 public submissions were received, with 14 being in support of the DA and 17 being in objection to the DA. The public submissions are addressed below in this report.

In addition to the above, the application was recently further amended by:

- deleting the proposed increase in the total extraction amount of the quarry by 200,000m³; and
- deleting the proposal to increase in the life of the quarry by 2 to 4 years.

As a result of the above amendments, the DA being reported to Council relates to two allotments (Lots 31 and 32 DP1090294) and proposes only a lateral expansion of the approved extraction area by approximately 0.6ha. The DA no longer proposes an increase in the total extraction amount of the quarry or an increase in the life of the quarry.

Description of Site and Locality

The subject site is known as Lots 31 and 32 DP1090294, being 406 and 368 James Gibson Road, Corndale. The site is located approximately 4km to the west of Clunes, along James Gibson Road, and about 16km to the north east of Lismore via the Corndale Road through Bexhill.

The subject site has a combined area of approximately 24.76 hectares and has over 1km of road frontage to James Gibson Road. Vehicular access to both lots is via James Gibson Road.

The existing quarry and the proposed expanded extraction area are sited wholly within Lot 31 DP1090294, No. 406 James Gibson Road. No actual works are proposed on Lot 32 DP1090294, No. 368 James Gibson Road, which is currently under contract for purchase by the owner of the quarry.

The existing quarry is described in more detail below in this report.

The topography of the part of the site subject of the proposed lateral expansion is characterised by a central east / west aligned ridge, with the land falling gently away from the ridge to the north and the south.

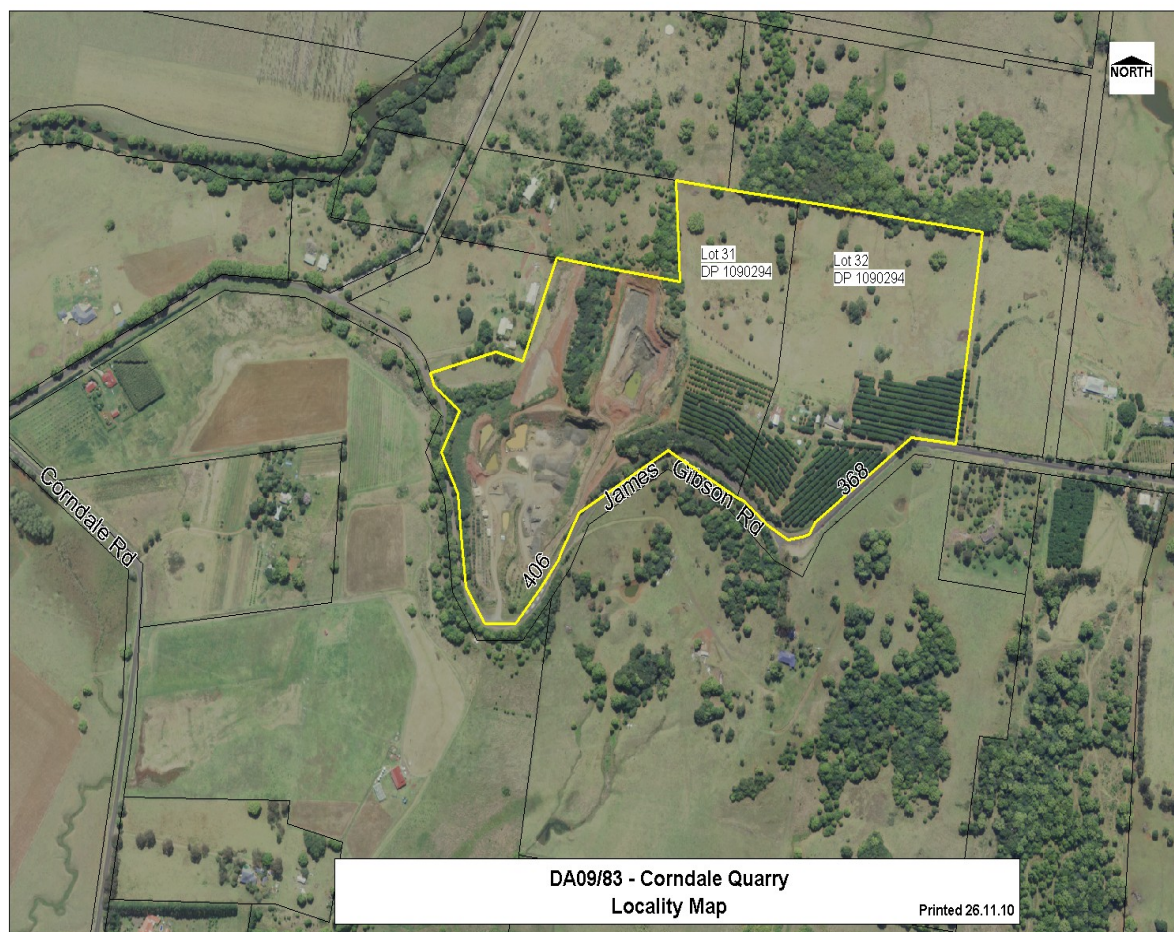
The part of the site subject of the proposed lateral expansion is currently vegetated by grassland and macadamia trees.

The subject land is located within a rural locality and is surrounded by the following land uses:

- **North** – Rural holdings in a range of sizes many of which contain rural dwellings. One of rural holdings to the north contains an approved animal establishment (poultry farm);
- **South** – James Gibson Road and Rural holdings in a range of sizes many of which contain rural dwellings;
- **East** – Rural holdings in a range of sizes many of which contain rural dwellings; and
- **West** – James Gibson Road connecting to Corndale Road and Rural holdings in a range of sizes many of which contain rural dwellings.

Given the locality is proposed to be zoned RU1 – Primary Production under the provisions of the Draft LEP 2010, it is noted that the preferred future land uses within the locality will be largely consistent with those currently permitted within the zone, however less accommodating of non-rural land uses.

Locality Map



Relevant Development History

The application states that Corndale Quarry has been in operation for in excess of 40 years.

The Corndale Quarry is currently operating under Development Consent 5.1997.342, which was granted by the Land and Environment Court on the 14 September 1999, following refusal by Council at its Council Meeting on the 12 May 1998. Development Consent 5.1997.342 approved:

- the continuation of the quarry for either 13 years from the date of commencement of work or upon the extraction of a total of 910,000m³ whichever last occurs;
- a maximum extraction rate of approximately 70,000m³ per annum; and
- the lateral expansion of the quarry to the north and east to the then adjacent properties.

The commencement of Development Consent No. 5.1997.342 occurred on 1 July 2004 and with it saw the approved quarry operations transfer from the 'continued use' operations to the terms and conditions of Development Consent No. 5.1997.342.

In addition to the above, the Council Report for Development Application 5.1997.342 provided the following summary of the history of the Corndale Quarry:

"The applicant has stated that use of the subject site as a quarry commenced some time prior to 1960. Prior to the gazettal of Interim Development Order No. 1 Shire of Terania on November 3, 1967, consent was not required for "extractive industry" operations. Development Consent No. 85/2056 of August 29, 1985, provided for the "special purpose" subdivision of Lot 102 DP 633655 and part Portion 46 so as to create the subject land as a special purpose "extractive industry" lot. The applicant stated that this consent recognised the existing use of the site.

On April 28, 1993, consent was granted for the erection of a building for use for staff amenities and the provision of a weigh bridge on the subject site.

On June 16, 1993, State Environmental Planning Policy No. 37 - Continued Mines and Extractive Industries (SEPP No. 37) was gazetted. This policy provided for the continued operation of mines and extractive industries which had lawfully commenced prior to planning controls coming into force, in the light of changes to the Environmental Planning and Assessment Act, and the need to gain consent for lateral expansion of quarries.

The Corndale Quarry was registered under State Environmental Planning Policy No. 37 in July 1993. This registration provided for the continued use of the quarry at a rate of 20,000m³ per annum. In June 1994, a Statement of Environmental Effects was lodged with Council accompanying a Development Application which sought approval for a continuing use of the quarry, entailing the extraction of 49,700m³ per annum. Council was of the opinion that the application was 'designated development' in accordance with the requirements of SEPP No. 37 and could not be assessed without the submission of an Environmental Impact Statement. Subsequent to this the applicant withdrew the application in May 1995.

On June 16, 1995, Council received a second application, being Development Application No. 95/240, seeking consent to a maximum annual extraction rate of 150,000m³. This application was refused by Council following assessment of the further information submitted by the applicant at Council's meeting of February 18, 1997.

...Development Application No. 97/342, was lodged on November 20, 1997, "reducing" the proposed annual extraction rate by some 25% from 150,000m³ to 112,500m³ (but still an appreciable increase to the then current extraction rate).

On March 16, 1998, the applicant requested Council to consider amending the application to reduce the annual extraction rate from 112,500m³ to 87,000m³. Further to this requested amendment, on April 15, 1998, Council received a further formal request (under Regulation CI 48) to amend the Development Application to permit an annual extraction rate of 70,000m³, which would be indexed at 2.5% per annum, which represented a final extraction rate of 92,000m³ after 11 years. The application currently before Council for consideration is based on an extraction rate of 70,000m³ per annum, indexed at 2.5% per annum over the life of the quarry, being 11 years".

On 21 July 2005, Development Consent No. 5.2005.372 was granted to a boundary adjustment between the quarry site and the then adjoining allotment to the east. The boundary adjustment involved the transfer of 5.42ha of land to the quarry from the adjoining allotment to the east and was intended to provide increased buffers around the quarry extraction area.

The proposed quarry expansion subject of this DA is within the land that was gained by the quarry as a result of DA5.2005.372.

Description of Existing Quarry

Corndale quarry is a basalt quarry that is currently operating under the terms and conditions of Development Consent No. 5.1997.342, which approved the total extraction of 910,000m³ of loose material out the gate, with a maximum rate of extraction of 70,000m³ per annum. The approved life of the quarry is either 13 years from the date of commencement of work or upon the extraction of a total of 910,000m³ whichever occurs last.

Council wrote to the applicant on 22 June 2005 advising that Development Consent No. 5.1997.342 had been activated, commencing from the 1 July 2004.

The application outlines that since the commencement of Development Consent No. 5.1997.342, approximately 260,000m³ has been extracted and transported out the gate, which equates to an extraction rate of approximately 43,000m³ per annum.

Development Consent 5.1997.342 approved the extraction area of the quarry to expand laterally to the north and east (to the then adjacent property boundaries) and to occur in three (3) stages. It is understood that Stage 1 of the approved quarry has been completed and Stage 2 mostly completed, however Stage 3, which involves lowering to RL 47 m AHD, has not yet commenced. The application states that the total estimated surface area of the existing approved quarry area comprises 5.6 hectares.

Figure 1, below, has been prepared by the applicant based on the approved plans and illustrates the approved extraction area and stages 1, 2 and 3 of the existing quarry.

Corndale Quarry supplies graded and crushed basalt to the Lismore / Ballina area and is used for a range of purposes including road base, granular backfill, rock walls, aggregates, dimensioned stone and rock and coastal protection works.

The application summarises that the following activities are undertaken to quarry the basalt resource:

- clearing and grubbing of vegetation;
- topsoil removal and stockpiling;
- overburden removal and stockpiling;
- drilling and blasting;
- raw feed winning and transportation;
- crushing and screening; and
- stockpiling of product and sale and transport of product.

The quarry is approved to win the basalt material through drilling and blasting, with approximately 1 blast occurring every three months (4 per year). Drilling and blasting is undertaken by specialist contractors who hold appropriate State and Federal licenses and authorities.

Following a blast select material is collected from base of the working face and put directly on to trucks for transport or conveyance to stockpile for screening in the primary jaw crusher, secondary crusher, hammer mill and three deck vibrating screens.

Haulage of resource from the site is by trucks with an overall capacity of 16 m³, which includes truck and trailer combinations.

The hours of operation of the existing quarry are from 7am to 6pm Monday to Friday, with operation times on Saturdays being 8am to 12pm. Blasting is restricted to the hours between 10 am to 3 pm.

Currently the quarry provides direct employment for 5 personnel.

The plant and equipment currently used at the quarry include:

- Primary jaw crusher;
- Secondary crusher;
- Hammer mill;
- Vibrating screen feeder and conveyors;
- 2 wheel loaders; and
- Excavator and haulage trucks.

In addition to the above plant and equipment the quarry has a site office, weigh bridge and fencing around the current boundaries to the extent of the existing working area.

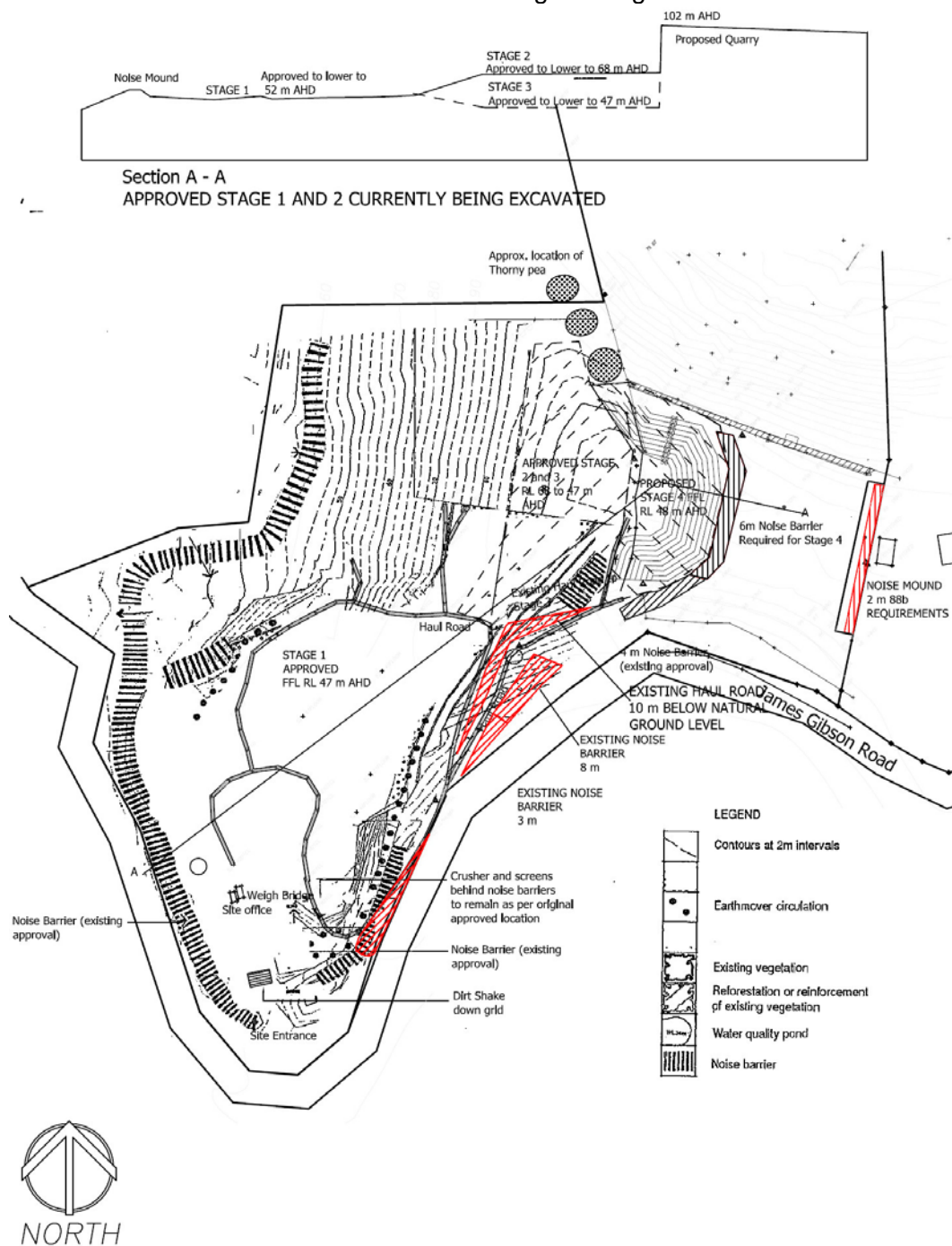


Figure 1: Approved Quarry Operations – Stages 1, 2 and 3

In relation to site utility services it is noted that:

- Potable water is available from Rous County Council
- No electricity is supplied to the site, with electricity to the weighbridge and crusher being provided by an on-site generator
- There is an existing phone and facsimile service at the site.

The site has an on-site wastewater management system for the toilet, shower and kitchen facilities (lunchroom) within the site office. An unsealed parking area is provided adjacent to the site office and signage is provided at the quarry gate displaying details of the quarry liaison officer.

The site has a 4,000 litre above ground diesel tank used to fuel the quarry vehicles. There is a bund around the above ground fuel tank and any spillage that occurs within this bund will be removed by a liquid waste contractor. Oils and lubricants are stored within individual bunded areas within a shipping container on the site.

Earth mounds and landscaping have been implemented on the site to assist in the mitigation of noise and visual impacts.

Top soil (500mm deep) which has been scraped from the extraction area has been stockpiled on the site and revegetated to minimise erosion. Some of the top soil has been used to spread over the existing bunds/mounds to enable plants to grow.

As outlined in more detail below in this report, considerable volumes of overburden have been encountered within the extraction area. This overburden has largely been stored on-site in various stock piles, however some has been used in progressive rehabilitation and approximately 10,000m³ has been transported out the gate. Different from top soil, the application refers to overburden as a clay soil that is found above or between rock basalt layers.

The application details that soil and water management for the site is being provided, which ensures that water run-off from the quarry site is directed through a series of sediment, settlement ponds prior to discharge off the site. The application further states that the quality of storm water is monitored prior to release. It is noted that the total current on-site storage from the sediment ponds is about 8615m³, exceeding the Land and Environmental Court conditions requirement of 2,397m³ storage.

The application states that in accordance with the current approval the previously identified Thorny Pea (*Desmodium acanthocladium*) and area of low closed forest (rainforest) are being protected by a 5m wide buffer which is fenced.

The application states that some rehabilitation (including terracing of areas and planting of mounds) of a number of areas of the site has been undertaken by the quarry operator.

An Operational Plan of Management (OPOM) was approved pursuant to Conditions 26 to 30 of Development Consent No.5.1997.342. The approved OPOM guides the management the quarry operations and in particular addresses matters such as:

- Noise and Vibration management;
- Dust management;
- Soil and Water management;
- Waste and Hazard materials Management;
- Road Works;
- Visual Impact Measures;
- Occupational Health and Safety Management;
- Quarry Rehabilitation; and
- Performance Monitoring and Annual updates.

Description of Proposal

The proposed development nominates a lateral expansion of the approved extraction area of the existing quarry. The proposed lateral expansion area is to the east of the existing extraction area and relates to an area of approximately 0.6 hectares. The proposed expansion area equates to a quantity of approximately 200,000m³ of extracted material and consists of basalt, top soil and overburden in unknown quantities. The proposed expansion of the extraction area of the quarry is illustrated as Stage 4 on **Figure 2** below.

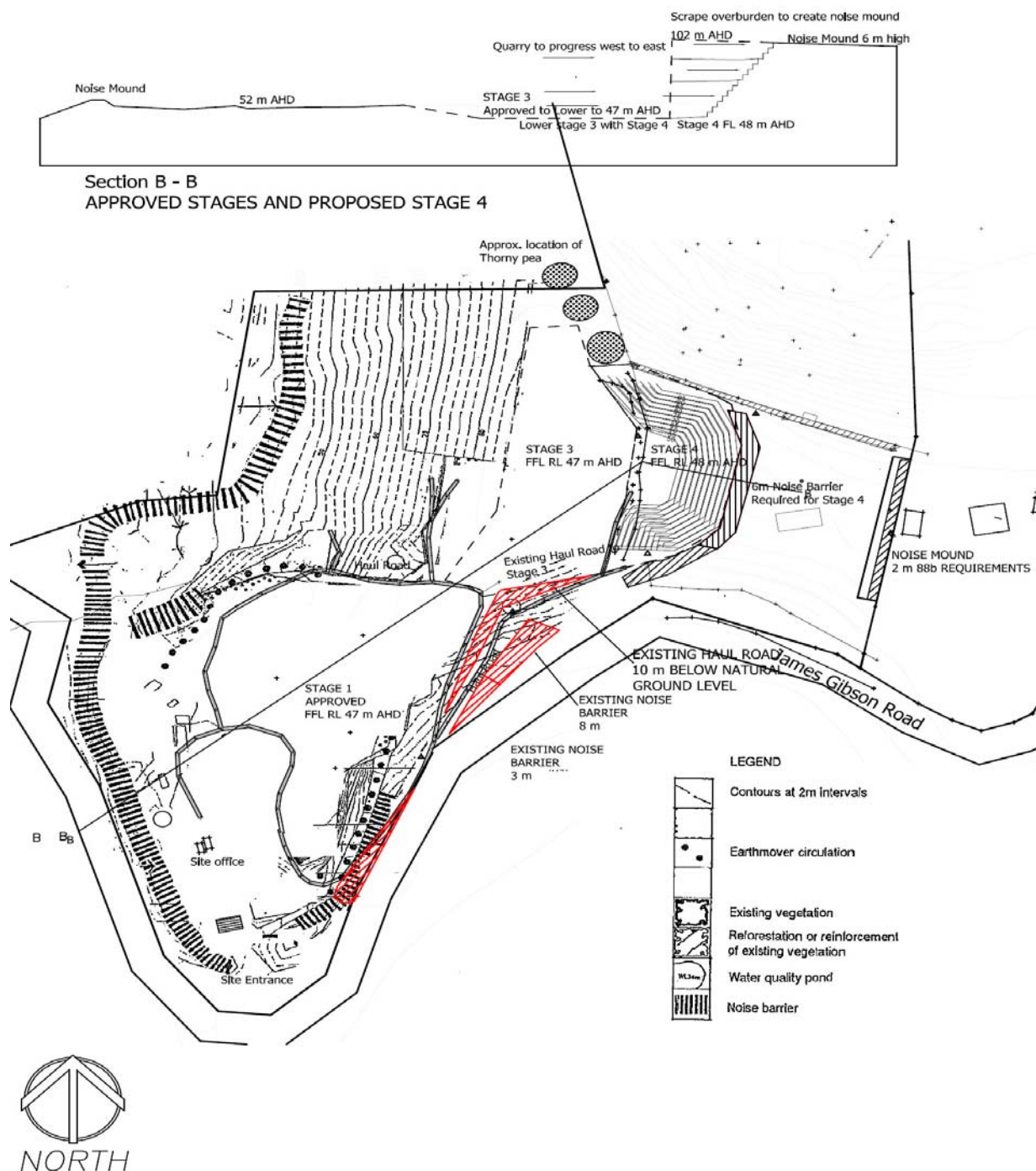


Figure 2: Proposed expansion of the Quarry (Stage 4)

Attachment 1 to this report includes the plans of the proposed lateral expansion.

Despite expanding the extraction area of the quarry, the application outlines that the proposal will not:

- increase the quarry's total extraction amount of loose material that will be transported out the gate from the approved 910,000m³;
- will not increase the approved maximum annual extraction rate of 70,000m³; and
- will not increase the life of the quarry.

The application outlines that the Environmental Impact Statement (EIS) which accompanied DA 5.1997.342 estimated the volume of material based on a calculation of the surface area of the proposed extraction area and the depth of extraction, however that such calculation did not appear to take into account the benching that was required.

More importantly however, the application details that there has been a substantial volume of overburden encountered within the extraction area due to various seams of overburden throughout the extraction area. For example, there is a layer of overburden about 5m deep that separates two layers of basalt at a depth of approximately RL 65m AHD. The application indicates that the DA 5.1997.342 did envisage overburden would be present within the extraction area, however not to the volumes that have actually been encountered within the extraction area.

With the increased volume of overburden encountered, it follows that the volume of basalt within the approved extraction area is less than was envisaged when the existing quarry was approved. This is evidenced by the fact that under Development Consent 5.1997.342, of the 400,000m³ that has been extracted, approximately 150,000m³ has been overburden, which equates to 37.5% of all the extracted material.

Given a less than expected volume of basalt has been realised from the existing extraction area, the application asserts that the proposed expansion of the extraction area will simply provide greater opportunity for the quarry to realise the total extraction of 910,000m³ of basalt, which was approved pursuant to Development Consent No. 5.1997.342.

The majority of the extracted overburden has been stockpiled in various locations on the site, with some being used in progressing rehabilitation. The plans in **Attachment 1** illustrate the proposed stockpile location for the future overburden that is extracted.

In order to achieve better operational efficiencies it is proposed to complete existing approved Stage 2 by lowering this part of the quarry to RL 68m AHD. Following the completion of Stage 2 it is proposed to begin extraction from the proposed new extraction area (Stage 4) until it is also lowered down to an RL of 68m AHD. From this point it is then proposed to operate the quarry in a manner that concurrently lowers Stages 3 and 4 down to the finished RL of 47m AHD for Stage 3 and RL of 48m AHD for Stage 4.

The proposed extraction process for the proposed new extraction area (Stage 4) will be from the existing quarry face and working in a series of cells. The nature of the quarry will see works progress from west to east, with the majority of the quarry machinery operating on the western side of the quarry face, with machinery operating only periodically on the natural ground surface of RL 102m AHD.

It is proposed that topsoil and some overburden when removed for the proposed extraction area through scraping will be used to form the proposed noise mound, which is required adjacent the work face. The application states that this noise mound is only required short term and the soil used in these mounds can then be used for progressive rehabilitation over the site as required.

The proposed expansion of the approved extraction area requires the removal of:

- modified open grassland, which is dominated by introduced pasture species and isolated small trees including Wild Tobacco Bush and a Forest Oak; and
- Macadamia trees as part of a plantation.

It is proposed to retain the crusher in the current position on the site.

There is no proposed change in operation times of the existing quarry. The hours of operation will continue as approved from 7am to 6pm, Monday to Friday, with operation times on Saturdays to be 8am to 12pm.

Drilling and blasting will occur as required, however drilling is expected to be in the order of 4 blasts per year. Blasting will remain restricted to the hours between 10am to 3pm.

The application asserts that there is no change to the current heavy vehicle generation or trip direction from the quarry as a result of the proposed lateral expansion. In this regard, the number of haulage trips and the haulage routes will be consistent with the existing situation.

The existing site office and staff amenities will remain in the same location adjacent to the entrance/exit to the site and the weighbridge.

The lateral expansion of the quarry will require additional noise amelioration. A new acoustic mound will be constructed adjacent to the east and south of the proposed lateral expansion as illustrated on the plans in **Attachment 1**. The barriers are required to be continuous and constructed of earth with a superficial with of not less than 10kg/m², as required for the current operation.

Hay bales or similar temporary structure will provide an acoustic barrier between the rock drill when it is operating and all receptors. The barrier shall be located within 1m of the rock drill and have a height of 4 bales (or similar structure). The barrier shall be continuous, well supported and shall not have any gaps along its length. The barrier shall surround the rock drill on three sides.

The application details that as best practice, the following will be undertaken which is part of the current Operational Plan of Management:

- All machinery operating in the quarry are to be fitted with residential type noise muffler systems;
- Loading areas for the quarry shall be located to direct sound away from the affected residences and or be located such as to maximise the effect of the barriers (i.e. in the shadow of the barrier);
- Stockpiles of product shall be located to obscure sound movement from the rock pick towards residences to the west, northwest and east of the quarry; and
- Before commencement of clearing the area to the east of the property, the occupiers of the nearby residences shall be consulted to establish a time which causes least annoyance.

The application details that all plant and equipment used in the quarry have always been of high quality and quarry management have advised that this will continue. All plant will be inspected and licensed as required.

The application details that blasting is to be in accordance with Department of Environment, Climate Change and Water's requirements in relation to the over-blast pressure and ground vibration and that blasting of the site is to remain as approved in the Operational Plan of Management, being:

- A minimum of three days prior to any blast, written notification shall be given to the occupants of all dwellings within 1000m of the quarry;
- Production blast of around 100 holes in five rows with a 12.63 kg blast hole charge;
- A buffer of around 250m to residential developments to achieve a 98 percentile disturbance limit of 5mm/s;
- 1 in 3 blasts are monitored for peak particle velocity and blast overpressure at the 6 nearest residences; and
- Records of the monitoring are kept and are available for Council if requested.

The application details that for each blast event the contractor monitors noise, air blast over-pressure and ground vibration at a different boundary location approximately 250m from blast site and that licensed Drilling and Blasting contractors are always used in the quarry.

The proposal nominates the control of dust during operations through:

- Regular watering of all haulage routes within the quarry floor;
- Wetting material before loading as instructed from time to time by the Quarry Manager;
- Constructing internal routes with material that will minimise dust production;
- Ensuring all trucks leaving the site carrying fine material are covered and having on-site signs alerting drivers to this requirement;
- Where practicable stockpiles will be positioned in areas sheltered from prevailing winds;
- The crushers and screens associated with the processing plant are fitted with water spraying devices; and
- Accumulation of fine dust below the crushers and screens will be removed regularly and this area will be kept wet.

The application details that a 15,000 litre water truck is kept at the quarry at all times and used to control dust generated by use of internal haulage access roads. Water for dust suppression will be drawn from the sediment ponds on the site.

The application states that any breaches of the development consent conditions or licensing requirements by EPA requirements shall be re-measured at monthly intervals until amelioration measures have been completed and the relevant compliance has been confirmed.

To overcome impacts of noise, vibration and dust from the proposed lateral expansion, the DA was amended to incorporate Lot 32 DP 1090294, No. 368 James Gibson Road, Corndale. The DA indicates that this property is currently under contract for purchase by the owner of the quarry subject to the current DA being approved. The amended DA proposes that a positive covenant be placed on Lot 32 DP 1090294 being a Restriction on Use requiring the occupant of the existing dwelling sign a deed of agreement acknowledging the impact the quarry operations may have on the occupant and that the occupant agrees not to take action or complain to Council, the DECCW, the Police or the quarry operator about such impacts. Council would be the beneficiary of the Restriction on Use having the authority to modify or release the restriction.

It is proposed that sediment control techniques similar to the existing quarry will be used for the proposed expansion of the extraction area. In this regard, it is proposed to construct new sediment ponds near the future work area as it is considered best practice to construct new sediment ponds adjacent to the sediment source. The application states that the design of the sediment basins for the proposed expansion are in accordance with *Managing Urban Stormwater – Soil and Construction 4th edition* (Landcom 2004).

The application details that stormwater diversion drains and bunds will continue to be implemented to direct overland flow outside the quarry area away from the active areas and that the location of topsoil and overburden stockpiles will be selected in such a way that they are not subjected to stormwater flows. Topsoil stockpiles will be seeded to reduce erosion.

The application advises that the Operational Plan of Management that was approved for the existing quarry will continue to manage the operation of the quarry and that the quarry will continue to follow the Mines Department specifications.

It is proposed that the existing consent 5.1997.342 will be surrendered if this DA is approved, so that only one development consent is operational for the quarry.

Statutory Controls

Lismore LEP 2000
Draft Lismore LEP 2010
Lismore Contributions Plan
Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2000
SEPP No. 44 – Koala Habitat Protection
SEPP No. 55 – Remediation of Land
SEPP (Mining, Petroleum and Extractive Industries) 2007
SEPP (Rural Lands) 2008
North Coast REP 1988
Advertised Development
Integrated Development

Policy Controls

Lismore DCP
5.17.8 - Sustainability, Viability and Amenity of Rural and Urban Land

Internal Referrals

Environmental Health

Council's Environmental Health Officer has reviewed the DA in relation to: Noise, vibration, air quality (dust), soil and water management (including groundwater), contamination, waste and the Operational Plan of Management and has provided assessment comments which have been incorporated under corresponding headings throughout the report.

Council's EHO also recommended revised and/or additional conditions of consent, which have been incorporated into the proposed conditions of consent below in this report.

Engineering/Traffic/Stormwater Drainage

Council's Development Engineer comments that as the application is solely for the use of an additional area of the site with no increase in either the rate of extraction or the total volume of material removed from the site, as per the applicant's amended application, there is no nexus between the proposal and any increase in traffic impacts.

Ecology

Council's Environmental and Cultural Heritage Contractor (EHC) reviewed the DA and made assessment comments and the following recommendation:

"There is no impediment on ecological grounds to the proposed quarry expansion. It is recommended that any development consent granted includes the following conditions that reflect assurances made in the Statement of Environmental Effects."

In consultation with Council's EHC the recommended conditions have been modified and incorporated into the proposed conditions of consent below in this report.

Integrated Referrals

Department of Environment, Climate Change and Water (DECCW)

The amended DA was referred to the DECCW as Integrated Development on 25 June 2010. On 9 July 2010 the DECCW provided their General Terms of Approval to the DA:

"I refer to the development application and accompanying information provided for Integrated Development Application No Expansion of Existing Extractive Industry (Corndale Quarry) received by the Department of Environment Climate Change and Water (DECCW) on the 28 June 2010.

DECCW has reviewed the information provided and has determined that the existing Environment Protection Licence (Licence No. 4172) will require minor amendments in relation to this expansion proposal.

DECCW would also like to acknowledge the negotiations and effort that has gone into resolving the noise emission issues for this proposal and in reviewing the amended Statement of Environmental Effects DECCW is satisfied that the proponent will be able to meet the Project Specific Noise Level of 41dBA.

The General Terms of Approval (GTA) for this proposal are provided overleaf. The GTA's reflect the current conditions of EPL 4172, however the following conditions required amendment:

L3 Concentration Limits - discharge limits for Total Suspended Solids, Oil and Grease and pH have been added to the discharge point.

L5 Waste – amended to allow for the recycling of concrete waste products in accordance with the provisions of "The Recovered Aggregate Exemption 2010"; and various other amendments required as part of the expanded quarrying operation.

The proponent will be required to submit a Licence Variation Application to DECCW to amend the licence conditions that have been varied as a result of this modified DA and the details contained within these GTA's. If Lismore City Council grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to DECCW. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with DECCW about the changes before the consent is issued. This will enable DECCW to determine whether its general terms need to be modified in light of the changes."

In addition to the above, following the second exhibition period Council forwarded a copy of the public submissions to the DECCW. Council highlighted that a number of submissions raised concern about the compliance of the quarry with its Development Consent and requested comment from the DECCW in relation to the compliance of the quarry with the requirements of the license issued by the DECCW.

In response, on the 16 August 2010 the DECCW provided the following comments:

"I refer to your letter of 26 July 2010 to the Department of Environment, Climate Change and Water (DECCW) in regard to the public submissions in relation to Corndale Quarry.

The DECCW has reviewed the compliance of Corndale Quarry with the conditions of the Environment Protection Licence. There are no records of any breach of licence conditions in the last 3 years. In order to conduct a thorough review of Environment Protection Licence conditions, DECCW has contacted Greg Alderson and Associates Pty Ltd and requested all the results of monitoring of blasting operations for the last year.

We will contact you when we have reviewed this data."

In addition to the above and in further response to Council's letter dated the 26 July 2010, the DECCW wrote a second letter to Council on the 20 August 2010 providing the following comments in relation to the quarry's compliance with its license:

"I refer to your letter of 26 July 2010 to the Department of Environment, Climate Change and Water (DECCW) in regard to the public submissions in relation to Corndale Quarry.

DECCW has conducted an audit of all the results of monitoring of blasting operations for the last year and the compliance of Corndale Quarry with the blasting conditions of the Environment Protection Licence. Our audit indicated that there does appear to be a noncompliance with condition L6.3 of the licence in the reporting period 17 May 2009 to 16 May 2010. The recording of ground vibration peak particle velocity measurement of 7.44 mm/s on the 15/02/2010 has exceeded the 95%ile criteria in the license.

This exceedance was not reported as a noncompliance to DECCW and was not reflected in the consultant's (Greg Alderson and Associates) report of the 13 July 2010.

Further the recording of a ground vibration peak particle velocity measurement of 5.48 mm/s on the 30/06/2010 is likely to exceed the criteria in the licence (condition L6.3) for the reporting period 17 May 2010 to 16 May 2011.

DECCW will be writing to the licensee to seek additional information relating to the apparent noncompliance to seek action to ensure future compliance to condition L6.3"

External Referrals

Roads and Traffic Authority (RTA)

The amended DA was referred to the RTA and on the 18 October 2010 and on the 16 November 2010 the RTA provided the following comments to Council:

“As the quarry appears to be going to operate within the previous limits imposed by the L&E Court the RTA would not have any objection to the proposed amendment. The following comments are also provided for Council's consideration:-

- *There appears to be no mention in the previous consent for the standard that would need to be provided for the access onto James Gibson Road. Issues such as sight distance, widening for turning trucks, and sealing of the access to prevent the fouling of the pavement should have been addressed.*
- *The RTA is concerned about the impact of increasing development on the junction of MR65-Bangalow Road and James Gibson Road. It is constrained by properties and there are no provisions for left-turning decelerating and accelerating traffic. The existing right-turn lane will also need to be further lengthened. The ongoing upgrade of the junction needs to be planned for so that equitable contributions are provided.”*

Rural Fire Service (RFS)

The DA was referred to the NSW Rural Fire Service and on 17 May 2009 the NSW Rural Fire Service provided the following comments:

“The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bushfire.”

Department of Primary Industries (DPI)

The DA was referred to the NSW Department of Primary Industries (DPI) and on the 23 April 2009 the NSW DPI provided the following comments:

“The Department of Primary Industries has been formed by the merger of NSW Fisheries, Mineral Resources NSW, State Forests NSW and NSW Agriculture. This is a coordinated response from the Department of Primary industries. There are no issues of concern relating to fisheries or forestry.

Mineral Resource Issues

The subject development raises no issues of concern to the DPI Mineral Resources Division. Moreover, the development could significantly improve resource access and quarrying operations at Corndale Quarry and hence help satisfy continuing community demand for hard rock quarry products. Hence on balance, the proposed quarry expansion would benefit the community provided that operational and environmental impacts are deemed acceptable.

Agricultural Issues

The proposed expansion of Corndale quarry raises no major agricultural issues for NSW DPI. The expansion will alienate a small area of regionally significant farmland. This classification however does not directly impact on the development proposal and does not prevent the utilisation of resource lands for quarrying purposes where quarrying is deemed to be in the public interest and environmental impacts deemed acceptable or manageable. The proposed removal of macadamia trees as part of the development is at the discretion of the landowner. It is acknowledged that the management costs associated with a small stand-alone orchard can be higher than larger orchards and difficult to justify. Potential noise and neighbourhood issues associated with the quarry are not agricultural issues and are matters for the appropriate regulatory authority.”

Department of Water and Energy (DWE)

The DA was referred to the Department of Water and Energy (DWE) and on the 30 April 2009 the NSW DPI provided the following comments:

“Thank you for providing the Department of Water and Energy (DWE) with an opportunity to comment upon the above development application.

With regret I inform you that as the development application has not been forwarded to DWE as an integrated referral, resource constraints mean we are not able to undertake a review

If Council grants consent for the development please inform the applicant of their responsibility to liaise with DWE, before they commence operations, to ensure compliance with the Water Management Act 2000 and any relevant NRM policies.”

Ngulingah Local Aboriginal Land Council

The DA was referred to the Ngulingah Local Aboriginal Land Council and on the 30 March 2009. No response has been received.

Notification / Submissions

On two occasions the application was notified to adjoining and surrounding property owners, advertised in the Northern Rivers Echo and an on-site notice erected in accordance with the provisions of the relevant legislation and Chapter 10 – Notification and Advertising of DA's of the Lismore DCP.

Nil submissions were received in response to the first exhibition period.

31 submissions were received in response to the second exhibition period. 17 of the submissions were objecting to the DA while 14 submissions were in support of the DA. **Attachment 2** to this report includes a table which provides a detailed summary of all the submissions and assessment comments in response to the submissions objecting to the proposal.

The following is a brief summary of the points raised in objection to the DA:

- that the development approved as part of DA 1997/342, being maximum extraction rate, total extraction and life of the quarry was finite and could not be amended.
- Concern that the purchase of adjoining Lot 32 DP1090294 will lead to future expansion of the quarry.
- The proposal is contrary to the RU1 Zone objectives of the Draft LEP.
- Visual impact of lateral expansion.
- Concern over possible additional vehicular access to the quarry from Lot 32 DP1090294.
- Quarry has not been identified as being of regional significance.
- The quarry has a history of non-compliances.
- Reduction in property values.
- Road safety from quarry trucks.
- Impact from blasting on groundwater, streams and aquifers in locality.
- Noise dust and vibration impacts.
- Damage to roads.
- DA needs screen plantings to reduce visual and noise impacts.

The following is a brief summary of the points raised in support of the DA:

- No increase in the extraction rate proposed.
- Adjoining Lot 32 DP1090294 is being negotiated for purchase to be a buffer to the quarry.
- Native trees along southern boundary will be retained.
- The proposal includes new tree plantings and regeneration of existing areas and the quarry has a good record in relation to tree planting.
- Noise and dust amelioration measures and controls are proposed.
- The crusher / screen and site office remain in current locations.
- The proposal is to provide greater quarry life in supplying basalt products to surrounding areas and reducing transport cost from other areas.
- The quarry is a tidy and efficient operation with strong regard to safety and the environment. The current operator has lifted the standards of the quarry.
- The quarry provides a valuable resource to the community.
- The quarry has a wide range of clients including LCC and Byron Shire Council.
- Refusal of the DA would increase the transport cost of sourcing the same resource from further away.
- The quarry has contributed significant amounts of money to Council's road maintenance.
- The quarry employs local staff and supports local schools and community groups.
- The first exhibition period did not receive any objections.
- DA does not increase truck movements.
- Quarry provides good quality basalt and the availability of such material is limited.
- There will be a significant need for the quarry's material in coming decades.

A printed copy of all submissions is available in the Councillor's Room.

Consideration

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

Environmental Planning and Assessment Regulation 2000 (EP&A Reg)

The subject DA proposes a lateral expansion to the approved extraction area of the existing quarry which is classified as a Designated Development under the provisions of the EP&A Reg. Part 2 of Schedule 3 of the EP&A Reg deals with the question: *do alterations and additions to a designated development also constitute designated development?* Clause 35 states:

35 *Is there a significant increase in the environmental impacts of the total development?*

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Following consideration of Part 2 of the EP&A Regs it was concluded that the proposed lateral expansion of the approved extraction area does not significantly increase the environmental impacts of the total development (that is the originally approved development together with the proposed expansion) compared with the existing approved quarry. It is therefore considered that the proposal does not constitute designated development and can be assessed as a DA. The following comments are made in support of this conclusion:

- The proposal relates only to the lateral expansion of the extraction area and does not increase the total quantity of material to be extracted, the annual extraction rate or the life of the quarry;
- The land subject of the DA includes Lot 32 DP1090294, which occupies the dwelling most affected by the lateral expansion.
- The proposed lateral expansion (57m further to the east) is considered relatively minor in the context of the existing quarry;
- The likely impacts of the proposal, particularly in relation to noise, vibration, dust, water, groundwater and visual are assessed as being acceptable subject to conditions of consent;
- Council did not have a history of recent complaints from the public in relation to the operation of the quarry;
- The DECCW have written to Council in relation to their licence for the site advising that following their audit the only non-compliance was in relation to condition L6.3 (ground vibration) of the licence in the reporting period 17 May 2009 to 16 May 2010. In response to this non-compliance the DECCW advised that they will be writing to the licensee to seek additional information relating to the apparent noncompliance to seek action to ensure future compliance to condition L6.3.
- Deferred commencement conditions of consent have been proposed that will require a comprehensive audit of the existing quarry operations be undertaken against the d Operational Plan of Management and conditions of consent.

Lismore LEP 2000

Having regard to the provisions of Lismore LEP 2000, it is considered that the development is in accordance with the aims and objectives of this plan, the objectives of the zone and the objectives of the controls. As such, consent to the development may be granted.

1. **Advertised development (clause 10)**

Clause 10 requires the consent authority to have regard to the matters relating to environmental impact as specified in Schedule 5.

The matters for consideration listed in Schedule 5 are addressed throughout this report.

Zone objectives and zoning control tables

The proposed development is permissible as Advertised Development within the 1(a) General Rural Zone under the provisions of the Lismore LEP 2000.

Rural zones

2. **Zone No 1(a) General Rural Zone (clause 30)**

The objectives of the 1(a) General Rural Zone are:

- to maintain and encourage sustainable agricultural activities within the zone, and*
- 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*
- to discourage the fragmentation of rural land, and*
- to restrict the establishment of inappropriate traffic generating uses along main road frontages, and*
- 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.*

The proposed development is considered to be consistent with the above objectives. In particular, the proposal will not result in the fragmentation of rural land, is not considered to conflict with adjoining agricultural activities and is not considered to detract from the scenic amenity or character of the rural environment.

3. Development on ridgetops in rural areas (cl 41)

It is considered that the proposed lateral expansion is not likely to detract from the visual amenity of the area and is a proposal that is broadly in the community interest. More detailed comment in relation to the visual impact of the proposed lateral expansion is provided below in this report.

Draft LEP 2010

Despite the DA being lodged prior to the exhibition of the Draft LEP 2010, the following comments are made in relation to proposal's consistency with the Draft LEP 2010:

- The subject land is Zoned RU1 – Primary Production under the provisions of the Draft LEP 2010 and within this zone 'extractive industries' are permitted with consent.
- The proposed development is considered to be consistent with the objectives of the RU1 Zone.
- This report and proposed conditions are considered to have taken into account the matters for consideration identified in section 2.6C - Earthworks and Drainage, 7.6 - Development within urban water supply catchments and 7.9 – Natural resource sensitivity – biodiversity.

SEPP 44 – Koala Habitat Protection

The DA includes a SEPP 44 assessment, which concludes that the land is not classified as “Potential Koala Habitat” as defined under the policy. The trees proposed to be removed by the proposed expansion are not any of those listed in Schedule 2. In this regard, it is agreed that the land does not constitute “Potential Koala Habitat” as defined by the policy and therefore Council is not prevented, because of this policy, from granting consent to the application.

SEPP 55 and Contaminated Land Management Issues

The proposed lateral expansion of the approved extraction area is in effect undertaking the quarrying of natural/virgin material. Top soil which has a potential to be impacted upon by former agricultural activities will remain on-site for site rehabilitation works and therefore will not be utilised for a more sensitive land use. If the quarry property has a dwelling entitlement it would be taken up at the completion of the extractive industry operation. It would be at this time that a contaminated land assessment would need to be undertaken in accordance with this policy and Council's Policy and guidelines adopted under the framework of the Contaminated Land Management Act.

SEPP (Rural Lands) 2008

The proposed lateral expansion of the extraction area is not considered to be inconsistent with the aims of the policy (clause 2) or the rural planning principles (clause 7).

SEPP (Mining, Petroleum and Extractive Industries) 2007

The proposed lateral expansion of the approved extraction area is considered to satisfactorily meet the requirements of this policy.

Clause 12 Compatibility of proposed mine, petroleum production or extractive industry with other land uses

The existing and approved uses of land in the vicinity of the site are detailed above in this report.

The site and the surrounding locality is proposed to be zoned RU1 – Primary production under the Draft LEP 2010. Within this zoned the preferred land uses are rural in character (i.e. grazing and horticulture). The proposed lateral expansion of the quarry is not considered likely to have a significant impact upon these preferred rural uses.

Throughout this report there is detailed consideration of the likely conflicts between the proposed lateral expansion and the surrounding land uses, particularly rural dwellings. In assessing these likely conflicts the report has considered measures proposed to minimise conflict.

In this northern rivers region of growth there are obvious public benefits in the proposed lateral expansion of the quarry as it permits access to additional basalt, which is used for a range of purposes including road base, granular backfill, rock walls, aggregates, dimensioned stone and rock and coastal protection works.

There is also considerable public benefit in the existing rural land uses (grazing and horticulture) and those likely to occur in the future. The proposed lateral expansion however is not considered to conflict with these land uses. It is acknowledged that dwellings are often inherent with rural holdings and in this regard the potential conflict between the lateral expansion and these dwellings has been addressed as being satisfactory, as detailed throughout this report.

Clause 14 – Natural Resource Management and Environmental Management

It is considered appropriate that if approved, conditions be applied to ensure that the lateral expansion is undertaken in an environmentally responsible manner. In this regard, conditions have been proposed aimed at avoiding or minimising adverse impacts in relation to:

- surface and groundwater resources;
- threatened species and biodiversity; and
- Greenhouse gases.

When specifically considering greenhouse gases, it is noted that the quarry currently undertakes and proposes to continue to require the following measures which are considered to help minimise greenhouse emissions from the quarry:

- Conditions of consent requiring the stockpiling and retention on-site of the extracted top soil and overburden for re-use in the progressive and final rehabilitation of the quarry site. The retention of this material is considered to reduce truck movements associated with the quarry and thereby greenhouse gases;
- A condition of consent that requires: *“all vegetation which is cleared shall be chipped and/or reused on the site, and shall not be burned or removed from the site”*. Such condition stops the transport of such material off-site or its burning which increases the emission of greenhouse gases;
- Replanting of additional trees required to help screen the visual impact of the quarry face from the surrounding locality, which helps reduce greenhouse gases in the atmosphere; and
- A condition of consent that requires: *“All vehicles and machines used as part of the operation must comply with the Protection of the Environment Operations Act 1997 and all regulations made under that Act and be fitted with properly maintained emission controls relevant to their date of manufacture”*.

The extent of the above consideration of greenhouse gas emissions is considered appropriate in the context that the application relates only to a lateral expansion of the extraction area with no increase in the total extraction amount of the existing quarry and that the quarry operations will essentially remain the same as is currently approved under development consent 1997/342.

Clause 15 – Resource Recovery

The application relates only to a lateral expansion of the extraction area with no increase in the total extraction amount of the existing quarry. In this regard the efficiency and method of extraction will remain the same as is currently approved under development consent 5.1997.342.

In addition to the above, it is noted that the quarry currently undertakes and it is proposed to continue to require the following measures which are considered to optimise resource re-use and recycling:

- Conditions of consent requiring the stockpiling of the extracted top soil and overburden be retained on-site for re-use in the progressive and final rehabilitation of the quarry site;
- A condition of consent that requires: *“all vegetation which is cleared shall be chipped and/or reused on the site, and shall not be burned or removed from the site”*; and
- Re-use of water captured in the sediment basins on the site for proposed dust control measures – i.e. water truck and spraying devices on the crusher.

Clause 16 – Transport

Given the proposed lateral expansion does not increase the traffic generation from that already approved, it is in the circumstances not considered appropriate, despite the public submissions in relation to traffic safety, to impose conditions, which:

- Require some or all of the transport of materials not to be by a public road; and
- Limit or preclude truck movements along James Gibson Road which is near to schools.

It is however considered appropriate, particularly given the public submissions in relation to traffic safety, to impose a condition which requires the preparation and implementation of a code of conduct relating to the transport of materials from the site.

The application was referred to the RTA in accordance with this clause. As abovementioned in this report the RTA raised no objection to the proposed lateral expansion.

Clause 17 – Rehabilitation

It is considered appropriate that if approved, conditions be applied to ensure that the rehabilitation of the land will be affected by the development. In particular, it is considered that the conditions in relation to the requirement for a rehabilitation plan should:

- Require a plan that illustrates the final land form however not the proposed end use;
- Require waste generated by the development or rehabilitation to be dealt with appropriately;
- Require any soil contaminated as a result of the proposed expansion to be remediated in accordance with relevant guidelines; and
- Require steps to be taken to ensure that the state of the land during and after rehabilitation does not jeopardize public safety.

[North Coast Regional Environmental Plan 1988](#)

Clause 12 - Development control – impact of development on agricultural activities

The land subject of the quarry expansion is classified as regionally significant farmland. In this regard, the proposal will not cause the loss of prime crop or pasture land.

The proposed quarry expansion will result in the loss of a small part of an existing macadamia plantation. Given the relatively small size of the macadamia plantation on the subject site, the loss of the macadamia trees is not considered to be unreasonable in the circumstances.

The NSW DPI has reviewed the DA and states that the proposed expansion of the quarry raises no major agricultural issues.

18 Development control – extractive industry

Clause 18 requires that council shall not consent to a development application for an extractive industry unless it includes any necessary conditions of consent to require implementation both during and after extractive operations of an erosion and sediment control plan and rehabilitation plan. Appropriate conditions of consent have been recommended in relation to erosion and sediment control and rehabilitation of the site.

[EP&A Model Provisions 1980](#)

Clause 5 – Consideration of certain applications

Clause 5(1) – The quarry face will be in view from parts of Coopers Creek. The appearance of the quarry when viewed from the creek is assessed as being acceptable.

Clause 5(4) – The application is considered to have satisfactorily addressed this clause in that proposed conditions are nominated with respect to: rehabilitation of the site, waste and refuse management, public safety and appropriate protection of the amenity of the neighborhood.

Clause 30 – Services

The existing services available to the land are satisfactory to service the proposed lateral expansion.

[Native Vegetation Act 2003](#)

There are no issues under the Native Vegetation Act resulting from the proposed removal of the modified open grassland and the macadamia trees as part of the existing plantation.

[Threatened Species Conservation Act 1995](#)

The existing quarry currently protects the identified Thorny Pea (*Desmodium acanthocladium*) on the site, which is identified as a threatened species under this Act. The proposed lateral expansion does not impact upon the identified Thorny Pea (*Desmodium acanthocladium*) and conditions are proposed to retain the established buffer and undertake weed control around its habitat.

[Environment Protection and Biodiversity Conservation Act 1999](#)

Given it is proposed that the Thorny Pea (*Desmodium acanthocladium*) will continue to be protected and managed as part of any consent, the proposal is not considered to impact upon matters of 'National environmental significance' under this Act and does not require Ministerial referral.

[Lismore Development Control Plan](#)

The application has been assessed against the relevant controls in the Lismore DCP as indicated in the following compliance table.

1. DCP 2002 Compliance Table

LISMORE DEVELOPMENT CONTROL PLAN		
	<i>complies</i>	Comments
Chapter 11 - Buffers		
Extractive Industries Large quarries (>10,000m ³ pa) <ul style="list-style-type: none"> • Primary buffer – 500m; & • Secondary buffer – 800m. 	No*	See below under clause 18.5 of Chapter 18 – Extractive Industries for detailed comment on the adequacy of the buffers around the proposed expansion area.
Chapter 18 - Extractive industries		
18.3 Extractive Resources in Lismore	Yes	This chapter of the DCP identifies the Corndale Quarry as being a quarry of Regional significance.
18.4 Extractive Industries – Haulage Routes	Yes	The proposal does not change the total amount of basalt material that is proposed to leave the gate and therefore does not increase the truck movements from the site.
18.5 Buffer areas around Extractive Industries Large quarries (>10,000m ³ pa) <ul style="list-style-type: none"> • Primary buffer – 500m; and • Secondary buffer – 800m. <p>Urban/village-residential and rural residential development is excluded from both the primary and secondary buffer areas. 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.</p> <p>Where blasting is utilised at a quarry, a primary buffer zone of at least 800-1000m is desirable. This buffer could be reduced to 400m-500m, or even less, depending on blasting technique and where blasting is infrequent and/or only small “staggered” blasts are used.</p>	No*	<p>Extractive industries involve the use of an extensive range of plant and equipment which creates noise, vibration and dust as material is won from the quarry face and then crushed and screened for loading and transport. The DCP states that quarrying activities are incompatible with many land uses, particularly those of a residential nature and therefore it is desirable to provide a buffer area around quarries to minimise land use conflicts.</p> <p>The proposal nominates a lateral expansion of the approved extraction area by a maximum of approximately 57m further to the east. The proposed expansion consequently reduces the buffer distances between the quarry and existing dwellings to the east of the quarry. Figure 3 below this table and the plans in Attachment 1 illustrate the 500m and 800m buffers around the quarry and the location of Residences H, I, J and K. The following existing dwellings are within the prescribed buffers:</p> <p>Dwellings within the primary buffer:</p> <ul style="list-style-type: none"> • Residence H – 290m; • Residence I – 420m; <p>Dwellings within the secondary buffer:</p> <ul style="list-style-type: none"> • Residence J – 560m; and • Residence K – 610m. <p>Following consideration of the application and the likely impacts generated by the proposal it is assessed that, subject to appropriate conditions of consent, the proposed variation to the buffer requirements is reasonable in the circumstances and will not result in unreasonable land use conflicts with surrounding dwellings. The reasons for this conclusion include:</p>

		<ul style="list-style-type: none"> • As outlined in throughout this report the noise, vibration and dust impacts upon the surrounding locality from the proposed expansion are assessed as being satisfactory, subject to the proposed conditions of consent; • The DECCW have issued their General Terms of Approval for the proposed expansion subject to conditions. In this regard it is noted that the DECCW are the post consent regulators of the quarry in relation to noise, vibration and dust; • The application does not nominate a new land use, rather the application states that the quarry has been operating for in excess of 40 years. In this regard, the associated impacts are not new to the locality and the infrastructure required for the quarry is existing and in place. • The proposal expands the extraction area by approximately 57m, which is considered to be relatively minor in the context of the buffer requirements; • There are no additional dwellings which were previously outside the 800m buffer but are now located within the buffer due to the lateral expansion; and <p>The proposed quarry is identified in the DCP as being of regional economic importance.</p>
18.6 Rehabilitation of Quarries	Yes	<p>Conditions will be applied to any consent requiring the rehabilitation of the quarry following the completion of the life of the quarry.</p> <p>Conditions will also be applied to any consent requiring that progressive rehabilitation occurs during the operational life of the quarry expansion. In this regard, the application states that rehabilitation will include planting of the benched areas and the rehabilitation of existing vegetated areas, through weeding and planting.</p> <p>Details of the final and progressive rehabilitation of the quarry will be required to be in accordance with the provisions of this chapter of the DCP and included within the Operational Plan of Management for the site that will be required to be submitted to and approved by Council prior to the consent becoming operational.</p>
18.8 Extractive Industry Management Plans	Yes	<p>A deferred commencement condition is proposed requiring a new Operational Plan of Management for the quarry operation and rehabilitation be prepared and submitted to Council prior to the consent becoming operational.</p>

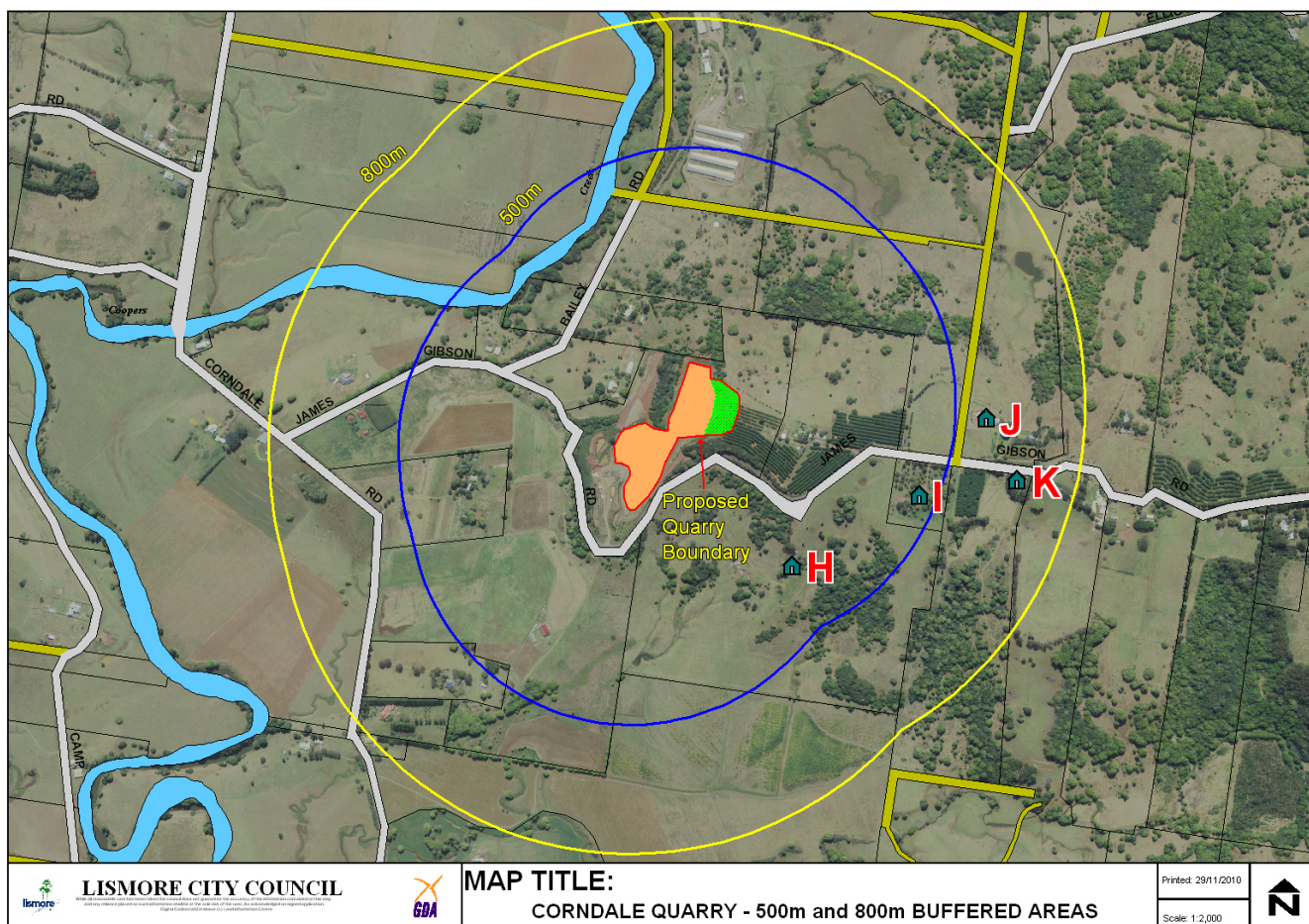


Figure 3 – Primary and Secondary Buffers around Corndale Quarry

Lismore Contributions Plan

The proposed development in proposing a lateral expansion of the approved extraction area does not increase the total extraction amount of basalt material that is approved to leave the site. In this regard the proposed development does not change the contributions levied on the quarry in Development Consent 5.1997.342, and a condition will be imposed reflecting the contributions applicable under Council's current Contributions Plan.

Council Policies

5.17.8 – Sustainability, Viability and amenity of Rural and Urban Land

The proposed lateral expansion is considered to be consistent with relevant provisions of this policy.

Roads Act Approvals

There are no approvals under the Roads Act 1993 applicable to this application.

Local Government Act Approvals

There are no approvals under the Local Government Act 1993 applicable to this application.

Noise Impacts

The assessment of noise impact has been a long protracted process between the applicant, the DECCW and Council. The technical assessment has been principally undertaken by DECCW as the post consent regulatory authority, however in saying that, the technical reporting has been considered and the DECCW's General Terms of Approval are supported.

The critical matters associated with the noise assessment are:

- the project specific noise level (industrial noise and vibration/over blast pressure) for the quarry, and
- the noise impact upon residential receiver G (Lot 32 DP1090294).

The L & E Court issued Development Consent 1997/342 nominated conditions for operational and road traffic Project Specific Noise Levels (PSNL) as well as quarry hours of operation (general quarry and blasting). In this regard, the PSNL's set were:

- 41dB(A) for operational noise; and
- 55dB(A) for road traffic noise.

These PSNL's were based upon the EIS, which set the background level at 36dB(A) during the day time. This background noise level and associated methodology were considered by DECCW during its assessment of this DA and were accepted.

As part of Council's assessment procedure for quarry operations a background noise assessment was undertaken to validate the nominated noise performance targets. Council's 'short term' assessment (utilised for compliance purposes) generally supports the nominated noise performance targets. It would be reasonable to expect (in recognition of similar rural environments) that this figure would be marginally lower should a long term assessment methodology be adopted. However it is recognised that this application is for an amendment to the existing operation which has a Court determined project specific noise level. Applications falling outside being an amendment would require a re-determination of background noise levels through a long term assessment method in accordance with the Industrial Noise Policy.

PSNL's are determined to minimise potential offensive noise impacts by setting operational noise levels at 5 dB(A) above the background noise level, which is recognised as the level at which a reasonable person would consider emissions as offensive. With the current PSNL set at 41 dB(A), DECCW through a recent submission have not identified noise emissions (outside that of vibration) as a compliance issue through current licence reporting. This being the case it would be reasonable to assume that the PSNL is representative for the locality.

The application nominates the lateral expansion of the extraction area to the east thereby reducing the buffer separation distance to existing residence G. Initially noise assessment reports could not adequately demonstrate that the PSNL level for the application could be satisfied at residence G.

Following a number of reviews the applicant determined that residence G would need to be acquired to satisfy the noise performance standards. As the application currently stands the quarry operator has an option to purchase the property upon which residence G is sited should consent be issued.

The Noise Impact Assessment (NIA) has stated that as the proposed expansion is to the east of the existing quarry face that those dwellings to the east and south east will be potentially affected. This position is considered valid in part but does not recognise the existing dwellings that are located immediately to the west of the existing quarry face. The NIA does not provide any technical assessment of these dwellings which is considered to be a gap in the assessment process. However, it could be reasonably argued that the existing operations are closer to these dwellings and compliance is being

achieved with the current PSNL and vibration standard. To address this issue and that of validation of modeling, it is considered necessary that immediately following the commencement of works (within 3 months) that a acoustic assessment be undertaken to confirm compliance with the PSNL and vibration standard at the closet non-associated residential dwellings located to the east, west and south of the quarry operations and be repeated on an annual basis.

There is an inconsistency between the NIA and the DECCW's GTA in relation to nominated monitoring locations. The NIA recommends that monitoring be undertaken at those dwellings to the east of the proposed expansion area while the GTA nominated the closest impacted non-associated residence. In recognition of the comments above it is critical that monitoring be undertaken at the closest most affected residence.

This still leaves the matter of surety that ownership of Lot 32 DP1090294 (residence G) will remain in that of the quarry owner for the operational life of the quarry. To address this matter the applicant has suggested that a 'restriction as to user' be placed on the title requiring the occupant of residence to sign a deed of agreement that they will not complain about the quarry operation. Alternatively it is considered a superior outcome that a condition be applied requiring a 'restriction as to user' on Lot 32 DP1090294 preventing its sale separately from Lot 31 DP1090294 for the life of the quarry, including rehabilitation works, with Council being the authority empowered to modify or delete the restriction. The result of this condition would be that if Lot 31 DP1090294 is sold then the quarry would technically cease operation.

In relation to road traffic noise, the DECCW guideline 'The Environmental Criteria for Road Traffic Noise 1999' sets the noise criteria for developments which have a potential to impact amenity through the generation of traffic. The applicant for this application has argued that the application is not proposing to increase the extraction rate or the total volume and as such road traffic movements will not be increased from the initial assessment/determination. DECCW's GTA have been issued in recognition of this position which is considered reasonable.

The primary and secondary buffers (500 m and 800 m respectively) nominated within Councils DCP will move approximately 57m to the east of the current location. As stated in the SEE there is already development within the buffer zones at the existing quarry boundaries, and the expansion to the east will not encroach on any additional dwellings (Lot 32 being acquired). Through the noise assessment it has been demonstrated to the satisfaction of DECCW that the PSNL's as set for the current operation can be satisfied at other sensitive receiver locations. Therefore the proposed lateral expansion will not significantly impact on current buffer separation distances.

The lateral expansion area is located on a ridgeline and it is recognised that during the initial construction work phase at the site (includes removing the existing macadamia trees, removing overburden and creating the earth mounds) there will be construction site noise levels which will exceed the operational PSNL for the quarry. Works will be undertaken with limited machinery (bull dozer) and no extraction of material within the area is to be undertaken until these works are completed. It is recognised that these works will be undertaken to satisfy DECCW Construction Noise Guideline not the PSNL of 41 dB(A).

The quarry OPOM states the noise performance objective as:

'Noise attenuation measures are to be implemented to meet the nominated limits of 41 dB(A) for the operational noise at neighbouring dwellings and 55 dB(A) for the $L_{Aeq}(1 \text{ hour})$ for road traffic noise'.

In this regard, the OPOM for the quarry again recognises annual monitoring.

Conditions of the existing development consent have been reviewed and where necessary amended to relate to this application and to ensure consistency with the DECCW General Terms of Approval.

Soil and Water Management

The matter of groundwater assessment is normally considered by the Department of Water and Energy however their comments to date are:

“If council grants consent for the development please inform the applicant of their responsibility to liaise with DWE, before they commence operations, to ensure compliance with the Water Management Act 2000 and any relevant NRM policies.”

The SEE states that:

“The nearest licensed groundwater bore is located about 600m to the north east of the proposed quarry site, along a secondary ridgeline. This groundwater bore (GW302490) is deep, with the water yielding zone below the blue basalt layer, in fractured rock at more than 60m depth. The groundwater table has not been intersected at the existing quarry site, and as the proposed quarry will be to the same finished floor level of the existing quarry, therefore it is not expected that the groundwater table will be impacted at this site, hence no changes in environmental flow nor quality.”

Section 10 of the existing Operational Plan of Management for the quarry identifies that the Soil and Water Management Plan, which include the groundwater monitoring requirements for the quarry operations are contained in Appendix E.1. Section E.1.4 - Management and Monitoring of Soil and Water Management Works identifies the requirement that:

‘A groundwater monitoring bore shall be provided near the north-western edge of the quarry floor. This bore is to be licensed by the Department of Land and Water Conservation and shall be used to monitor the groundwater quality. Annual samples shall be taken for analysis and reporting to Council and the EPA’.

This plan is recognised as being prepared in response to the consent conditions and requirements at the time of the Environment Protection Authority (EPA) and Department of Land and Water Conservation (DLWC).

The application is for the relatively ‘minor’ expansion of the approved extraction area and as such current operational mitigation measures for soil and water will be modified to accommodate the proposed additional treatment and management requirements. The DECCW’s General Terms of Approval has set performance standards, monitoring and reporting requirements for potential water pollutant discharges. It is proposed that a deferred commencement condition is applied to any consent requiring that an amended Operational Plan of Management (including a Soil and Water Management Plan) be prepared and submitted to Council for approval. This document is to be contemporary, consistent with approval conditions (including DECCW’s licence conditions), recognising current and proposed quarry operations and be prepared in accordance with best practice.

Conditions of the existing development consent have been reviewed and where necessary (i.e. Soil and Water Management Plan) amended to relate to this application and to ensure consistency with the DECCW General Terms of Approval.

Air Quality (Dust)

The locality is characterised by agricultural holdings including intensive horticulture, intensive animal establishment (poultry farm, which has been the subject of compliance operations due to odour, but not in recent history - 24 months) and the existing extractive industry.

The Statement of Environmental Effects (amended 27/5/2010) recognises that:

“The wind roses present that dominant wind direction is from the south west in the morning to south east in the evening. The winds from this direction also have the strongest wind. As the wind is coming from this direction, there will be limited impacts on the receptors nearest to the proposed expansion to the quarry, as the receptors are to the east or south of the expansion area, hence the wind blown dust or emissions will not be transported directly to these areas during the strongest or most frequent of wind conditions.”

“Dust controls will be implemented and maintained during working times as is currently occurring in the existing quarry. Dust generation in the proposed quarry expansion will occur from winning the material and usage of the haulage road. Access roads will be watered using a mobile tanker as required. Water contained within the sedimentation basins will be used for dust suppressant.”

Site inspections have confirmed the stated status of dust control measures (water truck, water sprays on crusher etc). Section 13.2 of the Operational Plan of Management identifies that dust control will be effected by the covering of all loaded trucks, using water sprays mounted on the crusher and applying water to access ways and stockpiles. Further the Operational Plan of Management states that annual testing of air emissions will be undertaken and reported to Council, the EPA and the Consultative Committee. As identified reporting to Council has not been satisfactory. The DECCW's General Terms of Approval states that:

“The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.”

There is the potential during the opening phase of the proposed amended extraction area for the generation of dust and in this regard, it will be essential that the operation is managed (soil moisture content maintained) to a standard which minimises or prevents the emission of dust from the site.

The SEE states:

“There will be dust emissions from machinery extracting and moving the won material and transportation of the material along the haul roads. Dust suppressing will be required through the use of water sprays and watering the roads. Furthermore, the planting of screens around the perimeter of the site will also assist in reduction of airborne dust which may drift off site.

Covers will be put over trucks for dust control on and off the site.”

Conditions of the existing development consent have been reviewed and where necessary amended to relate to this application and also to ensure consistency with the DECCW's General Terms of Approval.

Visual Impact

Due to the topography of the site and the design of extraction area, the existing face of the quarry, subject of the proposed expansion is visible from the locality to the northwest, west and southwest.

Attachment 1 includes plans supporting the visual assessment submitted as part of the DA including cross sections of the proposed expansion when viewed from the north, south and west. The DA plans illustrate the topography of the site relative to the proposed lateral expansion of the extraction area.

The DA details that the quarry will consist of a pit style excavation therefore reducing the visual impact to that of the existing ridgeline and that this existing ridgeline can be easily shielded by the planting of visual screens of native vegetation.

In particular, the DA proposes screen plantings on the northern side of the proposed lateral expansion as the existing vegetation on the southern boundary of the site screen any impact when viewed from the locality to the south.

The visual impact of the proposed lateral expansion is considered to be acceptable, given:

- **When viewed from the north** – the topography of the proposed extraction area is such that there will not be any significant increased visual impact when viewed from the locality to the north of the site. Any such impact will be appropriately screened by the proposed plantings to the north of the proposed lateral expansion;
- **When viewed from the South** – subject to the retention of existing vegetation along the southern boundary of the site and the construction of the proposed noise mound, which will be vegetated, the proposed quarry expansion is not considered to be visible when viewed from the south of the site; and
- **When viewed from the West** – the topography of the proposed extraction area is such that there will not be any increased visual impact when viewed from the west of the site. In this regard it is noted that the proposed expansion will take existing quarry face further into the hill, but will not increase its height and therefore will not have any significant increased visual impact.

In addition to the above, given the proposed noise mound to the east and south of the proposed expansion area will be vegetated it is not considered to result in an unreasonable visual impact upon the scenic landscape of the site, particularly given the mound has existing vegetation either in front of it or behind it and it can be removed when the quarry extraction lowers to RL 90m AHD.

Aboriginal Heritage

The DA states that:

“An aboriginal cultural and heritage assessment was originally undertaken by Katrina Geering and Colin Roberts in 1996 for the original quarry. The conclusion of the report states for the existing quarry ‘as the area has no known special Aboriginal cultural significance and as no Aboriginal archaeological sites were located in the area there are no objects on the basis of Aboriginal Cultural and Heritage values to the quarry proceeding as currently planned.

Although there was no direct Aboriginal assessment undertaken on the proposed extension to the site, it would be unlikely that there would have been sites as the original report states ‘the focus for occupation of the general area would have been along the river flats and around the lagoons with only transitory use for hunting and gathering on the hill sides. The latter uses would have left few physical remain.’”

When considering the above and the fact that the Ngulingah Local Aboriginal Land Council has not raised any objection, it is considered that the proposal is unlikely to adversely impact upon any Aboriginal Heritage.

Conditions have been recommended in relation to the protection of any Aboriginal relic or other item of Aboriginal or archaeological significance should they be discovered during excavation.

Compliance of the Existing Quarry

The operation of the existing quarry is managed by the ‘Corndale Quarry – Operational Plan of Management’ (OPOM) dated September 2000. This plan incorporates the Environmental Management Plan, the Soil and Water Management Plan and the Operational Plan including Noise Amelioration Measures.

Section 19 of the POM states”

“A performance review of quarry operations, will be undertaken by an independent auditor once a year to enable comparisons with EIS predictions. This will cover aspects such as soil and water management, noise, progressive rehabilitation and EPA (new DECCW) licences. Any non-compliance identified will require the quarry to implement amelioration measures described in the auditors report. A copy of each report will be supplied to Council.”

Section 4 of the OPOM requires that annual updates of the OPOM are to be submitted to Council by 31 January.

The DA includes copies of a number of ‘audit of works’ undertaken for the quarry. Such audits are not however considered to appropriately satisfy the above requirements of the consent or the OPOM and have not been completed on an annual basis. This is not to say that the quarry is not operating in accordance with the OPOM, however, more regular, comprehensive and detailed reporting would enable more confidence in this regard. When considering the operation of the existing quarry it is noted that Council is not aware of receiving complaints from surrounding land owners over recent years.

Given the lack of comprehensive and detailed reporting as required by the OPOM, it is recommended that, if considered for approval, the DA be subject of a deferred commencement condition requiring:

1. *The submission of a comprehensive compliance audit in accordance with Section 19 of the OPOM to Council for approval; and*
2. *The submission of an amended OPOM (including associated Environmental, Noise and Soil and Water Management Plans) to Council for approval. This document is to be contemporary, consistent with consent and/or licence conditions, specifications outlined in the original EIS, recognising current and proposed quarry operations and be prepared in accordance with best practice.*

When considering the above, it is noted that such a deferred commencement consent will not become operational until these conditions are met to the satisfaction of Council and where necessary amelioration measures are effectively implemented and compliance demonstrated.

Notwithstanding the above, it is recognised that the existing quarry is licensed by DECCW and as such DECCW are the appropriate regulatory authority for the site for environmental management matters (air, noise, soil, water and waste) under the provisions of the Protection of the Environment Operations Act 1997. The site is currently licensed (No.4172) which also sets operational, monitoring and reporting requirements for the extractive industry.

As part of this assessment process DECCW have reported that following a review of their licence conditions it was identified that Condition L6.3 (ground vibration peak particle velocity measurement) was exceeded and that the DECCW would seek action from the operator to ensure future compliance. The quarry operator has since submitted additional information identifying amendments that have been incorporated into blasting operations to ensure a compliant outcome.

The DECCW have issued their General Terms of Approval and associated conditions to the proposed lateral expansion. The issue of their GTA is an indication that the DECCW does not have serious concerns with the current operation of the quarry.

In addition to the above, it is noted that due to the high volumes of overburden encountered within the extraction area that there are more stockpiles of overburden on the site than was approved pursuant to DA1997/342. There have also been more sediment basins and additional noise mounds constructed on site than was approved in DA1997/342. While there are no obvious environmental concerns with these works, it is considered appropriate that a condition be applied clarifying that these works are not approved as part of this consent.

Quarry Operational Plan of Management

Conditions are proposed that require that the existing Operational Plan of Management incorporating: the Environmental Management Plan, Soil and Water Management Plan and Noise Amelioration Measures, be amended to be contemporary, consistent with approval conditions, recognising current and proposed quarry operations and be prepared in accordance with best practice.

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 natural environment	YES
4. Traffic generation	YES
5. Loading and Servicing facilities	YES
6. Physical relationship to and impact upon adjoining development (Noise, Vibration, dust, etc.)	YES
7. Site Management Issues	YES
8. Climate Change and ESD Principles	YES
8. All relevant S79C considerations of Environmental Planning and Assessment Act 1979	YES

Sustainability Assessment

Sustainable Economic Growth and Development

The subject quarry is identified as being of regional economic importance and provides graded and crushed basalt, which is used for a range of construction purposes, to the Lismore / Ballina area. The intent of the DA is to allow the quarry greater opportunity to achieve the currently approved extraction of 910,000m³ of basalt, which is considered to promote sector growth, encourage additional investment in the sector and have a positive effect on local economic development and employment.

In addition to the positive economic benefits of the DA, subject to the imposition of and compliance with the proposed conditions of consent, the proposal is considered to result in acceptable environmental and social outcomes. In this regard the proposal is considered to constitute sustainable development.

Social Inclusion and Participation

Development Consent 5.1997.342 required a Community Consultative Committee to be set up to monitor compliance of the quarry with conditions of consent, establish a complaints conflict resolution process and to seek technical advice from public authorities or relevant individuals.

The Consultative Committee was set up and convened its first meeting on the 20/2/2006. At that meeting it was agreed that the conditions of consent relevant to adjacent residences were being complied with and that the community representatives could approach directly the quarry representatives should any future problems arise. In any matters where that approach failed, the community representatives should seek Council's permission to convene the Consultative Committee with the assistance of the neutral facilitator.

While no further request has been made of Council to re-convene the Committee, it is considered the Council can formulate a new Committee if required, which provides opportunity for increased social inclusion and participation in the operation of the quarry.

Protect, Conserve and Enhance the Environment and Biodiversity

Subject to the imposition of and compliance with the proposed conditions of consent, the proposed lateral expansion is considered to appropriately protect, conserve and enhance the environment and biodiversity. In addition the quarry does operate in a manner that minimises greenhouse gases and re-uses and recycles resources.

Best-Practice Corporate Governance

The community has been appropriately informed of the proposal in that the DA has been publicly exhibited in accordance with the provisions of the relevant. The purpose of this report is to provide an appropriately detailed and thorough assessment of the application to best assist the Council's in its determination of the DA, which is considered best practice.

Comments

Finance

Not required.

Other staff comments

Not required.

Public consultation

The details of public exhibition, submissions received and their consideration have been addressed within the body of this report and in detail in Attachment 2.

Conclusion

The proposed lateral expansion of the approved extraction area of the Corndale quarry will afford the quarry greater opportunity to achieve the extraction of 910,000m³ of basalt material which was approved pursuant to Development Consent 5.1997.342. Given the quarry is identified by Council's DCP as being of regional economic importance, such proposal is considered to result in an increased public benefit.

The obvious potential adverse impacts resulting from the development include: buffers, noise, vibration, dust, visual, water and groundwater impacts.

A detailed assessment of the proposed development indicates that subject to the proposed conditions of consent that these potential adverse impacts can be managed so as not to have unreasonable impacts upon the environment or the surrounding residences.

On balance the proposal is recommended for approval.

To address any compliance issues associated with the operation of the existing quarry, it is recommended that prior to any development consent becoming operational that a comprehensive audit of the existing quarry against the approved Operational Plan of Management and conditions of consent be undertaken as well as the preparation of an updated Operational Plan of Management.

Attachment/s

- | | |
|---------------------------------------------------------------------------------------|----------------|
| 1. Plans of the proposed lateral expansion | (Over 7 pages) |
| 2. Summary of submissions and planning comment in reply | (Over 7 pages) |
| 3. General Terms of Approval from Department of Environment, Climate Change and Water | (Over 7 pages) |

Recommendation

That Council as the consent authority, grant a deferred commencement development consent to Development Application No. 2009/83 for the proposed lateral expansion of the quarries approved extraction area subject to the following conditions.

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 satisfaction.

COMPLIANCE

- 1 A comprehensive compliance audit of the existing quarry operations in accordance with Section 19 of the 'Corndale Quarry – Operational Plan of Management' (dated September 2000) and conditions of consent for DA5.1997.342 is to be submitted to and approved by Council.

The audit is to be undertaken by an independent suitably qualified expert to the satisfaction of Council.

Reason: *To ensure the existing quarry is operating in accordance with the approved Operational Plan of Management.*

- 2 An amended 'Operational Plan of Management' (including associated Environmental, Noise and Soil and Water Management Plans) is to be submitted to and approved by Council. This document is to be contemporary, consistent with this consent and/or licence conditions, specifications outlined in the original EIS, recognising current and proposed quarry operations, reflect the findings and recommendations from the annual audit and be prepared in accordance with best practice.

Reason: *To amend the existing Operational Plan of Management to reflect the approved development, conditions and DECCW Licence conditions.*

SUBJECT LAND

- 3 Lot 32 DP1090294 forms part of the land to which this consent relates and is integral to the acceptable operation of the quarry. In this regard, Lot 32 DP1090294 is to be purchased by the owner of the quarry.

Reason: *To prevent future dealing in separately titled land.*

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

4 In granting this development consent, Council requires:

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

and be substantially in accordance with the:

- a) stamped approved plans in the table below and/or supporting documents submitted with the application. A copy/copies of the approved plan is/are attached to this consent; and

Plan reference	Date
Exhibit 1 – Quarry Operations Detail	Amended 23/11/10
Exhibit No. 2 – Noise Assessment	Amended 28/3/10
Exhibit No. 3 – Proposed Quarry Sections	23/2/009
Exhibit No. 3B – Proposed Quarry Sections	23/2/009
Exhibit No. 5A – Soil and Erosion Control Plan	Amended 29/11/10
Exhibit No. 6 – Rehabilitation Plan	10/2/009

- b) The Environmental Impact Statement (EIS) prepared by the GeoLINK Group, dated November 1997, approved pursuant to DA 5.1997.342, as amended by:
- letter to the respondent of 15 April 1998;
 - the amended extraction area plan dated 28 June 1999; and
 - attachment to Court Exhibit "L", except as varied or clarified by the conditions hereunder.

In the event of any inconsistency between documents in points a) and b) above, the documents and plans in point a) and the conditions of this consent prevail.

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

GENERAL

5 Immediately upon the commencement of quarry operations approved under the terms and conditions of this consent (DA5.2009.83), Development Consent No. 5.1997.342 shall be surrendered under the terms of Section 80A(5) of the Environmental Planning and Assessment Act 1979.

In this respect, the proponent/quarry operator is to formally notify Council of the date upon which it intends to commence quarry operations under DA 5.2009.83 and, at the same time, is to formally surrender DA 5.1997.342 pursuant to Section 97 of the Environmental Planning and Assessment Regulation 2000.

This formal notification is to be provided to Council a minimum of fourteen (14) days prior to the intended date of commencement.

Should the proponent/quarry operator not intend to commence quarry operations under DA 5.2009.83, the quarry shall only operate in strict compliance with the terms and conditions of DA 5.1997.342.

Reason: *To ensure the quarry operates under the terms and conditions of one consent only.*

6 Lot 32 DP1090294 is not to be sold separately from Lot 31 DP1090294 while this consent remains active and this consent has formally lapsed and the site has been rehabilitated to the satisfaction of Council in accordance with the requirements of this consent.

Reason: *To prevent future dealing in separately titled land.*

- 7 **Prior to the commencement of works**, a Restriction on Use, under Part 6 Division 4 of the Conveyancing Act, is to be placed on Lot 32 DP1090294, indicating that for the life of this Development Consent, Lot 32 DP1090294 is to remain in the same ownership as Lot 31 DP1090294.

Lismore City Council is to be the only authority empowered to modify or delete the restriction.

Reason: *To ensure Lot 32 DP1090294 remains part of the land subject of the Development Consent.*

- 8 This consent does not approve any works that have occurred on site that are outside the terms and conditions of Development Consent 5.1997.342.

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

- 9 This consent does not relate to any rural tourist facility as an end-use, and any such proposal or other use apart from rehabilitation of the site with native vegetation, shall be subject to the submission and approval of a separate Development Application.

Reason: *To correctly describe what has been approved.*

- 10 This consent does not approve the crushing and/or recycling of concrete on the site.

Reason: *To correctly describe what has been approved.*

QUARRY PRODUCTION AND OPERATION

- 11 This consent shall be valid only for the quantities specified in this consent.

Reason: *To ensure compliance with the development consent.*

- 12 The applicant is to bear all costs associated with the implementation of the conditions of this consent.

Reason: *To inform the applicant of their obligations in complying with the development consent.*

- 13 This consent shall lapse upon:

- a) the extraction of a total of 910,000m³ of basalt material, including the amount of material that has been extracted and transported out the gate under DA 5.1997.342; **OR**
- b) the extraction of all material within the approved extraction area, **whichever occurs first.**

Prior to this time, the site will be inspected to ensure that progressive rehabilitation has been carried out prior to the final stage in accordance with this consent and the approved rehabilitation staging plans.

Reason: *To ensure compliance with the development consent.*

- 14 The annual rate of extraction of basalt material leaving the gate of the quarry, from the date of this consent shall not exceed 70,000m³ of loose material. The maximum extraction over the life of the quarry to be 910,000m³ of loose material, including the amount of material that has been extracted and transported out the gate under DA 5.1997.342. The applicant is to submit quarterly returns showing the extracted amount for each quarter commencing 1 January, 1 April, 1 July and 1 October.

Reason: *To ensure compliance with the development consent.*

- 15 Extraction is only to occur within the areas identified in the approved EIS and the Statement of Environmental Effects Corndale Quarry, dated 27/5/2010 and there is to be no disturbance of the vegetation surrounding the extraction sites other than that shown on the approved plans.

Reason: *To ensure compliance with the development consent.*

- 16 The applicant shall engage, at the applicant's cost, a registered surveyor to prepare and sign a plan of survey to delineate and peg accurately the proposed limit of disturbance/extraction, nominated in the EIS and the Statement of Environmental Effects Corndale Quarry, dated 27/5/2010. This plan shall be completed and submitted to Council **prior to the commencement works**, including any land clearing.

Reason: To accurately identify the extraction area.

- 17 The delineation pegs referred to in condition 16 are to be monitored and protected for the duration of this consent.

Reason: To ensure compliance with the development consent.

- 18 Any pegs removed during the operation shall be replaced by the registered surveyor and a new signed plan resubmitted indicating the placed peg and the date of that replacement.

Reason: To ensure compliance with the development consent.

- 19 No topsoil or overburden shall be sold or otherwise removed from the site.

Reason: To correctly describe what is approved.

- 20 The hours of operation of the quarry are to be restricted to:

Days	Times
Monday to Friday	7:00 am 6:00 pm
Saturday	8:00 am 12 noon
Sundays and Public Holidays.	No works

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 21 These hours of operation apply to crushing/screening plant and haulage trucks both on and off site, but do not apply to plant maintenance, landscaping and office works.

Reason: To correctly describe what is approved.

- 22 Blasting is to be undertaken only between 10.00 am and 3.00 pm Monday to Friday.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 23 All topsoil shall be progressively stripped from areas to be excavated and stockpiled separately. Stockpiles are to be located away from the general operation of the quarry in a location to assist in noise mitigation and be preserved for the future rehabilitation of the quarry. Topsoil that is stripped is to be stockpiled in a suitable location with appropriate sedimentation management practices. Topsoil is not to be used for berm or bund wall construction other than as topsoil for berms and bunds. Topsoil stockpiles are to be no higher than 4 m and shall not be located against the treeline.

Reason: To protect the environment.

- 24 All overburden extracted from the approved extraction area shall be stockpiled separately. Stockpiles are to be located away from the general operation of the quarry in a location to assist in noise mitigation and be preserved for the future rehabilitation of the quarry. Overburden stockpile are to be sited in a suitable location with appropriate sedimentation management practices.

Reason: To protect the environment.

- 25 All hazardous materials are to be appropriately stored so as to prevent environmental damage in case of spillage. Oils and lubricants to be stored in an impermeable bunded and roofed area with holding capacity of 110% of the capacity of the largest container. Alternatively the volume of the bunded area should be equal to at least the capacity of the largest tank plus the volume that would be displaced by other tanks or structures within the bund area. The larger volume is to be selected. Re-fuelling areas are to be located upslope from sedimentation dams and are to be indicated in the plan of management.

Reason: To protect the environment.

- 26 No fixed building, plant or machinery shall be erected on the site without the prior consent of Council.

Reason: To comply with the provisions of the Lismore Local Environmental Plan 2000.

- 27 No advertising signage is to be erected, painted or displayed without the prior consent of Council, unless such signage is exempt pursuant to Clause 24 of the Lismore Local Environmental Plan 2000.
- Reason:** *To comply with the provisions of the Lismore Local Environmental Plan 2000.*
- 28 No material for quarry infilling shall be imported to the site without the prior written consent of Council.
- Reason:** *To ensure sustainable resource use and minimise impacts to natural vegetation and surrounding environments.*
- 29 All vegetation which is cleared shall be chipped and/or reused on the site, and shall not be burned or removed from the site.
- Reason:** *To ensure sustainable resource use and minimise impacts to natural vegetation and surrounding environments.*
- 30 All vehicles and machines used as part of the operation must comply with the Protection of the Environment Operations Act 1997 and all regulations made under that Act and be fitted with properly maintained emission controls relevant to their date of manufacture.
- Reason:** *To preserve the environment and the existing or likely future amenity of the locality.*
- 31 The boundary of the quarry is to be appropriately fenced along areas easily accessible in a manner to discourage unauthorised entry and maintained at all times to accord with NSW WorkCover specifications.
- Reason:** *To discourage unauthorised entry to the site and to maintain safety.*
- 32 The crusher/screen set is to be retained in its current location within the work area and have appropriate noise bunds installed **prior to commencement of the processing operation.**
- Reason:** *To preserve the environment and the existing or likely future amenity of the locality.*
- 33 All vehicles associated with the use of the premises are to be parked within the confines of the site, at all times.
- Reason:** *To ensure adequate off-street parking.*
- 34 Curtains to minimise dust emission and water sprays to be installed on crushers and screens at all times these are in operation.
- Reason:** *To preserve the environment and the existing or likely future amenity of the locality.*
- 35 Existing utility services must not be damaged while any of the works nominated in this consent are carried out. If any services are damaged during the course of performing the works, the applicant must notify council immediately, and council will repair the damage at full cost to the applicant.
- Reason:** *To protect existing utility services.*
- 36 Vegetation surrounding the development site is to be left undisturbed. Boundaries shall 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.*
- 37 All unsightly matter shall be stored out of sight from any adjacent premises or public place.
- Reason:** *To preserve the environment and the existing or likely future amenity of the locality.*

QUARRY OPERATIONAL PLAN OF MANAGEMENT

38 At the cessation of operations for the quarry, all buildings, plant, machinery, vehicles and structures shall be removed from the site and the site be restored or rehabilitated in the manner described in the Operational Plan of Management (OPOM). Council will require a bond to be submitted to cover the cost of these works. The Applicant shall, 3 years prior to cessation provide written advice to Council pending the cessation of quarrying activity, and the actions taken to date in relation to rehabilitation and provide details of further rehabilitation works required to comply with the approved rehabilitation plan.

Reason: *To ensure appropriate rehabilitation of the site.*

39 The quarry OPOM is to be in conformity with the requirements of the *Part A Chapter 18 – Extractive Industries of the Lismore Development Control Plan*. The activities nominated in the OPOM are to be implemented within 6 months of the date of approval of the OPOM by Council or such other time as the OPOM requires.

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

40 The Operational Plan of Management (OPOM) is to include and address the following matters to Council's satisfaction:

- (a) **Weed control;** a detailed method of long term weed eradication and control is to be provided
- (b) **Ground and surface hydrology and water quality management;** the passage of stormwater across the site as well as the movement of stormwater from undisturbed sections of the subject site must be detailed in the OPOM. The 1:100 year ARI storm must be modelled across the site and trapped low points avoided and overland flow paths identified. The discharge points for stormwater must be clearly identified and size and capacity nominated. Discharge shall be restricted to that which would have resulted from the site in a rural state.
- (c) **The Soil and Water Management Plan** is to be prepared in accordance with the EIS and the Statement of Environmental Effects Corndale Quarry, dated 27/5/2010. This part of the OPOM is to be forwarded to the DECCW and the Department of Water and Energy (DWE) for their specifications and on completion their approval, prior to lodgement with Council for Council's final approval.
- (d) **The Soil and Water Management Plan** shall include but not be limited to the following design principles, standards and criteria:
 - (d.1) Drainage berms are to be constructed so as to direct clean runoff around the quarry face. The design and location of these features is to be incorporated into the plan of management and revised as required by Council. All runoff from disturbed areas, including access roads, is to be diverted into sedimentation dams.
 - (d.2) Detailed design and location of all sedimentation dams.
 - (d.3) Sediment control measures shall be put into place and be properly maintained to prevent soil erosion and the transport of sediment off the development site or into natural or made drainage lines or watercourses during rainfall and runoff. All topsoil, subsoil stock piles, and landscaping mounds shall be stabilised and be revegetated by turfing or an approved seeding method within fourteen days of completion of earthworks in each part of the development. It is a requirement that the topsoil be preserved for use with the site rehabilitation or other site activities.
 - (d.4) The plan is to identify control strategies and maintenance schedules of the operation of the sedimentation dams. The plan is to include an event based water quality monitoring program to assess the adequacy of sedimentation dams and compliance with design criteria.
 - (d.5) All sediment traps located within the quarry's work area to have a capacity and shape in accordance with condition 40(c).
 - (d.6) Water quality control ponds should be located clear of the natural gully on the site.
 - (d.7) The plan should provide for the reuse of collected sediment water within the site.

- (d.8) The plan shall include details of any coagulant injection system required to meet non-filterable residue (NFR) requirements.
- (d.9) The plan shall identify the design and location of bunded fuel storage areas and re-fuelling areas. Re-fuelling areas are to be located upslope from sedimentation dams. The plan is to indicate what course of action is to be taken in the event of a fuel spillage. Details of any barrier liners to be installed in areas of potential high infiltration should be supplied.
- (d.10) The plan shall identify the location of vegetated buffers (including proposed methods of establishment and maintenance) to be established and/or maintained between the quarry face and any drainage line or waterway. Vegetated buffers are to be established and maintained between the quarry face and any drainage line or waterway.
- (d.11) The plan shall include implementation of a water quality monitoring program to include the following features;
 - (a) parameters to be monitored including NFR, pH and oil/grease;
 - (b) recording of weather conditions (temperature, rainfall, etc.) on the day of sampling;
 - (c) reporting of monitoring results to Council and DECCW annually; and
 - (d) investigations to ascertain the source of any existing acidity in wash water.
- (d.12) Erosion and sediment control and drainage measures to be put in place both during and after construction of all internal haulage roads. Control measures are to remain in place until the site has been adequately revegetated or landscape to prevent soil erosion.
- (d.13) The plan shall contain details of the proposed sequence of operations for the site including staging of works, erosion control works, sequence of stockpiling, topsoil separation and rehabilitation measures and procedures.
- (d.14) The plan shall contain details of a ground water monitoring program including frequency of monitoring and parameters to be measured such as water levels and aquifer chemistry.
- (d.15) The plan shall contain details concerning the timing/staging of vegetation removal, method of removal including other approvals required for the works to be carried out, and the sequence of operations and rehabilitation works. The method of rehabilitation needs to be detailed with appropriate revegetation strategies indicated.
- (d.16) A review of the adequacy of the sediment and erosion control measures installed is to be undertaken by the DWE or by a qualified engineering consultant within 12 months of commencement of this consent. The cost of this review is to be borne by the applicant.
- (d.17) Topsoil stockpiles shall be protected by diversion banks and be sown with pasture grasses. Diversion banks should have grades less than 2%.
- (d.18) The culvert marked "A" on Court Exhibit F is not to be used. All water is to be diverted from the quarry floor into the onsite water quality control ponds.
- (e) Occupational Health and Safety and NSW WorkCover matters and requirements are to be listed and implemented in the operational plan for the quarry.
- (f) A detailed Landscaping and Revegetation Plan (including noise mounds) to avoid adverse impacts on the scenic amenity of the locality and vegetation regeneration on the site. Existing conditions to be documented as baseline conditions for ongoing six monthly monitoring and control of the visual impact of quarry operations. A comprehensive flora and fauna survey is to be prepared to establish baseline conditions for ongoing six monthly monitoring and control of the impact of quarry operations on native vegetation.
- (g) Waste disposal including collection, temporary storage, and removal from site. This part of the plan is to include disposal of disused plant and equipment from the site.

- (h) Six months from the commencement of this consent and then annual monitoring of plant and rock drill noise and truck noise at the residences shown on the EIS plan Exhibit 5.3, (excluding Residence G) and residences H, I, J and K as shown on exhibit 2 of Statement of Environmental Effects Corndale Quarry, dated 27/5/2010.
- (i) Monitoring and environmental auditing of the secondary water quality control pond for discharge criteria is to take place after any 1 in 10 years storm events and on a 6 monthly basis.
- (j) Air quality management and monitoring.
- (k) Bush fire management.
- (l) Aboriginal archaeology procedures.
- (m) Complaints and Community Consultative Committee protocol.
- (n) Truck movement and traffic/haulage management, including a code of conduct for drivers is to be established and implemented including: the non-use of compressed air brakes near houses close to the haulage roads, trucks not to exceed 60km/hr on haulage roads, no tailgating and trucks are not to exceed 40km/hr in school zones.
- (o) The provision and maintenance of appropriate noise barriers or bunds around the operating sections of the quarry, such that the receptor noise from the operation is below 41dB(A). This requirement shall apply to all houses within the quarry buffer as defined in Part A Chapter 18 – Extractive Industries of the Lismore DCP. The operation includes but is not limited to the crusher/screen, the frontend loader, trucks operating on the site, rock drilling rig, bulldozer, and excavator.
- (p) The provision of ameliorative measures that limit the LAeq1hr for the passing traffic, including quarry trucks, to below **55dB(A)** at the affected residences in James Gibson Road and or Corndale Road.
- (q) Progressive and final site rehabilitation including the ongoing maintenance of landscaping and revegetation. The progressive and final rehabilitation should also include the benching or covering of the existing work face, now disused, to provide no more than 5m drops with 3 m steps or 1:2 gradient. These benches are then to be planted and made safe, stormwater collection is also to be included in the rehabilitation plan. The rehabilitation plan is to be in accordance with Part A Chapter 18 – Extractive Industries of the Lismore DCP and incorporate locations of the subtropical rainforest patches and larger isolated rainforest trees on the site and be designed to link the patches of trees, as far as reasonably practicable.
- (r) Performance review of quarry operations, including soil and water management, noise, progressive rehabilitation and DECCW licences etc. to enable comparison with the EIS and the Statement of Environmental Effects Corndale Quarry, dated 27/5/2010 predictions, and these conditions to be made. Non compliance will result in additional works being carried out by the quarry operator at full cost to the operator, to ensure compliance.
- (s) The measures incorporated into the operation of the quarry aimed at minimising greenhouse gas emissions.

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

MONITORING AND OTHER APPROVALS

- 41 Annual audits shall be carried out of quarry operations against approved Operational Plan of Management, inclusive of the Environmental, Noise, Soil and Water and Rehabilitation Management Plans and consent and licence conditions. The audit shall be undertaken by an independent, suitably qualified expert and shall identify areas of non-compliance and management responses to the same. An annual report of audit findings shall be submitted to Council prior to the 31st January following the commencement of this consent.

Where non-compliance is identified the applicant shall identify amelioration works to be implemented and shall undertake monthly monitoring until the amelioration measures have been completed and compliance demonstrated.

Reason: *To ensure compliance with the development consent.*

- 42 An annual update of the Operational Plan of Management is to be submitted to council by 31 January in each year. This update must include:
- (a) the quantity of material extracted in the immediately preceding calendar year.
 - (b) the area of land used in quarry operations in the immediately preceding calendar year. This is to be related to the survey undertaken for the current year,
 - (c) the rehabilitation undertaken in the immediately preceding calendar year and the rehabilitation program for the current year,
 - (d) results from the water quality monitoring program for the immediately preceding calendar year,
 - (e) details of all sedimentation ponds constructed during the immediately preceding calendar year or proposed to be constructed during the current year, and
 - (f) details of visual impact landscaping, conservation of Thorny Pea and site revegetation.

Reason: *To ensure compliance with the development consent.*

- 43 All necessary pollution licenses are to be obtained from the Department of Environment, Climate Change and Water for the quarry prior to the commencement of works.

Reason: *To obtain relevant licences.*

- 44 The applicant shall provide council with written evidence that all necessary statutory licenses have been obtained, within three months of the date of this consent.

Reason: *To ensure compliance with the development consent.*

- 45 All discharges from the sedimentation ponds shall meet the requirements of the Protection of the Environment Operations Act 1997 and the relevant criteria of the DECCW. Design details are to cater for the one in ten year Average Recurrence Interval storm for 24 hours, such discharges to contain less than 50 mg/L of non-filterable residue, no visible oil or grease, less than 10 mg/L of oil and grease, and a pH in the range 6.5 - 8.5 or other such standard approved in writing by the DECCW from time to time. Details of any coagulant injection system required to meet the NFR requirements are to be included in the OPOM.

Reason: *To protect the environment.*

- 46 All necessary approvals under the Water Management Act 2000 and other relevant Natural Resource Management policies are to be obtained from the Department of Water and Energy, **prior to commencement of works.**

Reason: *To comply with the Water Management Act 2000 and other Natural Resource Management Policies.*

- 47 Blasting activities are to comply with the criteria of the DECCW in relation to over blast pressure and ground vibration. The following shall be undertaken prior to any blast on the site.

- 49.1 A minimum of three days prior to any blast, written notification shall be given to the occupants of all dwellings within 1,000 m of the quarry before blasting taking place.
- 49.2 A minimum of 1 in 3 blasts (other than those associated with 'popping' boulders) shall be monitored for peak particle velocity and blast over pressure at the nearest residences being residences A, B, C, D, E and F as shown in the EIS Exhibit 5.3 and residences H, I, J and K as shown on Exhibit 2 of the Statement of Environmental Effects Corndale Quarry, dated 27/5/2010. Appropriate measures are to be taken to reduce impacts if required. As a part of the monitoring process, the following records shall be kept and made available to Council and the public, if requested.
 - (a) Date and time of blast, and name of the person responsible for the blast;
 - (b) Location of blast and blast drilling pattern;
 - (c) Type and weight of explosive used in each hole;
 - (d) Maximum Instances Charge (MIC) weight;
 - (e) Climatic conditions generally, including wind direction and extent of cloud cover;
 - (f) Vibration and air blast emission levels recorded; and

- (g) A record of the blast, including yield.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 48 The proponent shall take the necessary steps to ensure a Dilapidation Survey of all buildings which fall within the primary and secondary buffers identified in Part A, Chapter 18 – Extractive Industries of the Lismore DCP, as a consequence of the quarry expansion has been undertaken. Such survey is to be undertaken by a suitably qualified structural engineer, architect or building surveyor, and be submitted to council within 6 months of the date of this consent.

Reason: To protect the structural adequacy of surrounding dwellings.

- 49 In the event that any structural damage is demonstrated to have occurred as a consequence of the quarry operations, the operator shall either compensate the respective property owners or carry out satisfactory repairs.

Reason: To provide compensation or repair to damaged dwellings.

NOISE, VIBRATION and DUST

- 50 Noise from the premises must not exceed 41dB(A) $L_{Aeq}(15\text{minute})$ during the day (7am to 6pm) Monday to Friday and 8am to noon Saturday, where L_{Aeq} means the equivalent continuous noise level - the level of noise equivalent to the energy-average of noise levels occurring over a measurement period.

Note: Noise from the premises is to be measured at most affected point on or within the residential property boundary or, if this is more than 30m from the residence, at the most affected point within 30m of the residence to determine compliance with this condition.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 51 The airblast overpressure level from blasting operations in or on the premises must not exceed:

(a) 115 dB (Lin Peak) for more than 5% of the total number of blasts during each reporting period; and

(b) 120 dB (Lin Peak) at any time.

at the most affected residence of noise sensitive location that is not owned by the licensee or subject to a private agreement between the owner of the residence or noise sensitive location and the licensee as to an alternative overpressure level.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 52 The ground vibration peak particle velocity from blasting operations carried out in or on the premises must not exceed:

(a) 5mm/s for more than 5% of the total number of blasts carried out on the premises during each reporting period; and

(b) 10 mm/s at any time.

at the most affected residence of noise sensitive location that is not owned by the licensee or subject to a private agreement between the owner of the residence or noise sensitive location and the licensee as to an alternative overpressure level.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 53 All trucks carrying quarry or crusher products from the site shall ensure their loads are fully covered by a suitable material to prevent spillage or dust falling from the truck.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 54 The development shall at all times meet noise emission criteria, vibration levels and standards relating to air borne pollutants and discharge of solid wastes to natural water courses as specified by the DECCW.

Reason: To preserve the environment and the existing or likely future amenity of the locality.

- 55 All noise attenuation measures as provided for in the EIS and Statement of Environmental Effects – Corndale Quarry, dated 27/5/2010 are to be implemented to meet the nominated limits of

41dB(A) for operational noise at neighbouring dwellings or 55dB(A) for the LAeq 1 hr for road traffic noise.

Reason: *To preserve the environment and the existing or likely future amenity of the locality.*

- 56 The quarry operator is to take appropriate action to mitigate any noise impacts to achieve these criteria at all times of the quarry operation or quarry transport activities.

Reason: *To ensure compliance with the development consent.*

- 57 Internal unsealed accesses to be regularly watered during dry periods. A water truck designed for road construction is to be maintained at the quarry operations during times of dry weather and high volume usage to ensure that EPA requirements are met with respect to dust emissions. The Dust Management Strategy is to be implemented upon issue of operational consent and fully complied with thereafter.

Reason: *To preserve the environment and the existing or likely future amenity of the locality.*

ROADS AND TRANSPORT

- 58 All trucks leaving the development site shall comply with the legal weight limitations for classes of vehicles established by the NSW Roads and Traffic Authority and local councils for the particular roads used to deliver products to Customers.

Reason: *To assist in protecting vehicle and road safety.*

- 59 In addition the Applicant shall:

- maintain a weighbridge, and
- record in a daily log, for all loaded trucks leaving the quarry:
- the type of truck and trailer, and
- the tare and load weights, and
- times of departure of the first and last truck to and from the site, and
- direction of truck travel, ie east or west along James Gibson Road.

Reason: *To ensure compliance with the development consent.*

- 60 The applicant shall submit a yearly report to council detailing the results of the daily log of all loads together with payment of Section 94 levies due as established by this consent.

Reason: *To ensure compliance with the development consent.*

- 61 Traffic signage shall be maintained at suitable locations as indicated in the EIS along James Gibson Road advising of traffic hazards in accordance with the Council's requirements, including warning signs on either side of the entry/exit to the quarry indicating "trucks entering".

Reason: *To ensure activities relating to the development do not interfere with the movement of traffic along the public road.*

- 62 All loading and unloading to take place within the curtilage of the quarry site.

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development.*

- 63 Vehicles using the quarry must enter and leave in a forward direction. All driveways and turning areas to be kept clear of obstructions that would prevent compliance with this condition.

Reason: *To ensure adequate access to and from the site.*

SITE REHABILITATION

- 64 Site rehabilitation shall be carried out in accordance with a staged plan submitted with the OPOM. The plan shall be in accordance with Chapter 18 – Extractive Industries of the Lismore DCP and document how adverse impact on the scenic amenity of the locality will be avoided and how promotion of favourable habitat regeneration conditions on the site can be achieved. The plan shall demonstrate how this work will be coordinated with other site works such as water, soil, noise and access management. The plan shall identify rehabilitation work to be completed each year during the operation of the quarry.

Reason: To ensure appropriate landscaping and rehabilitation is provided.

- 65 The proposed rehabilitation must be commenced immediately in all areas no longer subject to extraction or required for access. Logs, brush and rocks should be retained and used where possible to facilitate regeneration. Trees and vegetation are to be chipped or mulched and stockpile for use in rehabilitation works.

Reason: To ensure appropriate landscaping and rehabilitation is provided.

ON-SITE WASTE WATER MANAGEMENT

- 66 On-site waste water management from amenities and toilet facilities to comply with Council's On-site Sewage and Wastewater Management Strategy.

Reason: To comply with Council's On-Site Sewage and Wastewater Management Strategy.

ABORIGINAL SIGNIFICANCE

- 67 The quarry operators and any person acting on their behalf shall not knowingly destroy, deface or damage any Aboriginal relic or other item of archaeological significance within the quarry area without the prior written consent of the DECCW.

Reason: To protect Aboriginal and Archaeological significance.

- 68 Upon discovery of any Aboriginal relics within the meaning of the National Parks and Wildlife Act 1974 (as amended) during site or excavation works, the quarry operators and any person acting on their behalf shall immediately notify the DECCW, the local Aboriginal Land Council and Council and shall cease operations within the vicinity thereof until such time as the consent of the DECCW is obtained (if required) for the destruction, removal or protection thereof and the developer has complied with the directions of the DECCW in that respect. The developer shall provide to Council copies of any direction given by the DECCW in respect of Aboriginal relics that are subject of this condition.

Reason: To protect Aboriginal and Archaeological significance

CONSULTATIVE COMMITTEE

- 69 The person acting upon this consent, in consultation with council, shall re-establish a Corndale Quarry Community Consultative Committee upon the written request of any member of the public likely to be affected by quarry operations. In the event that no written request is received, or on two consecutive occasions a committee quorum is not achieved, the person acting upon this consent may write to Council seeking written concurrence to discontinue the operation of the committee until further notice.

Reason: To enable the re-establish of the Consultative Committee.

- 70 The membership of the Committee shall comprise:

- (a) neutral Council appointee;
- (b) two representatives of the quarry operating company; and
- (c) two representatives from the community selected by the council.

Reason: To outline the members of the Consultative Committee.

- 71 The Committee shall:

- (a) be chaired by the neutral council appointee;
- (b) be convened for the first time within six months from the date of this consent and thereafter as required by Council;
- (c) monitor compliance with the conditions of this consent;
- (d) establish a complaints conflict resolution process; and
- (c) may seek technical advice from time to time from public: authorities or relevant individuals.

Reason: To outline the role and function of the Consultative Committee.

- 72 The applicant shall provide for inspection to the Committee information that a member may reasonably request including:

- (a) details of the environmental performance of the development;
- (b) copies of the OPOM and Dilapidation Survey;
- (c) any monitoring results in respect of this consent:

- (d) access for site inspections by the Committee;
- (e) meeting facilities for the committee; and
- (f) copies of baseline studies identifying existing conditions for all factors to be monitored during the operation of the quarry shall be distributed to community representatives prior to the first the Committee meeting. The studies are to be presented in a manner that is comprehensible to a general, nontechnical audience. The proposed monitoring process shall be explained to community representatives at the first Committee meeting.

Reason: To outline the obligations of the Consultative Committee.

- 73 The applicant shall appoint a liaison person to represent the applicant and to liaise with the public on the operation of the quarry and implementation and monitoring of conditions of consent. The name of that person and when and where they may be contacted shall be notified to the public in the local newspaper within 28 days of the date of this consent and shall be continually notified by notice affixed at the entry to the site

Reason: To outline the role and function of the applicant in the Consultative Committee.

SECTION 94 CONTRIBUTIONS

- 74 Annual payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 2004 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified. Such levies shall be calculated utilising extraction returns as required by **Condition 14**. The rates and amounts applying at the date of this notice for the maximum approved extraction rate of 126,000 tonnes, totaling \$82,813 annually, have been calculated as set out below for your information.

Levies set out below shall be increased in accordance with the percentage increase as notified by the Consumer Price Index (Sydney) annually. Levies shall be paid within 30 days of the Council issuing an assessment for the preceding year.

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

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

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

The levy shall be calculated in accordance with Council's adopted section 94 plan as at this date and be based on the following information:

- Road construction cost of \$369,000 per kilometre (indexed for CPI annually from December 2003)
- Average haulage distance of 15 kilometres.
- The first 5,000m³ (9,000 tonnes) per annum shall be exempt from levies
- Registered Extraction Rate SEPP No. 37, 79,200 tonnes per annum.

Levy calculation for yearly extraction will be:

$$(\$369,000 \times \text{CPI} / 6.74 \times 10^6) \times 15 \text{km} \times (\text{Registered extraction SEPP37} - 9,000 \text{tons}) \times 0.5 \times (\text{Annual tonnage extracted} - \text{Registered extraction SEPP37}) \times 1.025 \times \text{CPI}$$

$$= (\$369,000 \times 1.3336 / 6.74 \times 10^6) \times 15 \text{km} \times [(79,200 - 9,000) \times 0.5 + (126,000 - 79,200)] \times 1.025$$

$$= \$82,813$$

Reason: To provide funds for the provision of services and facilities identified in Lismore City Council's Section 94 Contributions Plan dated March 2004 as required by the increased population or activity. (EPA Act Sec 94)

- 75 The above mentioned rate is to be payable in half yearly installments and is to be paid upon the issue of an invoice by Council or within six months of the date of this consent, whichever occurs first.

Reason: To ensure compliance with the development consent.

- 76 The annual rate of extraction shall not exceed 70,000m³ crushed material, equivalent to 126,000 tonnes crushed, annually (For use in calculations a conversion factor of 1.8 from m³ to tonnes has been adopted). The proponent shall provide Council, on or before January 31, each year, with extraction figures for the previous year.

Reason: To correctly describe what has been approved and allow the calculation of S94 levies for material extracted.

THORNY PEA PROTECTION

- 77 The provision of 5m wide buffer around the Thorny Pea (*Desmodium acanthocladum*) stand and the patch of disturbed low closed forest (rainforest) in the far northeastern corner of the site to protect both and allow the Thorny Pea to colonise the edge of the rainforest.

Reason: to protect the Thorny Pea (*Desmodium acanthocladum*) and low closed forest (rainforest)

- 78 The removal of weeds, particularly Lantana, Large Leaved Privet and Camphor Laurel from the Thorny Pea (*Desmodium acanthocladum*) stand and rainforest patch on a regular basis by a qualified bush regenerator.

Reason: to protect and encourage expansion of Thorny Pea (*Desmodium acanthocladum*).

- 79 The existing fence around the western and southern edges of the Thorny Pea (*Desmodium acanthocladum*) stand and rainforest patch, initially at a distance of 5 m from their edges, to protect them from cattle grazing and allow Thorny Pea (*Desmodium acanthocladum*) habitat shall be maintained at all times.

Reason: to protect the Thorny Pea (*Desmodium acanthocladum*) and low closed forest (rainforest)

- 80 No machinery is to enter this fenced area. Excavation for extraction shall take place from within the quarry area working area in that location and not from above.

Reason: to protect the Thorny Pea (*Desmodium acanthocladum*) and low closed forest (rainforest)

INTEGRATED DEVELOPMENT

- 81 Compliance with the attached General Terms of Approval (GTA) from the following agencies (as may be amended by licence or subsequent direction):

Agency	Date of GTA's
Department of Environment, Climate Change & Water	9 July 2010

Report

Subject	Local Public Holiday - 2011 Lismore Cup Day
TRIM Record No	BP10/593:EF09/2450
Prepared by	Corporate Compliance Coordinator
Reason	The Division of Industrial Relations now requires a Council resolution to support requests for Local Public Holidays
Community Strategic Plan Link	Enhance Lismore as a Regional Centre

Overview of Report

The NSW Division of Industrial Relations has called for requests for Local Public Holidays for 2011. The Lismore Turf Club has per normal practice made such a request for the 2011 Lismore Cup Day. It is recommended that this application be supported and forwarded to the Division. The request is supported by the Lismore Chamber of Commerce and the Lismore Business Promotion Panel.

Background

The NSW Division of Industrial Relations has called for requests for Local Public Holidays for 2011 and now requires that such requests be supported by Council resolution. In the past, Council received requests from the Lismore Turf Club and formerly the Show Society and these were forwarded to the Division under the long standing practice associated with such events

In accordance with normal procedures, the Lismore Turf Club has requested Council's support for a half day local public holiday for Thursday September 22 2011 to coincide with the Lismore Cup Day Races.

If supported by Council resolution, this request will be forwarded to the Division of Industrial Relations for publishing in the Government Gazette. The Division has provided the following advice in respect to Local Public Holidays.

This report was initially programmed to be presented to the November Council meeting but was postponed to allow further discussion by members of the Lismore Business community.

It should be noted that the public holiday provisions contained in the National Employment Standards of the Fair Work Act 2009 apply to local public holidays appointed under the Banks and Bank Holidays Act 1912 This means that national system employees whose place of work is within a local public holiday area will be entitled to be absent from work on the day or half day that is the local public holiday or half holiday.

An employer may request an employee to work on the local public holiday or half holiday provided that the request is reasonable. Similarly, an employee may refuse to work on the public holiday or half holiday if the refusal is reasonable, taking into factors specified in the National Employment Standards

Employees who do not work on the public holiday or half holiday will be entitled to be paid at their base rate of pay in respect of their ordinary hours of work for that day.

Employees who work on the day or part day may also have an entitlement to penalty rates under an award or other industrial instrument

Consultation

The Lismore Turf Club has supported their application by initially advising that:

The Lismore Cup Day is traditionally a feature day on the city's event calendar which provides an injection of funds and visitors to the town, as well as boosting local moral and enthusiasm.

The Lismore Cup Day is the premier race day on the Far North Coast, and continues to grow in status amongst the wider community. It is an event of which the people of Lismore are extremely proud.

A follow up letter of support from the Turf Club has also been received and a copy of this is attached.

The half day holiday is also supported by the Lismore Chamber of Commerce and a copy of their correspondence is also attached.

The matter has been discussed by the Lismore Business Promotion Panel and the City Centre Manager, Moira Bennett has provide the following comments:

The question as to whether the half day holiday should continue or not came up for discussion at a recent Lismore Business Promotion Panel (LBPP) meeting on October 25 2010. One of the concerns raised was that having shops closed for a half day reflects poorly on the CBD, especially for visitors who are unaware of the holiday.

The Chairperson of the LBPP suggested that a small group meet with the Lismore Turf Club. A meeting was subsequently held, and the matter was discussed. The Lismore Chamber of Commerce were asked in writing to advise their views on the subject in order for the matter to be reported to the December Council meeting. In reply the Lismore Chamber of Commerce advised that they are wholeheartedly in favour of keeping the half day holiday.

The LBPP were asked to vote on the matter. The majority of the LBPP voted in favour of the half day holiday with some provisos. Firstly, a number of panel members who supported the half day holiday said that the status quo should be maintained, until there was sufficient time to consider the matter in time for the 2012 Cup. Some other panel members thought that we should not be rushing this important and challenging issue, and more discussion is required given that the Council does not have to make the decision until early 2011.

Other considerations

It should be noted that the Division of Industrial Relations, for administrative reasons, tries to publish one notice in the Government Gazette in December, for local public holidays for the coming year.

By delaying a report to the November 2010 Council meeting this deadline has been missed.

Prior to the report being deferred from the November meeting, contact was made with the Division as to the consequences of such a decision. The Division was also requested to advise of the consequences if the request was delayed until February.

The advice was that, the Division could accommodate a one off notice for Lismore. They would prefer to receive this advice prior to the end of the year but a delay until February was acceptable.

Future Consultation

Subject to any change in approach by the Division all future requests for Local Public Holidays will require the same level of consultation as undertaken this year with “the local Chamber of Commerce and other relevant stakeholders”. It will also be a requirement that the request is supported by a Council resolution.

Delivery Plan

This item is not included within the Delivery Plan. No additional resources are required to carry out the required administrative functions.

Sustainability Assessment

Sustainable Economic Growth and Development

The Lismore Cup Day is an annual event which generates considerable activity within the Lismore Business community in the week leading up to the day.

Social Inclusion and Participation

The Lismore Cup Day is acknowledged as an “event” for Lismore which creates a sense of community as demonstrated by such activities as CBD Business houses conducting a window display competition

Best-Practice Corporate Governance

The requirement for a Council resolution is in response to the requirements of the Division of Industrial Relations

Comments

Finance

Not Requested

Other staff comments

These have been included within the report.

Public consultation

The issue has been canvassed with the CBD business community.

Conclusion

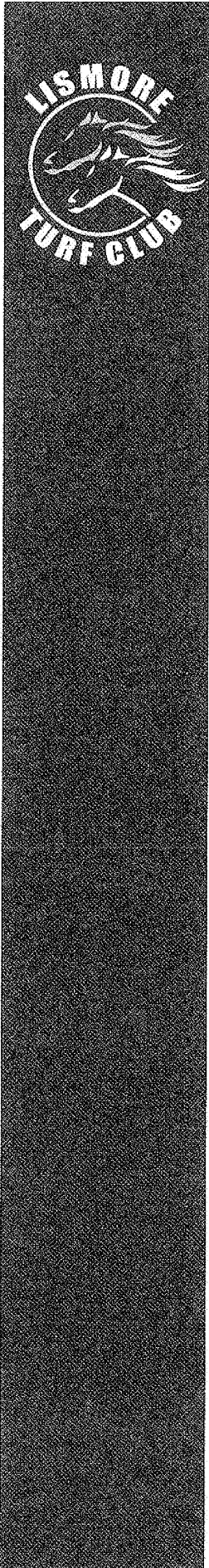
The request Lismore Turf Club for a half day local public holiday is in line with similar requests received over many years. The CBD business community has been consulted via the Lismore Chamber of Commerce and the Lismore Business Promotional Panel and there is support from this quarter for the holiday.

Attachment/s

1. Half Day Holiday Lismore Turf Club
2. Half Day Holiday Lismore Chamber of Commerce

Recommendation

That Council request the Division of Industrial Relations to gazette a half day holiday for Thursday, 22 September 2011 to coincide with the Lismore Cup Day races.



29th November 2010.

Mr Brent McAllister
Executive Director – Sustainable Development
Lismore City Council
PO Box 23A
Lismore NSW 2480

Dear Brent,

Lismore Cup Day Half Day Holiday Debate

On behalf of the Board of Directors of the Lismore Turf Club I respectfully ask you to consider the following points when discussing the future of the half day holiday:-

- It is important to note that the Lismore Turf Club is community orientated and is a not for profit organization run as a business to ensure it remains financially viable. All profits go back into the maintenance and improvement of the clubs facilities. At no time does any money get paid to directors or members as a dividend or royalty.
- It is undeniable that the loss of the half day holiday would dramatically reduce the attendance. Our estimates say that the numbers would reduce from 6,000 / 7,000 to probably under 1,000. This would have the effect of decimating our raceday profit. At present the profit that the club makes with the half day holiday is approx 40% of our annual trading profit and this allows us to maintain our facility year round. Without this injection of funds the club would most probably have to close its doors and our regional city would be left without a thoroughbred racing club, which would be an embarrassment to Lismore.
- The loss of the Lismore Turf Club would not just mean the loss of thoroughbred racing but also the loss of a vital function centre. There would not be another facility in Lismore that is so versatile with the ability to host small meetings & conferences for 25 people up to outdoor bar-be-ques under cover for over 400 people and wedding reception for up to 150 guests. The economic impact on Lismore of losing this function business would not be insignificant.
- The Lismore Turf Club also does charity work and has raised many tens of thousands of dollars for local charity through its involvement in the Lismore Truck Show, Our Kids Dinners and most recently the “In Good Company Open Air Music Festival”.

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- The Lismore Cup attracts up to 7,000 people, the majority being locals, and the weeks leading up provide a large boost to many retail outlets as racegoers prepare for the day. Retailers that sell clothes (both mens & womens), shoes, hats, handbags, jewellery, make-up, hairdressers, make-up artists & spray tans (just to name a selection) all have a huge increase in sales directly relating to the attendance on Cup Day. Without the half day holiday this retail income would be lost to the town.
- The evening of Lismore Cup Day is also one of the biggest nights in town for restaurants, cafes, takeaway food outlets, hotels, clubs and any late night convenience stores. Once again this income would be lost without the half day holiday.
- With the current size of Lismore Cup Day the club currently employs approx 200 casual staff (most living local) with the majority being part of our population living on the poverty line. This years wages totalled more than \$25,000 and provided a much needed boost to these marginalised workers.

This is only a summary of the effects that the loss of the half day holiday for Lismore Cup Day would have on the Lismore Turf Club and the wider business community of Lismore, however I would welcome the opportunity to answer any issues you believe need further discussion.

Yours sincerely

Michael Timbrell
Secretary/Manager

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22 November 2010

Mr Brent McAlister
Chairman Lismore Business Promotion Panel
Lismore City Council
PO Box 23A
Lismore NSW 2480

Dear Mr McAlister,

The Lismore Chamber of Commerce Board last week voted unanimously in support the continuation of the Lismore Cup half day holiday.

The Chamber Board recognises the benefits which the half day holiday provides to many local businesses during the lead up to the Cup along with the national promotion and community spirit which Lismore receives and enjoys as a result of such an event.

Yours truly,
Lismore Chamber of Commerce

Brenton Shalders
Chairman

Report

Subject	Lismore Tourist Caravan Park
TRIM Record No	BP10/699:EF09/1040
Prepared by	Manager - Assets
Reason	To advise Council of the outcome of an assessment of physical measures that might extend evacuation time from the caravan park.
Community Strategic Plan Link	Efficient Use of Council Resources

Overview of Report

Council considered a report at its meeting of 11 May 2010 on options for the future of the Lismore Tourist Caravan Park. Council resolved to complete an assessment of structural measures that could be employed to increase evacuation time and reduce the risk of isolation for residents of the park and further to conduct a social impact assessment of any proposed closure and work with agencies to relocate the residents.

This report presents the outcome of the assessment of structural measures and provides an update of progress on the social impact assessment.

Background

The Lismore Tourist Caravan Park is located in Dawson Street adjacent to Browns Creek and Mortimer Oval. The area of the site is 15,400m² and it contains 70 sites. A plan of the site is shown below.



The facility is leased by Council to a private operator with the current lease expiring on 31 December 2011. For the 2010/11 financial year Council will receive \$42,500 in lease fees.

At the meeting on 11 May 2010 Council considered a report that presented three options in regard to the future of the park and resolved that:

1. *Within six months Council complete an evaluation of the effectiveness of structural works to extend evacuation time and reduce the isolation risk for residents of the Lismore Tourist Caravan Park in high rainfall/ flood events.*
2. *Council conduct a social impact assessment of the [potential] closure and work with appropriate agencies to relocate the residents.*

GHD was engaged to undertake the assessment outlined in part one of the resolution and has provided a report to Council. Essentially the report suggested four options that could be utilised to achieve the intention of Council's decision. A copy of the report is attached to Councillors' business papers.

After considering the four options the recommendations from the report are :

1. Lismore City Council consider undertaking hydrologic modelling to determine if retardation basins would be feasible in improving the evacuation time for park occupants.
2. Lismore City Council consider undertaking hydrologic modelling to determine if raising the park level and carrying out compensatory earthworks would provide any improvement to the evacuation time for park occupants.
3. Lismore City Council consider undertaking hydrologic modelling to determine if the construction of a deflection wall and carrying out compensatory earthworks would improve evacuation time for park occupants, and at what height the deflection wall is feasible.

The fourth option considered was to increase the size of the Browns Creek pump station and increase the capacity to pump water out of the creek and into the river. This option was found not to be viable and therefore not considered further and does not form part of the recommendations.

Examination of Recommendations

In regard to Recommendation 2, this is not considered feasible. The physical works and cost to import fill, raise the level of the site and then re-establish the caravan park in the same location would be similar to those of relocating it to another less flood prone site. Relocation to another site was canvassed in the report to the Council meeting of 11 May 2010 and effectively ruled out due to the unavailability of a suitable site, planning restrictions that would apply and the ultimate cost of undertaking the work.

In regard to Recommendations 1 and 3, Council needs to consider carefully the practical aspects of these suggestions before embarking on any further investigations.

The construction of retardation basins, whilst potentially delivering a benefit in the form of increased evacuation times, would require the use of large areas of land to construct those basins. The only available space for such construction is in Lismore Park and/or the golf course areas. It is considered very unlikely that the general public would support the loss of a significant amount of public open space for this purpose. As such the further investigations suggested are not supported.

Constructing a deflection wall is likely to increase the available time to evacuate the park; however, it would create other issues that would also need to be addressed. The report highlights that adverse effects would be created by this approach. First of all, preventing water from entering the caravan park would increase flood levels in surrounding areas.

Whilst the exact amount of the increase has not yet been quantified, this will undoubtedly be a concern for surrounding property owners. Secondly, a pump would be needed to pump water resulting from rain that falls inside the deflector wall out into the creek. The amount of earth or structural walling required is extensive and will impact on the amenity and accessibility of surrounding areas.

Council also needs to be mindful of generating expectation in the general public and residents of the caravan park that a solution will be found and the caravan park will remain open. Proceeding with further detailed assessment of any option will certainly heighten this expectation, when the outcomes of those processes are clearly not guaranteed.

The costs of hydraulic modelling etc. are also an issue. It is difficult to estimate exactly what the costs would be; however, a minimum of \$25,000 could be expected.

Lease of the Facility

In the previous report to Council it was flagged that the current lessee had indicated he would not be seeking renewal of the lease when it expires in December 2011. That position has now been confirmed in writing to Council. The lessee has also indicated he would be prepared to sell his infrastructure (caravans and cabins) to a new lessee, should one be found by Council.

As such, if the intention is to keep the caravan park open, Council will need to conduct an expression of interest or tender process in an attempt to secure a new lessee. In the event that Council could not secure a new lessee, the caravan park would either cease to operate, or Council could choose to manage the facility itself.

Given the concerns with displacing existing tenants, and Council's apparent desire to explore all options to keep the facility open, it is considered appropriate to conduct a tender process to find a new lessee for the facility before making a decision about the future of the park. Such a process could be conducted in the first half of 2011 with an outcome known by April-May 2011. In the event that a new lessee cannot be secured, there would still be 6–8 months to relocate residents before the park was closed.

In conducting a tender process to find a new lessee it is considered vital that Council addresses the ongoing issue of long term tenants staying in a caravan park that is not approved for long stay tenants. This can be achieved by placing clear requirements into the specification for the tender that no long stay tenants are permitted. The lessee would also be required to have appropriate processes in place to ensure that patrons of the park did not stay longer than that allowed under the current development consent for the facility.

In addition, restrictions could be placed on the number of caravans or cabins that were permitted to be placed permanently on the site by the lessee and rented to people. It is these caravans and cabins, and their tenants that become problematic when an evacuation of the park is required. Restricting the number of caravans and cabins to say 10-15, would greatly reduce the effort required to relocate and evacuate during flood events, and therefore reduce the risk of something going wrong during a flood event. The vans and cabins could also be located in the higher sections of the park.

The remainder of the park would be available to patrons who bring their own caravan to the park. This would generally be tourists. In the event of a flood, they would simply pack up their possessions and leave the park. It would also provide a disincentive for potential patrons of the park as any person bringing their own caravan to the park could be regarded as less likely to attempt to set up permanently in the park knowing that it is not approved for permanent residents.

Status of the Facility

The current approval for the caravan park permits it to operate for short term stays only. Patrons can stay up to a maximum of 28 days. An issue that Council needs to consider is that the NSW Tenants Advisory Service has indicated that it will advocate for tenants of the park on the basis that they are permanent residents. This would potentially bring into consideration different legislation regarding the potential closure of the caravan park.

In particular the periods of notice required to be given for residents of approved long term residential parks are much longer than for short stay tenants and the park owner would be required to pay compensation in certain circumstances. In addition, there is a protocol and process that has been developed for the closure of residential parks.

These requirements would only be brought into play if a resident challenged Council's processes in the Residential Tenancy Tribunal. The park is not approved for long stay residents, there are no residential site agreements in place for long stays and the legislation does not permit caravans to be used for long stay unless they have a hard annex attached to them. Nevertheless, it is possible that the Residential Tenancy Tribunal may rule that the park should be dealt with as a long stay park and Council, as owner, would be obliged to abide by any decisions of the Tribunal.

This has the potential to seriously delay any proposal to close the caravan park. It may not be possible to close the park when the current lease expires and Council could be placed in a very difficult position with a lessee wishing to vacate the park and remove his infrastructure, whereas Council would be obliged to keep the park running as a result of orders issued by the Tribunal.

Sustainability Assessment

Sustainable Economic Growth and Development

The caravan park provides a place for short term stays close to the CBD. Undoubtedly patrons of the park make a contribution to the economic growth and development of Lismore through the money that they spend on goods and services in Lismore.

Social Inclusion and Participation

A social impact assessment of the [potential] closure of the Lismore Tourist Caravan Park is well underway. The Social Planner has held meetings with the following key groups:

- Approximately 12 residents of the Lismore Tourist Caravan Park
- Manager, Lismore Tourist Caravan Park
- NSW Housing Department, Lismore
- North Coast Community Housing
- Tenancy Advice and Advocacy Service (TAAS), Northern Rivers Community Legal Centre
- Lismore Floodplain Management Committee
- LCC Strategic Planner
- LCC Community Services team.

A group has been formed to examine and respond to the housing and support needs of residents in the caravan park with the aim of improving housing and support options for them. This group comprises:

- NSW Housing Department, Lismore
- North Coast Community Housing
- Tenancy Advice and Advocacy Service (TAAS), Northern Rivers Community Legal Centre
- Lismore City Council.

A community consultation will be held at the caravan park on 7 December 2010. Council's Social Planner and the TAAS will survey the residents to identify needs and possible solutions.

The final SIA report will be ready for the February Council meeting as there is no January meeting. In the meantime, the following should be considered:

1. There is extremely limited alternative and comparable accommodation available in Lismore.
2. Closure of some or all of the sites to permanent residents will potentially render between 80–120 people homeless.
3. The option of improving evacuation procedures in the event of a flood still needs to be examined more fully.
4. NSW Housing has developed an "Assistance Protocol for Residential Park Closures" and staff have been advised that these protocols will need to be followed in the event of closure of the Lismore Tourist Caravan Park (regardless of its status as a Tourist caravan park).

Protect, Conserve and Enhance the Environment and Biodiversity

The proposed physical measures designed to increase evacuation time for residents would each have some effects on the environment and biodiversity. Should Council choose to further explore any or all of these options, those effects would be considered in more detail at that time.

Best-Practice Corporate Governance

The location of the caravan park is far from satisfactory. It is effectively the lowest part of the CBD and regularly inundated by floodwaters. Having people stay in the park puts them at risk during flood events. From a risk management perspective the ideal outcome would be to close the caravan park and remove the risk.

The Local Emergency Management Committee and the Floodplain Management Committee have both outlined their support for the caravan park to cease operating in its current location.

Comments

Finance

The 2010/11 Operational Plan includes \$60,000 for the investigation of options to manage the flooding and heavy rainfall issue at the Lismore Tourist Caravan Park. The funding is based on Council contributing \$20,000 and the State/Commonwealth Governments providing \$40,000. The status of the State/Commonwealth Governments' share has not been confirmed and is therefore treated as unlikely to be received.

To proceed with additional modelling, estimated to cost at a minimum of \$25,000, will require Council to allocate additional funds from the 2010/11 Budget to this project.

With regards to the tender process for a new lessee to operate the facility as a tourist caravan park with no long stay residents, the recommendations are supported.

Other staff comments

Comments from Council's Social Planner have been included under the Social Inclusion and Participation section of the sustainability assessment.

Public consultation

Consultation with the affected patrons of the caravan park is being undertaken as part of the social impact assessment.

Conclusion

This issue is problematic and has been considered by Council on a number of occasions in the past. The report from the consultant examined four potential options for extending the evacuation time for patrons of the caravan park. Of those four, recommendations were made regarding further investigations which could be undertaken into three of the options. Each of these three options has issues as outlined in the report. Substantial costs would also be involved in implementing each option. It is therefore recommended that Council not pursue any of these options further.

The main issue for Council, should it wish to have the park remain open, is whether a new lessee can be secured. It is recommended that Council conduct a tender process as soon as possible in the New Year in an attempt to secure a new lessee. The specification for that tender should clearly outline that the park is approved for short stay only and place restrictions on the number of caravans and/or cabins that the lessee could bring into the park to rent to patrons.

The process of working with relevant agencies should continue as Council may not secure a new lessee for the facility and it would therefore have to close.

The matter of the status of the caravan park, and the potential for the Residential Tenancy Tribunal to make certain orders about the process required to close the park remains a concern. This matter will be further addressed in the next report to Council after the tender process has been completed.

A further report will be presented to Council upon completion of the tender process and will include the results of the Social Impact Assessment.

Attachment/s

- | | |
|----------------------------------------------------------------------------------------------------|--------------|
| 1. GHD Final Report – Lismore Tourist Caravan Park – Evaluation of Works to Improve Education Time | Over 7 Pages |
|----------------------------------------------------------------------------------------------------|--------------|

Recommendation

That:

1. Council note the contents of the report from GHD and take no further action to explore the recommended options.
2. Council conduct a tender process as soon as possible in 2011 in an attempt to secure a new lessee for the facility.
3. The tender documentation include specific requirements reinforcing the fact that permanent residents are not permitted in the park, and requiring any lessee to have adequate processes in place to ensure this does not occur and restricting the number of caravans or cabins that can be placed onsite by the lessee for rent to a maximum of 15.
4. The outcome of the tender process be reported back to Council as soon as possible when complete.

Report

Subject	Purchase of properties Slaters Creek, North Lismore
TRIM Record No	BP10/495:EF09/1990
Prepared by	Environmental Strategy Officer
Reason	To seek approval from Council to purchase properties on Slaters Creek to progress works under both the Reconnecting to Country project and Cleaner Waterways Program.
Community Strategic Plan Link	Improve Catchment Management

Overview of Report

Lismore City Council is currently involved in the restoration of Slaters Creek, North Lismore, through the joint implementation of the 'Reconnecting to Country' project and Council's own Cleaner Waterways Program. Reconnecting to Country (RtC) is a catchment management project administered by Rous Water, focusing on working with local communities in the Wilsons Catchment to develop environmental improvement projects in association with the Widjabul custodians. Slaters Creek is one of four projects happening under the RtC banner and is taking place on both public and private land (see map).

To enable works to proceed on private land, Council have entered into landholder agreements with a number of land owners. Two landholders (Boyce and Farquhar), however, did not sign agreements as the proposed works would remove or limit their future use or saleability, or income through cattle agistment. These properties are flood affected and do not have dwelling entitlements, therefore their only commercial value is for grazing/cropping. Due to the properties being crucial to the project, both landholders agreed they would support the purchase or swap of their land for other suitable land.

Following investigations of purchase/ swap options Council's Executive Committee in February 2010, endorsed the purchase of both properties by utilising Stormwater Levy funds. This represents an investment of \$110,000 plus legal costs.

It is recommended that Council approves these purchases so they can proceed as soon as possible.

Background

Slaters Creek drains a 312 hectare catchment in North Lismore, taking in rural, industrial and residential lands. The creek's upper catchment includes properties on Dunoon Road and the Lismore Showground, while the lower sections wind through paddocks from Alexandra Parade for 1km before entering the Wilsons River.

A stormwater management strategy for Slaters Creek was developed in 2009. The strategy proposes a constructed wetland to treat poor quality runoff from the Showground and sale yards, combined with revegetation of lower sections of the creek. These works will result in significant water quality improvements, creation of habitat, amenity, passive recreation opportunities and increased flood water holding capacity.

Reconnecting to Country

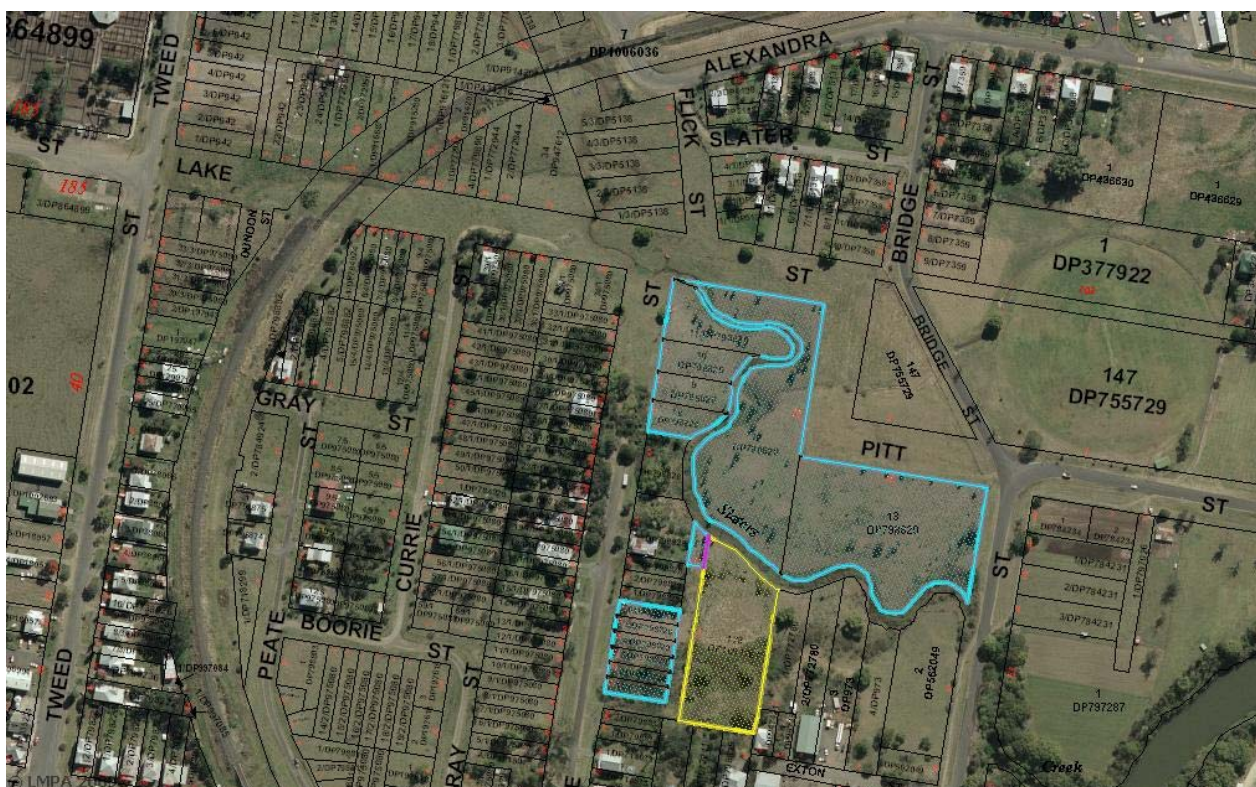
In 2008 Slaters Creek was nominated as an ideal site for restoration works under the Reconnecting to Country (RtC) Project. Reconnecting to Country is a catchment management project administered by Rous Water in partnership with Sustainable Futures Australia and members of the Bundjalung Elders. The project focuses on working with local communities in the Wilsons River catchment to develop environmental improvement projects in association with traditional custodians. There are four projects in the Wilsons River catchment, Slaters Creek being one of these.

The aim of the Slaters Creek RtC project is to revegetate major sections of the creek. The project will also see the creation of a bush tucker garden, provide passive recreation and educational opportunities for the public through a walking/cycle track and interpretative signage, create employment for Aboriginal sub-contractors and artists, share the cultural history of the area and involve the community in events at the site. Initial works including weed control and construction of a walking track have taken place in 2009 and 2010.

Through the RtC project the Banyam/Baigham Landcare Group was formed to continue and maintain the work started by the project. It includes local residents and descendants of the original Widjambul people of North Lismore. The group is a member of Richmond Landcare Inc. and has insurance cover for all members.

Project implementation and purchase of Farquhar and Boyce property

To enable works to proceed on privately owned lots on Slaters Creek, Council has entered into landholder agreements with land owners occupying either a business or a home within the project site. Two non-occupying landholders (Boyce and Farquhar) did not sign agreements as the proposed works would remove or limit their future use of the land, and saleability. These properties are flood affected and do not have dwelling entitlements, therefore their only commercial value is for grazing or cropping. Due to the properties being crucial to the project both landholders agreed they would support the purchase or swap of their land for other suitable land.



Aerial of Slaters Creek, Farquhar land with yellow border and Boyce land with blue.

In February 2010 Council's Executive Committee endorsed the purchase of the property belonging to Farquhar Properties P/L, and the properties belonging to Mr KJ Boyce, with the Stormwater Levy Fund.

Council has since progressed with land valuations for both properties and both owners have agreed that any offers would be accepted, namely \$22,000 for the Farquhar land and \$88,000 for the Boyce land. Council also agreed to cover legal costs associated with the purchases. Both owners wish to proceed with the sale as soon as possible to alleviate ongoing Rates fees.

Upon acquiring the properties, in accordance with Section 31 of the Local Government Act, Council must determine the classification of the land. As the project site is on flood prone lands without building entitlements and native vegetation will be restored for passive recreation, it is appropriate that the land be classified as Community Land.

Stormwater Management Services (SMS) charge

Council's Stormwater Management Services (SMS) charge, or Stormwater Levy, is an annual charge applied to rateable land within the Lismore urban area and raises approximately \$360,000 pa. Funds accumulated do not have to be spent within the year they are raised, as it is recognised they may be used to resource major stormwater programs spanning a number of years. Lismore City Council has major projects planned in the Slaters Creek (and Browns Creek) catchments over the coming years. As such, the 2010/11 SMS Work plan has budgeted \$180,000 for the 'completion of an engineering design for a constructed wetland' opposite the showground and the 'acquisition of land on lower creek' for the wetland and restoration works in coordination with the Reconnecting to Country project.

Site Maintenance

A contractor will maintain the revegetation work undertaken as part of the RtC project for one year and from then the Banyam/Baigham Landcare group will maintain the plantings.

Once the Boyce and Farquhar land is purchased by Council, Banyam/Baigham Landcare will extend planting onto these lands. The Group intends to apply for further funding to assist with establishment costs via the indigenous component of Caring for Country funding.

Lismore City Council assists existing urban Landcare groups operating on Council land or road reserves and can offer similar assistance to Banyam/Baigham, e.g. mulch sourced from tree lopping/pruning, and tree purchases with the Catchment Administration budget.

The RtC project will be providing infrastructure (track, signage, picnic tables) at the site and whilst most maintenance is likely to be done by the Landcare Group, some assistance may be requested from Parks staff. As the site is progressively revegetated with native species, mowing/slashing of existing Council managed areas (e.g. paper roads, leash free area) will be reduced.

Sustainability Assessment

Sustainable Economic Growth and Development

The purchase of this property is critical for the implementation of the Reconnecting to Country (RtC) project in North Lismore. The main aim of the RtC is "to cultivate a new culture of sustainable catchment management through community engagement in on-ground action and cultural exchange with Aboriginal custodians". Objectives include:

- Improve catchment health
- Build a culture of sustainability
- Develop creative partnerships
- Build capacity to employ Aboriginal people in sustainability education and action
- Cultivate 'sense of place' and reconciliation through action and culture.

Specifically the project will help transform Lismore into a more sustainable city by providing passive recreation opportunities, through a walking/cycling track and educational signage, and community integration opportunities by the creation of a Landcare group. The Banyam/Baigham Landcare Group, has joined Richmond Landcare Inc., is insured and has begun planning for the site.

Social Inclusion and Participation

As above. More specifically, the RtC project has brought a team of local residents together, including three local custodians, to develop the project. It has the potential to be a significant step towards reconciliation within the North Lismore and the broader Lismore community. Signage to be designed by the Indigenous-cultural team will include both the Aboriginal and European settlement history of the site. A detailed education document will also be developed and will cover the history of North Lismore, and will be used as a teaching document for school visits to the site.

Protect, Conserve and Enhance the Environment and Biodiversity

The RTC project, as demonstrated above, makes strong progress towards improved catchment management within the Lismore City urban area. Slaters Creek is a tributary of the Wilsons River and due to proximity to the Lismore Source, has potential impacts on the local water supply.

Best-Practice Corporate Governance

The RtC project demonstrates innovative use of resources by the combined use of State Government funds, valued at \$45,000, with Council's Stormwater Levy funds to implement the project. The project is also building the capacity of local residents to continue the project after it's completion through the formation of the Banyam/Baigham Landcare Group which aims to apply for Caring for Country funding.

Comments

Finance

The Stormwater Management Services Charge will generate approximately \$360,400 in 2010/11. On the basis this project is included in the 2010/11 Work Plan, the purchase of the property is supported. In regards to future maintenance, rates and charges, it is assumed these costs will be minimal and also funded from the Stormwater Management Services Charge.

Other staff comments

Program Manager

The restoration of Slaters Creek is one of Council's flagship stormwater and catchment improvement projects. A range of initiatives, other than purchase, have been tried to secure access to the Farquhar and Boyce land holdings. These have not been successful and purchase remains the best option to secure these two strategically important land holdings. Funds from the Stormwater Levy fund can legitimately be used to purchase the Farquhar and Boyce land.

The Stormwater and restoration works to be undertaken at the site will create significant environmental and amenity benefits. It will also create a public space for recreation and education opportunities that will engage the community in concepts of catchment management and cultural heritage.

It is noted that the Slaters Creek restoration project and the need for land acquisition was presented to Councillors in a briefing session held 23 November 2010.

Manager Assets

In acquiring the land, Council must determine whether it is to be classified as community or operational land. Whilst the general principle that the land will be used for community purposes is understood and supported, any activities on the land must be in accordance with a plan of management for the land.

As such it will be necessary to prepare a plan of management that adequately reflects Council's future plans and activities for the land, once it transfers to Council ownership.

Public consultation

While the community has not been consulted on the land acquisition for the Slaters Creek projects, many members of North Lismore and the broader Lismore community have been involved in the Reconnecting to Country project. The RtC Committee chaired by Rous Water with members of the Bundjalung Elders, the project group for North Lismore and now the Banyam/Baigham Landcare Group, representing over 60 people, are aware of the project and have been involved in the design and planning phase.

On Saturday 27 November 2010, over 100 residents attended a family day at the site to celebrate the first plantings. A display showing the project concept plan for the site was set up. Attendance at the event suggests strong support for the restoration work on Slaters Creek.

Conclusion

The restoration of Slaters Creek through the Reconnecting to Country project will provide both environmental and social benefits for North Lismore. This will occur through the restoration of a currently degraded area, and the associated improvement in catchment health, biodiversity, amenity and open space. It is also the first large scale urban restoration project to involve a partnership between Council and the Aboriginal community.

To ensure the effective implementation of the project staff sought the recommendation of the Executive Committee about the possible purchase of two properties critical to the project. Both landowners have indicated they would accept any offers as outlined in the report namely to purchase the land for the valued price of \$22,000 and \$88,000 respectively, using the Stormwater Levy.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. Council approve in response to the signed letters of offer and as outlined in this report, the purchase of Lot 178 - DP1091761, belonging to Farquhar Properties P/L., for the agreed price of \$22,000, and Lots 1,2,3,4,5,6,7,8,9,10,11,12,13 DP798820, belonging to Mr KJ Boyce, for the agreed price of \$88,000, using the Stormwater Levy funds.
2. Council approve in accordance with Section 31 of the Local Government Act, the purchased properties to be classified as Community Land.
3. Any necessary documentation associated with the purchase of these properties be authorised to be executed under the seal of Council.
4. Council prepare a plan of management for the land to reflect its proposed future use.

Report

Subject	Outdoor Dining Policy - Development Control Plan Amendments
TRIM Record No	BP10/526:EF09/820
Prepared by	Manager - Development & Compliance
Reason	To align relevant sections of Council's Development Control Plan to provide consistency with the provisions of Council's adopted Outdoor Dining Policy
Community Strategic Plan Link	Sustainable Economic Growth and Development

Overview of Report

Lismore City Council adopted a new *Outdoor Dining Policy* for the Lismore City Centre on 14 September 2010. This Policy cannot become fully 'effective' unless certain provisions contained in current Development Control Plan provisions are *also* amended to be consistent with that policy. This report outlines the changes that need to be made, specifically to:

- DCP Chapter 7 (Off-Street Car Parking); and
- DCP Chapter 9 (Outdoor Advertising Policy).

Pending agreement to the draft changes, these will need to be exhibited for public comment prior to any final adoption by Council.

Background

There has been strong interest over the last few years to encourage footpath dining in the Lismore CBD, and this culminated in a substantial review of the previous, "Carriageway and Kerbside Land Use" Policy No 5.2.24, to find the best path towards meaningful and practical promotion of Lismore's CBD as a lively, attractive and vibrant place for dining and 'eating out- experiences. Following constructive public involvement, a new Outdoor Dining Policy was adopted by Council at its meeting held on 14 September 2010.

It is now appropriate for certain provisions in Council's development controls to be amended to reflect the provisions in Council's Outdoor Dining Policy.

The main development constraint for proponents of CBD restaurant / footpath dining proposals is the 'off-street car parking' requirement where additional off-street spaces are physically unachievable, and levies are applied under Council's section 94 Contributions Plan, currently at a rate of \$17,120 per unprovided space. Section 94 charges must be levied under the terms of Council's adopted parking DCP and this often results in a disincentive for new outdoor dining proposals to proceed.

As such, it is quite clear that if the 'Magellan Street' and central CBD development incentives in the Outdoor Dining policy are really to be encouraged and promoted, s.94 levies for unprovided off-street parking will need to be revised, clarified or indeed removed for these types of proposals.

It is considered reasonable that if this incentive is offered to 'refreshment rooms', it should also be offered to other commercial and business premises in the CBD.

If no changes are made to prevailing controls, there can be no effective move forward with the Outdoor Dining Policy, and the issue of levying proposals with adopted s.94 charges will continue to arise on a case by case basis.

Existing controls

Current adopted Council controls which affect *outdoor dining, restaurant additions and advertising* are:

State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008: Enables certain changes of use as exempt or complying development in relation, or minor building alterations as complying development to commercial premises.

Lismore Local Environmental Plan 2000: Requires that Development Consent be obtained for all Outdoor/Footpath Dining proposals, and internal restaurant extensions or alterations.

Lismore Draft Local Environmental Plan 2010: Provides for certain types of development to be either exempt development, complying development or require development consent.

Lismore Development Control Plan - Chapter 2: Urban Design in the CBD: sets out the standards for all commercial development in the CBD – no direct controls for Footpath Dining, but provides basic parameters and expectations for compatible design, such as street furniture, tree retention, heritage, materials, colour, signage and the like.

Lismore Development Control Plan - Chapter 7: Off Street Parking: Sets out all parking requirements for various uses throughout the Council area. Restaurants (“Refreshment Room” by definition) within the CBD area specified in the policy require a fixed rate of 3.3 spaces per 100 sq m of gross floor area. Where parking requirements are unable to be met, it enables a contribution to be paid in lieu of providing parking, in accordance with Council’s s.94 contributions plan.

Lismore Development Control Plan - Chapter 9: Outdoor Advertising Structures: Sets out Council’s provisions for outdoor advertising. In this Policy ‘A’-frame signs (‘Sandwich Boards’) are prohibited in all areas and zones throughout the Council area.

The new Outdoor Dining Policy permits modern styled weighted portable footpath signs, under specified conditions.

Section 94 – Lismore Contributions Plan: The base document specifying developer contributions for a range of development types, including calculation for non-provided off-street car parking. Contributions for car parking only apply within the nominated CBD area bounded by Ballina, Dawson and Orion Streets.

Roads Act 1993: Particularly section 125 allows restaurant use of a footpath by lease for up to 7 years a term (Note: concurrence of RTA required for applications on ‘Classified Roads’ e.g. Ballina Road, Dawson and Woodlark Streets).

Section 126 allows for the erection of structures on or over the footpath as part of the restaurant use.

Outdoor Dining Policy: This document was endorsed by Council on 14 September 2010. It contains appreciable review and update of all relevant issues relating to footpath dining and is a major step forward in overcoming current barriers impeding footpath dining, and facilitating future applications for same.

Included in its provisions are:

- Relaxed and waived Sec 64 and 94 charges for outdoor dining
- Relaxed reimbursement of lost kerbside car spaces within “Eat Street”
- Permissibility of footpath advertising signs, and licensing of same
- Delineation of actual physical boundaries for footpath dining.

Traffic and Parking Study 2007

In 2007 Lismore Council engaged consultants ‘TTM Consulting’ to carry out a Traffic and Parking Study for the CBD, which included in its findings that Lismore’s CBD “had an over-supply of car parking spaces in relation to car parking demand”. This statement must be approached with caution however, as it contains qualifications and recommendations for regular review and monitoring to ensure adequate parking provision in the CBD into the future.

Problems and issues

Issues, concerns and problems in relation to CBD restaurant developments include:

- Primarily, the cost incurred in meeting the \$17,120 per non-provided parking space is considered excessive (a fact which is probably reflected in the few approvals that are actually followed through with by business operators).
- In most instances within the CBD, additional off-street parking cannot physically be supplied because of the density of the older-style commercial developments.
- During daytime, most people in the CBD are already there for other reasons, and hence specific parking requirements for daytime eating houses is really inconsistent with the parking demands under Council’s DCP.
- The peak times for restaurant businesses are during lunch (serving workforce or CBD patron needs) and evenings, when CBD mainstream parking demand is not considered to be high. More street parking is available in evenings, and there should be a concomitant relaxation of any off-street parking levy.
- Footpath and “A” frame signage is prohibited in all of Council’s areas, yet these regularly appear, and consistently ‘creep back after being removed’. Well-designed removable signage is a desirable feature and marketing tool of many eating houses and businesses in commercial zones, and these should be able to be displayed in appropriate circumstances (as referred to in Council’s adopted Outdoor Dining Policy).
- Council officers have no option other than to apply the currently adopted planning controls, policies and levies.
- The loss of s.94 contributions to Council may be of some concern; however there are very few of these actually followed through and completed in relation to CBD approvals for outdoor dining.
- If ‘blisters’ are allowed to be constructed off footpath areas, this action will also *remove* existing kerbside parking, increasing the need to provide replacement parking facilities. There was strong opposition to the general use of blisters at the special Outdoor Dining forum held by Council on 18 May 2010 – “they use up existing kerbside parking and they are a traffic hazard”, and “we don’t need any more blisters in the CBD”. The draft new Outdoor Dining Policy makes allowance for construction of blisters within the “*Magellan Street*” precinct without payment of s.94 charges for lost spaces; however outside the “*Magellan Street*” delineated area payment for lost kerbside parking spaces should still be required.
- There is divided interest by the business sector in the laneways in the CBD, and their need for traffic / delivery use or otherwise during daylight business hours.

Council's adopted Outdoor Dining Policy goes a long way to solving many of the current issues and concerns, and in promoting the Council's CBD ideals. Certain changes to current DCP provisions should be made to reflect that adopted policy and ensure they can be put into effect without conflicting provisions in other instruments.

Discussion

The following recommendations are submitted for consideration:

1. Council's current DCP Chapter 7 - Off Street Car Parking requires the provision of car parking at a rate of 3.3 car spaces/100m² of gross floor area in the nominated CBD area (for non-residential development). Gross floor area is defined in the Lismore LEP 2000, the draft LEP and in many other planning instruments as a planning control for the bulk and scale of buildings. Definitions of GFA (including the Lismore LEP) refer to areas that are enclosed by walls.

Lismore LEP definition:

gross floor area means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1,400 millimetres above each floor level, excluding: columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air conditioning ducts, and car-parking needed to meet any requirements of the Council and any internal access to that car parking, and space for the loading and unloading of goods.

As outdoor seating areas are not usually enclosed by walls (but sometimes may be), Council should ensure car parking requirements are applied as per the definitions provided for in the DCP. It is not appropriate for outdoor seating areas proposed on the public footpath in the CBD area (not enclosed by walls or falling within the definition of GFA) to be subject to the car parking DCP provisions to provide car parking. As a result, if there is no car parking requirement relating to the footpath use in the CBD area, s.94 contributions relating to car parking under Council's current contributions plan should not be imposed on proposals that relate to use of footpaths in the CBD area, unless the area concerned satisfies the definition of GFA referred to in the Lismore LEP. (i.e. wholly unenclosed, or only partially enclosed by walls of up to 1,400 mm in height are *not* included in or included as part of the gross floor area - and hence not subjected to car parking levy and, in turn, Section 94 charges)

The above matters should be clarified within DCP Chapter 7 – Off Street Car Parking to ensure consistent interpretation and application to the use of footpath areas, consistent with the provisions in Council's adopted Outdoor Dining Policy.

2. To provide some flexibility for existing premises to undertake minor alterations and additions, DCP Chapter 7 – Off Street Car Parking could allow an internal floor space increase of up to **20%** of the GFA, **up** to a maximum of **40 sq m** additional gross floor area, within all existing CBD businesses without the requirement for Sec 94 contributions. For example, with 'The Loft' DA there was a 22.15 sq m extension to existing floor space, for which a 0.73 car space levy was imposed as a condition of consent.

The suggested allowances have been calculated on the following premise:

- Council's Car Parking DCP requires 3.3 spaces per 100 sq m gross floor area for all commercial CBD businesses. At this ratio, 40 sq m would generate 1.3 spaces – so, in effect, the car parking concession is not really all that substantial in terms of 'lost revenue' under the Section 94 Plan.

- As regards restaurants, the maximum increase of 40 sq. m could reasonably accommodate approximately 20 - 24 seated persons (as a maximum). The additional floor area may also enable mixed uses or increase in service/storage areas which would add to commercial diversity and not necessarily increase patron/staff numbers which are the drivers for parking demand.
- The application of a 20% allowance needs to have an upper limit imposed (i.e. 40sq m) to prevent any unfair advantage where premises with large floor spaces could otherwise undergo similarly larger floor space increases still without contributing towards car parking.

This allowance to be available only once to each premises (whether 40 sq m or 20% GFA is achieved or not) - any further floor space extensions will attract the applicable Sec 94 charges. Not all buildings have the capacity to physically accommodate internal floor space extensions, so the special allowance may not apply to a great number of existing establishments in any case.

3. For Outdoor Dining, “blister” extensions may be considered within the “Magellan Street” precinct where they can be physically accommodated without interference to traffic flow or safety, and without attracting charges for lost kerbside parking. However, where any kerbside car parking spaces are displaced by construction of blisters outside the delineated “Magellan Street” precinct, these will attract compensatory Sec 94 levies at normal rates.
4. For Outdoor Dining, footpath advertising in the manner of specific designed and weighted portable signs should be allowed. This allowance has been covered in the adopted Outdoor Dining Policy; however Chapter 9 (Outdoor Advertising Policy) will also need to be revised to reflect such signs to be allowed.

Proposed Amendments

The changes recommended to be made are as follows:

DCP Chapter 7 (off-street carparking)

The relevant section of the existing DCP currently states:

7.7.3.1 Fixed Car Parking Rate

With the exception of the residential uses listed below, a fixed rate of no less than 3.3 car spaces/100m² of gross floor area shall be required for development within the CBD. Where the development is (or includes) a residential use listed below, the minimum number of spaces required for the residential component shall be as described in Schedule 1 rounded up to the next whole number:

- *Bed and Breakfast Establishment*
- *Boarding House*
- *Dwelling House*
- *Dual Occupancy*
- *Motel*
- *Residential Flat Building*

It is proposed to amend this section as follows:

7.7.3.1 Fixed Car Parking Rate

With the exception of certain uses listed below, a fixed rate of no less than 3.3 car spaces/100m² of gross floor area (as defined in the Lismore LEP) shall be required for development within the CBD/City Centre.

Exceptions:

(i) **Residential uses exception:** Where the development is (or includes) a residential use listed below, the minimum number of spaces required for the residential component shall be as described in Schedule 1 rounded up to the next whole number:

- Bed and Breakfast Establishment
- Boarding House
- Dwelling House
- Dual Occupancy
- Motel
- Residential Flat Building

(ii) **'Refreshment Room' and Outdoor Dining use exceptions:**

(Where: "Enclosed" has the same definition as "gross floor area" in the Lismore LEP; and "Magellan Street- Entertainment/Activity Precinct" is that area indicated by Map No 2 in Council's 'Outdoor Dining Policy' as adopted on **14 September 2010**)

- (a) For 'enclosed' outdoor dining areas constructed outside the Magellan Street- Entertainment/Activity Precinct, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP will apply.
- (b) For 'enclosed' outdoor dining areas constructed within the specified Magellan Street- Entertainment/Activity Precinct, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP will not apply.
- (c) For 'unenclosed' outdoor dining areas in all CBD/City Centre locations, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP do not apply in accordance with the definition of GFA.
- (d) If construction of a new outdoor dining area necessitates removal of car parking spaces from the road reserve, a contribution for the lost space(s) will be levied in accordance with the Lismore Contributions Plan (Section 2.5.5), **however** this contribution will not be levied if the new outdoor dining area is located within the Magellan Street- Entertainment/Activity Precinct.

(iii) **All Commercial and Business (incl. refreshment rooms) use exceptions:**

Existing commercial/business/retail premises within the Lismore CBD (see map 1 of this DCP) may, with consent, increase internal floor space by up to 20% of the existing building GFA up to a maximum of 40 sq. m. without incurring Section 94 charges for car parking. This allowance will only be available once to each premises (whether 20% or 40 sq m is achieved or not), and any further internal extensions will attract relevant Sec 94 charges.

DCP Chapter 9 (Outdoor Advertising Policy)

This DCP chapter needs to be amended to accommodate the proposed introduction of the free-standing footpath advertising signs associated with footpath dining as provided for in 3.8 of the adopted Outdoor Dining Policy. The existing definition within the policy for 'portable footpath signs' is relevant to the new signs proposed, so the definition itself does not need to be altered - ("*portable footpath sign*" means a small, free-standing, portable advertising sign located on a footpath or area utilised for pedestrian traffic and includes a sandwich board.)

At present, portable footpath signs of any description are prohibited. To enable the special, weighted freestanding signs specified in Sec 3.8 of the draft Outdoor Dining Policy to be made permissible, DCP Chapter 9 (Outdoor Advertising Policy) needs to be amended in the following manner:

- i) In the Development Control Table under Clause 9.4, for the table relating to Zones 3 (a), 3 (b), 3 (f), and 4(a), the words *“weighted portable footpath signs as permitted by Council’s Outdoor Dining Policy”* should be inserted in column 3 after the words *‘any advertising sign not listed in Column 2 or 4’*; and the words *“except for the specific weighted portable footpath signs permitted with consent under the provisions of Council’s Outdoor Dining Policy”* should be inserted in column 4, after the words *‘portable footpath sign’*.
- ii) In the ‘Additional Information’ for ‘Portable Footpath Sign’ under Clause 9.11, the words *“, with the exception of specific, weighted portable footpath signs permitted under the provisions of Council’s Outdoor Dining Policy”* should be inserted at the end of the paragraph after the word *“area”*.

Related Matters

It should be noted that upon future commencement of the draft Lismore LEP, exempt and complying provisions currently contained within Council’s Development Control Plan will need to be reviewed and incorporated into the new LEP provisions to ensure continuity in exemptions from the need for development consent. The extent of exempt development types in the draft LEP should therefore be reviewed and updated if necessary (with reference to any competing provisions in the SEPP for exempt and complying development) prior to the final consideration of the draft LEP by Council.

Council has engaged a consultant to prepare a development application for the use of public footpath/road areas within the Lismore CBD with a view to simplifying approval processes for businesses and organisations promoting Lismore and its services. It is hoped that this DA will be lodged before the end of 2010 to further enhance opportunities for businesses in the Lismore CBD.

Sustainability Assessment

Sustainable Economic Growth and Development

As detailed in this report, whilst there may be some minor loss of revenue arising from the waiving of Section 94 charges, the action encourages healthy investment in the CBD sector, accompanied by greater flexibility, diversity, vitality and a more facilitative approach to the use of public footpath space.

Social Inclusion and Participation

The main thrust of the changes proposed has been made as a result of public interest combined with strong representation from the commercial sector in relation to the Outdoor Dining Policy.

Protect, Conserve and Enhance the Environment and Biodiversity

The changes to the DCP will have no detrimental effects on the environment, and in effect serve to facilitate the vitality and growth of the CBD.

Best-Practice Corporate Governance

The changes to the DCP are in fact, necessary to properly facilitate the Outdoor Dining Policy and hence are a direct complement to Council’s aims and encouragements to improve CBD culture and attraction.

Comments

Finance

The proposed changes to DCP Chapter 7 (Off-Street Car Parking) will result in reduced Section 94 contributions being received for car parking, however it should be noted that contributions received for the last three years total approximately \$4,800.

As to the proposed changes to DCP 9 Chapter 9 (Outdoor Advertising Policy), they are not anticipated to have a negative financial impact.

Strategic Planning Coordinator

The proposed amendments to Chapter 7 and Chapter 9 of the Lismore Development Control plan are relatively minor but will assist in the effective and positive implementation of the Outdoor Dining Policy and, ultimately, the ongoing revitalisation of the CBD.

It is also noted that, over time the availability of car parking spaces in the CBD will need to be monitored to ensure that an under supply does not result.

Public consultation

Public exhibition of any proposed changes to the Lismore DCP will be required in accordance with the provisions of the *Environmental Planning & Assessment Regulation 2000* for a minimum period of 28 days if Council adopts the recommendations in this report. Upon completion of the exhibition period, the draft DCP amendments would be reported back to Council in conjunction with any submissions for a final decision to be made by Council.

As part of the public exhibition process the following stakeholder groups would also be sent correspondence alerting them to the proposed DCP amendments and the exhibition period:

- Lismore Chamber of Commerce
- Economic Development Policy Advisory Group
- Lismore Business Promotion Panel
- Council's business owner database.

Conclusion

The proposed amendments to DCP Chapter 7 (Off-Street Car Parking) and DCP 9 Chapter 9 (Outdoor Advertising Policy) will facilitate consistency in the interpretation and application of relevant planning controls to proposals within the CBD that relate to Council's adopted Outdoor Dining Policy.

It is also considered timely to consider the need for some flexibility for minor alterations and additions to enable existing CBD to consider expanding premises to meet business/operating demands, with some clarity about how parking controls will be applied by Council.

It is therefore recommended that Council resolves to adopt the recommendations as detailed within this report for the purpose of public exhibition.

Copies of DCP Chapter Chapter 7 and 9 are available on Council's website or can be emailed upon request.

Attachment/s

There are no attachments for this report.

Recommendation

That the following amendments to the Lismore Development Control Plan be adopted for the purpose of public exhibition in accordance with the provisions of clause 18 of the *Environmental Planning and Assessment Regulation 2000* as follows:

DCP Chapter 7 (Off-Street Car Parking) be revised by amending CI 7.7.3.1 to read:

7.7.3.1 Fixed Car Parking Rate

With the exception of certain uses listed below, a fixed rate of no less than 3.3 car spaces/100m² of gross floor area (as defined in the Lismore LEP) shall be required for development within the CBD/City Centre.

Exceptions:

(i) Residential uses exception:

Where the development is (or includes) a residential use listed below, the minimum number of spaces required for the residential component shall be as described in Schedule 1 rounded up to the next whole number:

- Bed and Breakfast Establishment
- Boarding House
- Dwelling House
- Dual Occupancy
- Motel
- Residential Flat Building

(ii) 'Refreshment Room' and Outdoor Dining use exceptions:

(Where: "Enclosed" has the same definition as "gross floor area" in the Lismore LEP; and "Magellan Street- Entertainment/Activity Precinct" is that area indicated by Map No 2 in Council's 'Outdoor Dining Policy' as adopted on **14 September 2010**)

- (a) For 'enclosed' outdoor dining areas constructed outside the Magellan Street-Entertainment/Activity Precinct, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP will apply.
- (b) For 'enclosed' outdoor dining areas constructed within the specified Magellan Street-Entertainment/Activity Precinct, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP will not apply.
- (c) For 'unenclosed' outdoor dining areas in all CBD/City Centre locations, Section 94 charges for non-provision of car parking in accordance with the specified rate under this DCP do not apply in accordance with the definition of GFA.
- (d) If construction of a new outdoor dining area necessitates removal of car parking spaces from the road reserve, a contribution for the lost space(s) will be levied in accordance with the Lismore Contributions Plan (Section 2.5.5), **however** this contribution will not be levied if the new outdoor dining area is located within the Magellan Street-Entertainment/Activity Precinct.

(iii) All CBD Commercial and Business (incl. refreshment rooms) use exceptions:

Existing commercial/business/retail premises within the Lismore CBD (see map 1 of this DCP) may, with consent, increase internal floor space by up to 20% of the existing building GFA up to a maximum of 40 sq. m. without incurring Section 94 charges for car parking. This allowance will only be available once to each premises (whether 20% or 40 sq m is achieved or not), and any further internal extensions will attract relevant Sec 94 charges.

And DCP Chapter 9 (Outdoor Advertising Policy) be revised by amending as follows:

- i) In the Development Control Table under Clause 9.4, for the table relating to Zones 3 (a), 3 (b), 3 (f), and 4(a), the words "weighted portable footpath signs as permitted by Council's Outdoor Dining Policy" be inserted in column 3 after the words 'any advertising sign not listed in Column 2 or 4'; and the words "except for the specific weighted portable footpath signs permitted with consent under the provisions of Council's Outdoor Dining Policy" be inserted in column 4, after the words 'portable footpath sign'.

- ii) In the 'Additional Information' for 'Portable Footpath Sign' under Clause 9.11, the words "*with the exception of specific, weighted portable footpath signs permitted under the provisions of Council's Outdoor Dining Policy*" be inserted at the end of the paragraph after the word "area".

Report

Subject	Lismore Development Control Plan - Amendment No. 9 Water Sensitive Design
TRIM Record No	BP10/563:EF09/820
Prepared by	Senior Strategic Planner
Reason	To advise Council on the outcomes of the public exhibition period, inform Council on the recommended changes to the plan and recommend that Council adopt DCP Chapter 22 Water Sensitive Urban Design as Amendment 9 to the Lismore Development Control Plan.
Community Strategic Plan Link	Integrated Water Cycle Management

Overview of Report

This report is to inform Council of the responses to the public exhibition of the Lismore Development Control Plan – Chapter 22 Water Sensitive Design, Amendment No. 9. The new chapter of the Development Control Plan (DCP) introduces the requirement for Water Sensitive Design (WSD) measures to be incorporated into the design of new developments and subdivisions. The DCP sets out objectives for development and WSD performance criteria aimed to reduce potable water consumption, improve water quality and reduce stormwater flows. The focus of the DCP is stormwater management and water supply. The proposed amendment was publicly notified for 28 days. Council received one (1) detailed submission during the exhibition period which raised concerns about some technical matters that are discussed within this report. In response, some minor changes to the DCP are recommended. It is therefore recommended that Amendment No. 9 be adopted by Council with some minor changes to the publicly exhibited document.

Background

At Council's ordinary meeting of 14 October 2008 Council resolved that a Water Sensitive Design (WSD) Development Control Plan be prepared.

At Council's ordinary meeting of 9 June 2010 Council resolved to place draft Amendment No. 9 to the Lismore Development Control Plan (DCP) on public exhibition. Chapter 22 of the Development Control Plan has been prepared to introduce the requirement for Water Sensitive Design (WSD) measures to be incorporated into the design of new developments and subdivisions. The DCP sets out objectives for development and aims to reduce potable / reticulated water consumption, improve water quality and reduce stormwater flows.

Draft Amendment No. 9 to the Lismore Development Control Plan (DCP) was placed on public exhibition for a period of 28 days between 16 August and 17 September 2010. On 11 August 2010 Council also sent a letter to a number of industry professionals explaining that the draft Amendment was on public exhibition. The purpose of the letter was to inform industry professionals of the proposed changes, outline the purpose of the new chapter and encourage submissions. Council received one (1) detailed submission during the exhibition period. Councillors and Council's Development and Compliance Staff also raised issues. All issues are discussed in this report and changes recommended to the draft Chapter 22. Chapter 22 is provided as an attachment to this report.

Submissions

One (1) submission was received during the public exhibition period. This was a detailed submission with regard to some of the technical issues raised by the DCP. Table 1 below outlines the matters which were raised in the external submission and the staff response to address this submission. Changes recommended to the DCP to address these comments are included in the third column.

Issues raised by staff and Councillors are addressed in the section after Table 1. The recommended changes are underlined in the amended Chapter 22 attached to this report.

Table 1 Submission and Recommended Response

Points Raised	Staff Response	Proposed Changes
The deemed to comply process is supported.	Noted.	It is recommended that no changes are made.
<ul style="list-style-type: none"> o Section 22.3 of the DCP states that the chapter applies to “additions to existing developments that result in a total impervious area greater than 300m²”. This is problematical. Should an existing facility with 500m² impervious area add an extra 100m² of carparking, the current wording of the DCP requires that the whole development will require reconfiguration to treat the entire 500m² plus the new 100m². It is not possible for drainage to be retrofitted to treat the entire 600m² of impervious area. 	<p>It is accepted that the current wording in the draft DCP is ambiguous because it refers to the total impervious area rather than the additional impervious area. It is also agreed that retrofitting existing drainage systems would be impractical on many sites. The intention of the DCP was to apply where there is an additional impervious area of greater than 300m². Therefore it is recommended that the DCP is amended so that it applies to development that creates an additional impervious area of 300m².</p>	<ol style="list-style-type: none"> 1. Delete the final sentence in the first paragraph under the heading “Developments”. <i>“This Chapter also applies to alterations or additions to existing developments that result in a total impervious area greater than 300m²”; and</i> 2. Delete the third dot point on page 4 and insert the words “Development which creates an additional impervious area of less than 300m²”.
<ul style="list-style-type: none"> o The deemed to comply re-use sizing for rainwater tanks can generate increased demand for larger rainwater tanks. It is not feasible for all projects to be able to install such structures, particularly re-furbished developments that are effectively a change of use with minor extension. There needs to be a case by case exemption process whereby Council can relieve certain developments for the need for tanks which are too large. 	<ul style="list-style-type: none"> o It is considered that the issue of larger water tanks is already addressed within the current wording of the DCP, which allows such requests to be dealt with on a case by case basis at the Development Application stage or at pre-lodgement stage. Section 22.4 Performance Criteria, allows Council to approve a request to adopt less stringent performance criteria. To further clarify the flexibility offered in the DCP, it is proposed that the third paragraph under Table 1 be amended to add words clarifying that amendments will be accepted where appropriate justification is provided. 	<p>It is proposed that the third paragraph under Table 1 be amended to add the following words: “where appropriate justification is provided e.g. through MUSIC modelling”.</p>

<p>Council should consider that 25% of re-use tanks be allocated towards attenuation, hence creating smaller attenuation tanks.</p>	<ul style="list-style-type: none"> ○ What is proposed is considered reasonable but this would need to be supported by calculations that are slightly more sophisticated than those presented in the guidelines for minor development. The individual design approach would allow for this to be considered on a case by case basis. 	<p>It is recommended that no changes are made.</p>
<p>Table 1 Water Sensitive Design Performance Criteria requires that post development is to accord with predevelopment up to the Q100 year event. Implementation of attenuation up to large return intervals should be based upon addressing “catchment” specific flooding issues to which the relevant time of concentration matters apply. It is proposed that the previous attenuation standard used by Council of Q10 year with a 6 minute time of concentration apply, which is consistent with the 10 year flood protection return interval used for the CBD levee bank.</p>	<p>This submission raises two issues.</p> <ul style="list-style-type: none"> ○ Firstly, due to the wording in the draft DCP, the submission relates this requirement to flooding whereas it is intended to relate to storm events rather than a flood event. Therefore it is recommended that amended wording be adopted to clarify the intent of this section. ○ The second issue raised is the level of attenuation that should be provided. i.e. whether provision of attenuation for the 1 in 100 year event is excessive. It is accepted that the volume of storage required to address the 1 in 100 year event is considerably greater than that for the 1 in 10 year event. Given that this is a 1 in 100 year occurrence, it is proposed to change the requirement from requiring a development to provide storage volume to attenuate for the 1 in 100 year event to a requirement to ensure that existing/proposed flow paths can accommodate the 1 in 100 year event. ○ It is recommended that amended wording be adopted to address this based on impact. 	<ul style="list-style-type: none"> ○ In column 1 of Table 1 under Stormwater Quantity, the words “Flow rates (flood protection)” be replaced with “Flow rates (infrastructure protection)”. ○ In column 2 of Table 1, insert “Assess the capacity of existing flow paths to accommodate the post development 100 year average Recurrence discharge from the site and provide necessary attenuation / infrastructure upgrade to ensure flow paths can accommodate anticipated flows”. ○ In column 3 of Table 1 under Stormwater Quantity, the words “flooding problems” be replaced with “overland flow problems”.

<p>The sizing of the bioretention filter media footprint is questioned. CSIRO published documents indicate that performance of the bioretention system plateaus when the sizing is nominally 1.5% of the impervious area being treated, not necessarily as a percentage of the total catchment.</p>	<ul style="list-style-type: none"> ○ The required filter media area for the 'deemed to comply' solution for residential developments, being 1.5% of the catchment area, was determined by testing case studies with the MUSIC (Model for Urban Stormwater Improvement Conceptualisation) software. A range of filter media areas were tested to determine the threshold at which the stormwater quality performance criteria (Table 1) are achieved. The case study testing incorporated a range of ratios of roof / driveway & car park / other ground level areas; however it was impossible to consider all potential permutations. ○ It is generally accepted that for some developments, a filter area of 1.5% of the catchment area may not quite meet the performance criteria, but for other developments the performance criteria will be exceeded. ○ A filter area sized at 1.5% of the catchment area is generally consistent with the sizing required to meet performance criteria in other jurisdictions. <p>It is however, noted that the 'deemed to comply' solutions are optional for minor developments. So, if a consultant / developer is confident that a particular minor development could meet the performance criteria with a smaller filter area, then there is an option to undertake MUSIC modelling to demonstrate this.</p>	<p>It is recommended that no changes are made.</p>
<ul style="list-style-type: none"> ○ In some examples (school hall buildings), performance criteria would be impractical to comply with. It is suggested that provision for pre-lodgement discussions be made within the DCP. 	<ul style="list-style-type: none"> ○ Clause 22.4 enables Council to approve a request for less stringent performance criteria. In these circumstances further justification will be sought to demonstrate why compliance with the performance criteria is impractical. ○ Council's existing pre-lodgement system allows developers and Council staff to have preliminary discussions about development matters and for minutes of the meeting to be recorded. 	<ul style="list-style-type: none"> ○ It is proposed that the third paragraph under Table 1 be amended to add the following words: "where appropriate justification is provided e.g. Through MUSIC modelling".

	<ul style="list-style-type: none"> ○ To further clarify the flexibility offered in the DCP, it is proposed that the third paragraph under Table 1 be amended to add words clarifying that amendments will be accepted where appropriate justification is provided. 	
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Staff Comment

Council staff reviewed the draft DCP and the following issues were raised:

- The 300m² per lot allowance in residential subdivisions should be clarified.
- Minimum Water Efficiency Labelling and Standards (WELS) star rating for water efficient appliances and fittings should be provided.
- Information regarding local suppliers of soil for use as bioretention filter media should be included in brochures.
- Hydrocarbons and heavy metals should be removed from Table 1 if there is currently no way of demonstrating compliance.

1. **The 300m² per lot allowance in residential subdivisions should be clarified.**

Currently, page 8 of the DCP, under Residential Subdivision reads as follows:

Residential subdivisions must be designed in accordance with the Northern Rivers Local Government Development and Design Manual and provide an allowance of 300 m² impervious area per residential lot. If this allowance is not representative of the proposed future residential development, the use of an alternative impervious area allowance should be discussed with Council.

It is appropriate that the suggested solutions for residential subdivision are amended to include other constructed impervious areas such as roads. It is therefore recommended that the first paragraph relating to Residential Subdivision, on page 8 of the DCP, be amended to read as follows:

“Residential subdivisions must be designed in accordance with the Northern Rivers Local Government Development and Design Manual and include an allowance for 300 m² of impervious area on each proposed residential lot, to account for the likely impervious area associated with future residential development on the lots in addition to other constructed impervious areas such as roads. If this allowance is not representative of the proposed future residential development, the use of an alternative impervious area allowance should be discussed with Council”.

These changes will clarify the 300m² per lot allowance in residential subdivisions.

2. **Minimum Water Efficiency Labelling and Standards (WELS) star rating for water efficient appliances and fittings should be provided.**

Water efficient appliances and fittings are currently listed in the first dot point of Table 3 “Deemed to Comply” solutions beside Reticulated Water Consumption. Currently there is no qualification or quantification of what standard is required for these water efficient appliances and fittings. By quantifying the minimum WELS star rating for appliances and fittings such as urinals, toilets, showers, taps, washing machines and dishwashers in a prescriptive and readily achievable manner, this will allow the consumer access to a broad range of available products. To address this issue, it is recommended that the following words: “Water Efficiency Labelling and Standards (WELS) rating of a minimum of three stars” are added to the deemed to comply solutions. It is envisaged that this better reflects BASIX terminology and WELS ratings.

3. That Council should consider providing information regarding local suppliers of soil for use as bioretention filter media.

While an information brochure is considered useful, it is not a matter for the WSD chapter or the guidelines. Section 3.3.2.1 of the Water Sensitive Design Technical Guidelines for Minor Development provides guidelines on soil specification. However, it is recommended that an information sheet is prepared on bioretention filter media for developers, contractors and designers. This can occur if the WSD DCP and guidelines are adopted by Council.

4. Council consider removing hydrocarbons and heavy metals from Table 1 if there is no way of demonstrating compliance.

It is recommended that hydrocarbons and heavy metals be deleted from Table 1 “Water Sensitive Design Performance Criteria”, as there is currently no way of demonstrating compliance. Council staff discussed the alternative option of qualifying the performance criteria with relation to Hydrocarbons and Heavy Metals by substituting the 90% requirement for reduction in the mean annual load compared to baseline, with a qualitative requirement of a “medium to high industry ranking”. However while proprietary systems currently show these ratings across all systems, there is insufficient data available with regard to natural systems being able to demonstrate these ratings. If the applicant addresses the quantitative requirements of reduction in the mean annual load for Total Suspended Solids, Total Phosphorous, Total Nitrogen and Gross Pollutants, there will also be sufficient reduction in the mean annual load of Hydrocarbons and Heavy Metals. Hence it is considered acceptable to remove hydrocarbons and heavy metals from Table 1 of the DCP.

Councillor Briefing

A Councillor Briefing was held in July 2010 prior to the draft DCP being placed on public display. It was proposed that all reference to “Potable Water Consumption” be replaced with “Reticulated Water Consumption” throughout the DCP. This includes reference to Potable Water in the following sections of the DCP:

- Paragraph 6 of part 22.1 ‘Introduction’
- Point 2 under part 22.2 ‘Objectives’
- Table 1 under part 22.4 ‘Performance Criteria’
- Table 2 ‘Deemed to Comply’ Solutions – Residential Developments
- Table 3 ‘Deemed to Comply’ Solutions – Other Developments
- Table 4, under part 22.6 ‘Water Sensitive Design Measures’
- The fourth dot point under Table 4 ‘Part 22.7 Requirements for Water Management Plans (WMPs)’
- Part 22.8 ‘Definitions’ of Potable Water and Non-potable water.

In all these instances, it is proposed to amend the DCP to replace the words “Potable Water” with “Reticulated Water”. This suggestion is supported to ensure consistency of terminology throughout the industry.

Sustainability Assessment

Sustainable Economic Growth and Development

The Water Sensitive Design Chapter of the DCP will have a negligible effect on local economic growth and development.

Social Inclusion and Participation

This proposal has no impact on social issues.

Protect, Conserve and Enhance the Environment and Biodiversity

The Water Sensitive Design Chapter of the DCP will have a positive impact on the environment and biodiversity. One of the objectives of WSD is to protect and restore aquatic ecosystems within the development site and downstream. WSD will ensure that stormwater discharged from new development minimises adverse impacts on the environment and receiving waters and it will also reduce the demand for reticulated water from the town water supply.

Best-Practice Corporate Governance

The proposal for a Water Sensitive Design DCP supports best practice management principles with relation to Water Sensitive Design. The DCP was on public exhibition for 28 days and comment was invited from a number of water sensitive design consultants. The proposal represents a multi-disciplinary approach to delivering policy with relation to water sensitive design. Council staff from all branches of the Sustainable Development directorate have provided input to the DCP. This includes Environmental Strategies, Environmental Compliance, Strategic Planning, Engineering, and Building Services. It is considered that the delivery of the draft DCP supports Councils foundations for improved customer service delivery.

Comments

Sustainable Development

Councils Compliance Coordinator and Councils Development Engineer provided input into this report.

Public consultation

Amendment 9 to the Lismore Development Control Plan to insert Chapter 22 Water Sensitive Design was publicly notified in accordance with Clause 18 of the *Environmental Planning and Assessment Regulation 2000*.

Conclusion

Amendment 9 to the Lismore Development Control Plan to insert Chapter 22 Water Sensitive Design was publicly exhibited for a period of 28 days from 16 August 2010 to 17 September 2010. One (1) submission was received and a number of issues were raised by staff and Councillors at a Council workshop. These issues have been addressed as noted in this report and a number of recommendations made for minor changes to the exhibited DCP. This report recommends that Amendment No 9 be adopted by Council subject to the changes to the DCP as discussed in this report.

Attachment/s

1. Draft Development Control Plan: Part A - Chapter 22 Water Sensitive Design (Over 7 pages)
2. Water Sensitive Design Technical Guidelines for minor development (Over 7 pages)

Recommendation

That:

1. Council adopt draft Chapter 22 Water Sensitive Design to the Lismore Development Control Plan (DCP) as per Attachment 1, as amended to reflect the recommended changes outlined in the report.
2. Council notify the public of the adoption of Amendment 9 to the Lismore Development Control Plan in accordance with the *Environmental Planning and Assessment Regulation 2000*.
3. An information sheet be prepared about bioretention filter media for developers, contractors and designers and appropriate promotion of the adopted DCP be undertaken.

Report

Subject	Procurement Process for Construction Contract for Southern Trunk Wastewater Main
TRIM Record No	BP10/722:EF09/2511
Prepared by	Strategic Engineer-Water & Wastewater
Reason	To obtain a resolution of Council to facilitate the efficient progress over the Christmas and New Year period of the proposed procurement process for construction of the Southern Trunk Main.
Community Strategic Plan Link	Integrated Water Cycle Management

Overview of Report

This report outlines the proposed procurement process for the contract to construct the Southern Trunk Main project. A resolution of Council is sought to facilitate the efficient progress of this procurement process over the Christmas and New Year period. The recommended resolution of Council delegates authority to the General Manager to determine the pre-selection of prospective tenderers to be involved in the latter stages of this process. The determination of final tenders would be made by Council some months later.

Declaration of Interest – General Manager

Notwithstanding there are competing views regarding the necessity for this pre-selection of tenderers matter to be determined by the Council, to avoid any scope for external criticism about complete transparency the process recommended is supported. However,, as with all matters pertaining to the Southern Trunk Main I must again declare that:

In accordance with the requirements of Council's Code of Conduct for all Council officials to ensure full disclosure in the interests of transparency and probity I draw attention to the fact that I am a joint owner of a house property at City Acres which may be impacted by the recommendation in this report.

Accordingly, if the recommendation in the report is adopted I will delegate the authority afforded me to the Executive Director – Infrastructure Services for the purpose of determining this matter.

Background

The investigation and design of the Southern Trunk Main project has reached an advanced stage. NSW Public Works, acting as project managers for the pre-construction phase of the project on behalf of Council, has recently initiated a process for the procurement of a contract to construct this project.

The proposed procurement process involves the use of both an Expression of Interest (EOI) and an Early Tenderer Involvement (ETI) process. The overall procurement process is in accordance with the original proposal submitted by NSW Public Works prior to its engagement as project managers for this project.

The proposed procurement process is summarised below:

- Advertisements have been placed inviting interested prospective tenderers to submit Expressions of Interest (EOI) to be involved in the subsequent ETI and tender process.
- A compulsory information session has been held where interested prospective tenderers have been provided with information on the project, the procurement process, and associated timelines.
- Prospective tenderers will submit Expressions of Interest outlining their capability to undertake the necessary work. Expressions of Interest submissions close on 14 December 2010.
- Expressions of Interest will be assessed by an assessment panel comprising two members of NSW Public Works and two members of Council staff in accordance with pre-determined criteria. The assessment panel will recommend four (4) pre-selected tenderers who will then be invited to participate in the subsequent ETI phase of the procurement process.
- Pre-selected tenderers will then participate in the ETI process. The ETI process is designed to:
 - provide a mechanism for the transparent exchange of information between NSW Public Works, Council and prospective tenderers;
 - provide opportunities for prospective tenderers to suggest possible changes to the design and contract documentation;
 - better identify and manage risks associated with the project; and
 - foster a collaborative approach to the project between the respective parties.
- At the conclusion of the ETI process, the design and tender documentation will be finalised and pre-selected tenderers will then be invited to submit tenders for construction of the project.
- An assessment panel will then assess tenders received and will make a recommendation regarding the preferred tenderer to be engaged under contract to construct the project.
- The final decision regarding the choice of preferred tenderer and their engagement under contract will be made through a resolution by Council.

The anticipated advantages of adopting the EOI/ ETI procurement process; the assessment criteria to be used in assessing Expressions of Interest and pre-selecting tenderers; further details of the ETI process; and the assessment criteria to be used to select the final recommended preferred tenderer are included within the Attachment to this report.

The current timeline for the procurement process is given below:

▪ Call for Expressions of Interest	Friday, 19 November 2010
▪ Compulsory site meeting	Wednesday, 1 December 2010
▪ Expressions of Interest close	Tuesday, 14 December 2010
▪ Announce pre-qualified tenderers	Friday, 21 January 2011
▪ Issue draft tender documents for comment (ETI)	Monday, 31 January 2011
▪ 1st ETI Workshop	Wednesday, 9 February 2011
▪ Receive comments from Workshop 1 (ETI)	Wednesday, 2 March 2011
▪ 2nd ETI Workshop	Wednesday, 9 March 2011
▪ Issue final tender documents	Wednesday, 16 March 2011
▪ Tenders close (3 week tender period)	Tuesday, 5 April 2011
▪ Report to May 2011 Council Meeting	Tuesday, 10 May 2011
▪ Award Contract (after Council meeting)	Wednesday, 12 May 2011

The timeline shown above is to be reviewed to investigate the potential to fast-track the ETI process with the aim of bringing forward the date for commencement of construction. If this is deemed to be possible, an Extraordinary Meeting of Council may need to be scheduled in late April or early May 2011 to determine the final tender. If the timeline remains unchanged, the tender will be determined at Council's Ordinary Meeting in May 2011.

A Council Workshop is planned to be conducted in the New Year, at some time prior to Council determining awarding the contract for construction of the project. This workshop will provide Councillors with:

- an overview of the project's investigation and design,
- environmental and cultural impacts associated with the project and measures to minimise these impacts, and
- an overview of the procurement and tender process.

For the timeline shown, or a revised timeline, to be met it is essential that the pre-selection of tenderers to be involved in the ETI and final tender process be completed in January 2011 as shown. This coincides with a period in which no Council meetings are scheduled, which makes it difficult to have Council determine the pre-selection of tenderers.

To facilitate the efficient completion of the procurement process it is recommended that Council resolve to delegate authority to the General Manager to determine the choice of pre-selected tenderers following completion of the EOI process. It is stressed that the final decision regarding the choice of preferred tenderer and their engagement under contract will be subject to a resolution of Council in April or May 2011.

Sustainability Assessment

Sustainable Economic Growth and Development

Construction of the Southern Trunk Wastewater Main project will generate employment within the local and regional economy. The project also is essential to facilitate the continuing growth of Lismore. Enabling the procurement process outlined within this report to be completed in a timely manner will facilitate the construction of this project and help to secure these benefits to the local economy.

Social Inclusion and Participation

This project has minimal impact on social inclusion and participation.

Protect, Conserve and Enhance the Environment and Biodiversity

At face value, it would appear that the environmental impacts of undertaking this project will be much the same, regardless of the procurement process adopted. However, use of the ETI process does provide opportunity for amendments to the design and construction methods to be adopted which would help to minimise environmental impacts. Consequently, the decision as to the process to be used to procure these works is considered to have either a minimal or positive effect on associated environmental impacts.

Environmental impacts for the project are to be assessed in accordance with standard procedures for assessment of works undertaken by Council, in accordance with Part 5 of the *Environmental Planning and Assessment Act*.

Best-Practice Corporate Governance

Construction of the Southern Trunk Wastewater Main is included within the program of works outlined within the Lismore City Council Delivery Plan 2010-2014. The procurement process recommended within this report is consistent with the provisions of the *Local Government Act* and Tendering Guidelines for NSW Local Government, October 2009.

Comments

Finance

The adoption of a procurement process that allows for it to be expedited is supported given the timing constraints associated with the Southern Trunk Main project. It is important to note that the acceptance of any tender will be reported to and determined by Council in May 2011.

Public consultation

The Southern Trunk Wastewater Main project has been the subject of an extensive consultation process with affected landholders and this consultation will continue. A broader engagement with the wider community will commence when commencement of its construction draws nearer.

Conclusion

Given funding constraints applicable to this project as outlined in previous reports, it is imperative that construction of the Southern Trunk Main project be expedited. The procurement process initiated by NSW Public Works provides significant advantages and endorsement of this process is recommended.

The proposed timeline enables the earliest possible commencement of construction of the project, and any unnecessary delay should be avoided. In order for this timeline to be achieved, some procedure needs to be established to enable the pre-selection of tenderers to be determined in January 2011.

The recommended delegation of authority to the General Manager facilitates this objective to be achieved, whilst still retaining Council's authority to determine the final tender.

The only other apparent means of achieving the timeline would be to schedule an Extraordinary Meeting of Council over the Christmas and New Year period.

Attachment/s

1. Southern Trunk Wastewater Main Project - Further Details of Procurement Process

Recommendation

That Council:

1. Endorse the procurement process outlined in this report.
2. Delegate authority to the General Manager to determine the pre-selection of prospective tenderers to be invited to participate in the Early Tenderer Involvement and final tender process for construction of the Southern Trunk Main project.

Further Details of Procurement Process

Anticipated Advantages of the Use of the Proposed Procurement Process

These comments relate to the combined use of an Expression of Interest (EOI) and an Early Tenderer Involvement (ETI) process as part of an overall procurement process to procure a contract to construct the Southern Trunk Main.

Most of the following comments relate to the advantages of using an ETI process as a means of involving prospective Tenderers in an exchange of information prior to finalising tender documentation and inviting final tenders. However, the preceding EOI process is an integral part of the overall process. For the ETI process to work effectively, it is considered necessary to limit the number of parties involved in this process. Consequently, the EOI and pre-selection process to determine who participates in the subsequent ETI and final tender process is an integral and critical part of the overall process.

The anticipated advantages of conducting an ETI process are:

- ✓ The process provides a mechanism for the transparent exchange of information between NSW Public Works, Council and prospective tenderers. It also provides prospective tenderers with the opportunity to ask questions, clarify information or suggest possible improvements to the design or contract documentation prior to tender documentation being finalised and tenders being invited.
- ✓ The process provides an opportunity to clearly define risks, discuss and develop strategies to minimise or manage these risks and clearly define the apportionment of risks and related responsibilities between the respective parties.
- ✓ It is anticipated that the free exchange of information, and particularly the better identification and management of risks as referred to above, will lead to savings in the final contract price. This should arise as prospective tenderers will have greater certainty as to what they are pricing and the risks they face. Consequently, they will not have to make as large a provision within the tendered price to cover their potential exposure to unknown risks.
- ✓ Reductions in contract price may also arise from improvements to the design or construction methods identified during the ETI process. (In some cases improvements may not necessarily lead to cost reductions, but may result in improved outcomes for the project.)
- ✓ It is anticipated that the ETI process should result in a reduction in the number of varying or alternative tenders submitted as many of these alternatives will have already been discussed and resolved. This will significantly simplify the assessment process and help to clearly identify the preferred tenderer.
- ✓ Similarly, it is anticipated that there will be a reduction in the number of contract variations necessary during construction as many potential issues will have been resolved prior to commencement of the contract. This will lead to simpler project management and reduced administration costs. A reduction in variations should also minimise associated delays in completion of the contract. (Given time constraints imposed by funding guidelines for the project, this is a major advantage.)
- ✓ The ETI process helps to promote a collaborative approach to the project by the respective parties.

Criteria for Assessment of Expressions of Interest

The criteria to be used to assess Expressions of Interest received during the EOI phase of the procurement process, and determine the pre-selection of tenderers to be invited to participate in the subsequent ETI and final tender process, are listed in the table below. The table also indicates the weighting to be applied to each criterion.

Executive Summary	10%
Experience and Level of Performance on Similar Works	40%
Project Team and Resources	25%
Proposed Delivery Methodology	25%

Details of Early Tenderer Involvement (ETI) Process

Further details of the ETI process are outlined below.

1st ETI Workshop

The objectives of this workshop will be to:

- Summarise the latest draft contract documentation
- Brief prospective tenderers on the design philosophy and a detailed overview of the contract scope of works
- Issue the draft risk allocation register
- Discuss the philosophy of the contract and the importance of the collaborative approach of the Principal
- Provide an overview of project specific issues eg. environmental, OHS, site constraints.

Written Response by Prospective Tenderers

Following the 1st workshop, prospective tenderers will be required to reply in writing with comments on:

- Draft Contract Documents and Drawings
- Proposed additions to risk allocation register (to be addressed at 2nd ETI workshop)
- Comment on alternatives to contract scope/ methodology
- Any commercial in confidence items will be noted and these comments will not be made public at the 2nd ETI workshop.

Between 1st ETI Workshop and 2nd Workshop (approx. 4 weeks)

The Project Manager will be available to answer any questions from prospective tenderers during this period. Unless the questions relate to commercial-in-confidence issues, all questions and answers will be shared with all prospective tenderers either before or at the 2nd workshop. Prospective tenderers will also have the opportunity to arrange with the Project Manager to visit the sites during this period.

Following submission of the prospective tenderers' written responses, they will be collated and summarised and all responses updated within the risk register. The updated risk register will be distributed at the 2nd ETI workshop.

2nd ETI Workshop 2

The objectives of this workshop will be to:

- Provide an updated Risk Allocation Register incorporating the prospective tenderers' feedback including all comments on errors, omissions, ambiguities, clarifications and issues relating to the practicality of construction.

- Facilitate a detailed discussion on any proposed changes to the original Risk Allocation Register that may result in further changes and enhancements to the final contract document.
- Provide an update on any new developments with the project.

After 2nd ETI Workshop

- The Principal will finalise the contract documents and make any required amendments to the contract drawings.
- The tenderers will then be provided the final contract documents to commence the pricing phase.
- The Risk Allocation Register will be updated and finalised, identifying the changes to the contract documentation agreed to at the workshops.

Criteria for Assessment of Final Tenders

The selection criteria, and associated weightings, to be used to assess final tenders received at the conclusion of the ETI process are yet to be determined. However, the adopted criteria will comply with Council's procurement policy, including inclusion of a minimum 10% weighting given to the consideration of the sourcing of local content proposed within each tender.

Report

Subject	Tender No. T2011-08 - Road Reconstruction - Oakey Creek, Jiggi, Rock Valley and Quilty Roads
TRIM Record No	BP10/692:T11/8
Prepared by	Special Projects Engineer
Reason	To gain Council approval to award contracts for the projects.
Community Strategic Plan Link	Improve Roads, Cycleways and Footpaths

Overview of Report

Council has called tenders for road reconstruction works at Oakey Creek Road, Jiggi Road, Rock Valley Road and Quilty Road. Four (4) submissions were received and these were ranked for price and non-price attributes. This report details the evaluation of the tenders received and provides a recommendation to award the tender.

Background

As a result of the heavy rainfall and subsequent flood event in May 2009, land slips occurred at Oakey Creek Road, Jiggi Road, Rock Valley Road and Quilty Road. Geotechnical investigations have been undertaken and designs have been completed for the rectification at these sites.

The Roads & Traffic Authority (RTA) is administering the budget for these works under the May 2009 Natural Disaster Flood Restoration Funding. Council has received approval to proceed with the projects generally in accordance with the cost estimates provided by Council to the RTA following the flood event. The works are required to be completed in the current financial year.

Tenders were advertised for the road reconstruction works for all four (4) projects, being Oakey Creek Road, Jiggi Road, Rock Valley Road and Quilty Road. The Request for Tender Document (RFT) was structured to give Council flexibility in completing the works by permitting Council to award the full package of works to one contractor, or alternatively choose separate contractors for each project.

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

Tender documents were received from four (4) companies by the close of tender on 2.00pm, Tuesday, 9 November 2010.

Tenderers

- Hazell Bros-Lund
- Price Civil Constructions
- Civil Team Engineering
- Roads & Traffic Authority (Northern Road Services).

Tender Examination

An evaluation committee comprising the Contracts Administration Officer, Rural Works Engineer, Rural Works Supervisor and Council's Special Projects Engineer undertook the assessment of tenders.

Tenders were invited on a Lump Sum basis for the supply of all plant, equipment and supervision necessary to complete the works as per specifications listed in the RFT document.

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

1. Total Cost

A price comparison was undertaken on each tenderer for the works outlined within the RFT document. To ensure an equal comparison of cost between submissions, an additional lump sum figure (based on submitted rates and an estimate of quantities) has been added to the tendered prices of submissions that only listed a haulage rate per kilometre.

The tendered prices do not include the supply of materials, cement stabilisation works, bitumen sealing or Lismore City Council project management costs. The materials for the work will be supplied by Council using its regular suppliers.

Hazell Brothers-Lund has submitted the lowest price for all four (4) reconstruction projects.

2. Capability & Experience

All tenderers have demonstrated an ability to carry out bulk excavation and road reconstruction works. Hazell Bros-Lund, Civil Team Engineering and the NSW Roads & Traffic Authority have undertaken numerous large scale projects of this size or greater in their recent work history.

3. Quality & Safety

All tenderers have demonstrated a high level of OH&S systems within their work practices. However, Civil Team Engineering, Hazell Bros-Lund and the NSW Roads & Traffic Authority are certified to international and Australian standards.

4. Environment & Community

All tenderers have demonstrated a high level of Environmental awareness and relevant systems within their work practices. However, Civil Team Engineering, Hazell Bros-Lund and the NSW Roads & Traffic Authority are certified to international standards.

5. Local Content

Price Civil Contractors are locally based within the Lismore local government area and received the maximum score for this component of the assessment. The NSW Roads & Traffic Authority construction crew are based out of the Ballina Depot. Civil Team Engineering is based out of Murwillumbah whilst Hazell Bros-Lund is based in Burleigh Heads.

Summary

The rates tendered by Hazell Bros-Lund resulted in the lowest costs for the works required. Furthermore, when assessed against the remaining evaluation criteria specified in the RFT (Capability & Experience, Quality & Safety, Environment & Community, and Local Content), Hazell Bros-Lund was confirmed as the highest ranked tenderer. A summary of the tender assessment is attached.

Reference Check

Reference checks have confirmed the company has the capability, experience and resources to complete the projects.

Hazell Bros (QLD) Pty Ltd trading as Hazell Bros-Lund has undertaken numerous projects for clients in South East Queensland and Northern New South Wales. Hazell Bros-Lund is supported by the Hazell Bros Group Pty Ltd which employees over 530 staff.

Hazel Bros-Lund provides specialist services including mobile plant hire, bulk earthworks, road construction and subdivision construction works. The company operates under International and Australian accreditations and standards for its work place systems and practices.

As part of the evaluation process, an independent assessment of the highest ranked tenderers' financial background has been undertaken by Dunn & Bradstreet. The results of the financial assessment indicate that Hazell-Bros Lund has an acceptable financial capability to undertake a project of this value.

Sustainability Assessment

Sustainable Economic Growth and Development

Repair of the road network damaged during the 2009 flood will contribute to improved transportation for local residents and businesses.

Social Inclusion and Participation

The Lismore City Council Road Safety Strategic Plan identifies the importance of providing a safe and effective road network for the Lismore local government area. The proposed road reconstruction works will rectify the damaged portion of roads from the land slip area therefore improving road safety in the rural areas of Rock Valley, Jiggi and Georgica.

Protect, Conserve and Enhance the Environment and Biodiversity

A review of environmental factors (REF) has been undertaken by Council's Environmental and Heritage Contractor for all of the road reconstruction sites. This document identifies existing site vegetation including any threatened species that are to be retained or relocated.

All construction works shall be undertaken in accordance with the safeguards identified within the REF document.

Best-Practice Corporate Governance

In accordance with the requirements of the *Local Government Act*, an open tender process was conducted to appoint the preferred contractor. Submissions were assessed against criteria outlined within the Request for Tender Document and subsequently ranked for price and non-price attributes. The tenderer with the highest ranking has been recommended to complete all four (4) of the land slip reconstruction projects.

Comments

Finance

The recommendations are supported as they reflect the outcome of a competitive tendering process, will ensure the works are completed this financial year and the works are funded from an RTA approved flood restoration fund.

Other staff comments

Manager – Works

The recommendation to award this work to Hazell Bros-Lund is supported based on the company's extensive experience in undertaking bulk earthworks projects of a similar nature. In awarding this work to a private contractor will also ensure that the flood restoration works are undertaken within this financial year, which is a condition the Roads & Traffic Authority has placed on the subject funds.

Public consultation

Not applicable.

Conclusion

Council conducted an open tender process for these works. The RFT document includes four (4) similar land slip reconstruction projects grouped together. The document was structured to allow Council to determine the preferred contractor (based on price and non-price attributes) to complete one, two, three or all four of the projects.

Hazell Bros-Lund has extensive experience with bulk excavation, subdivision and land slip related works. The company has third party accreditation for OHS, Quality and Environmental systems and has tendered the lowest rates for all four (4) projects. Overall, the company has ranked highest in the tender assessment which includes evaluation criteria for price and non-priced attributes and confirms Hazel Bros-Lund has the resources to complete the works within the required timeframe.

It is recommended that Council accept the tender from Hazell Bros-Lund for all four projects.

Attachment/s

1. Tender T2011-08 - Raw Score Sheet Assessment

Recommendation

That:

1. The contract for all of the road reconstruction works be awarded to Hazell Bros-Lund at the following tendered prices:
 - a. Oakey Creek Road at a price of \$250,460.00 inclusive of GST.
 - b. Jiggi Road at a price of \$108,919.00 inclusive of GST.
 - c. Rock Valley Road at a price of \$175,467.00 inclusive of GST.
 - d. Quilty Road at a price of \$124,964.00 inclusive of GST.
2. Authority be given for execution of the contracts under Council Seal.

T2011-08 Land Slips										
<u>QUILTY ROAD</u>										
AVG		PRICE		RTA		HAZELL BROS		CIVIL TEAM		
		Tender 1		Tender 2		Tender 3		Tender 4		
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	40%	7.59	3.04	5.23	2.09	8.56	3.42	5.81	2.33
2	Capability and Experience (out of 10)	30%	7	2.10	9	2.70	9	2.70	9	2.70
3	Quality and Safety (out of 10)	15%	6	0.90	10	1.50	10	1.50	10	1.50
4	Environment and Community (out of 10)	5%	5	0.25	10	0.50	10	0.50	10	0.50
5	Local Content Minimum 10% (Out of 10)	10%	10	1.00	8	0.80	7	0.70	7	0.70
		100%		7.29		7.59		8.82		7.73
Total 100% or 100			72.88		75.93		88.24		77.26	
<u>ROCK VALLEY ROAD</u>										
AVG		PRICE		RTA		HAZELL BROS		CIVIL TEAM		
		Tender 1		Tender 2		Tender 3		Tender 4		
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	40%	7.14	2.86	5.28	2.11	8.56	3.42	4.29	1.72
2	Capability and Experience (out of 10)	30%	7	2.10	9	2.70	9	2.70	9	2.70
3	Quality and Safety (out of 10)	15%	6	0.90	10	1.50	10	1.50	10	1.50
4	Environment and Community (out of 10)	5%	5	0.25	10	0.50	10	0.50	10	0.50
5	Local Content Minimum 10% (Out of 10)	10%	10	1.00	8	0.80	7	0.70	7	0.70
		100%		7.11		7.61		8.82		7.12
Total 100% or 100			71.06		76.11		88.24		71.15	
<u>JIGGI ROAD</u>										
AVG		PRICE		RTA		HAZELL BROS		CIVIL TEAM		
		Tender 1		Tender 2		Tender 3		Tender 4		
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	40%	7.69	3.07	4.66	1.86	8.86	3.54	6.14	2.46
2	Capability and Experience (out of 10)	30%	7	2.10	9	2.70	9	2.70	9	2.70
3	Quality and Safety (out of 10)	15%	6	0.90	10	1.50	10	1.50	10	1.50
4	Environment and Community (out of 10)	5%	5	0.25	10	0.50	10	0.50	10	0.50
5	Local Content Minimum 10% (Out of 10)	10%	10	1.00	8	0.80	7	0.70	7	0.70
		100%		7.32		7.36		8.94		7.86
Total 100% or 100			73.25		73.63		89.43		78.56	
<u>Oakey Creek Road</u>										
AVG		PRICE		RTA		HAZELL BROS		CIVIL TEAM		
		Tender 1		Tender 2		Tender 3		Tender 4		
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	40%	N/A	N/A	4.19	1.68	8.48	3.39	6.21	2.48
2	Capability and Experience (out of 10)	30%	N/A	N/A	9	2.70	9	2.70	9	2.70
3	Quality and Safety (out of 10)	15%	N/A	N/A	10	1.50	10	1.50	10	1.50
4	Environment and Community (out of 10)	5%	N/A	N/A	10	0.50	10	0.50	10	0.50
5	Local Content Minimum 10% (Out of 10)	10%	N/A	N/A	8	0.80	7	0.70	7	0.70
		100%		0.00		7.18		8.79		7.88
Total 100% or 100			0.00		71.78		87.94		78.84	

Report

Subject	Selective Tender T2010-33 - Sale of Airport Hangar and Old Terminal
TRIM Record No	BP10/693:R4907
Prepared by	Manager - Commercial Services
Reason	To inform Council of the outcome of the selective tender process for the old airport terminal and associated hangar.
Community Strategic Plan Link	Efficient Use of Council Resources

Overview of Report

The report details the results of the Selective Tender process following from a previous Expression of Interest T2010-33 and provides a recommended course of action. The proposed activity would lead to a recouping of the majority of funds expended on the site while retaining the access road and increasing the use of the airport precinct.

Background

In August 2009 a report was put to Council to purchase the land and buildings owned by Land Partners at the Lismore Airport and previously sold to and used by Aspect North. The main purpose for re-purchasing the land was to recover ownership of the existing roadway to the airport's northern emergency entry, which passed through the lot. The original caveat for the sale of this land to Aspect North set out the conditions under which Council had a first right of refusal on the land. The purchase was approved by Council and subsequently the land was purchased from Land Partners for \$400,000.

The land was classified operational in December 2009 and Expressions of Interest (EOI) were called in February 2010 for the sale of two lots which were proposed to be subdivided off the block, leaving the road access on the remaining land. One included the actual Aspect North hangar building and one the old airport terminal building. The EOI allowed for submissions for either or both properties. Five (5) submissions were received. Subsequent to the submissions the highest three (3) bidders were contacted with a view to ascertaining in more detail their respective needs and how best to proceed with disposal of the site and various options were explored.

A report was submitted to Council's September 2010 meeting outlining these investigations and recommending 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 Services Pty Ltd and Centreshop Pty Ltd to participate in the selective tender process.

These recommendations were accepted and passed as motions at that meeting and subsequently each of the tenderers was requested by letter and asked to review their submissions and submit a revised offer by 12 November 2010. Also as part of the process, a meeting was held with each tenderer to discuss the Council's proposed plan and details of the selective tender process.

Only one revised submission was received by the close of tender 12 November 2010, that being from the Northern Region SLSA Helicopter Rescue Services Pty Ltd. The revised submission of \$391,000 approaches the desired price for the property and is conditional on settlement to occur by 30 June 2011 or upon occupation, whichever is the later. They have added that they would offer Council the first option to purchase their current site (60 Brunswick Street, Lismore) at replacement cost. A copy of the submission is attached to this report.

The Northern Region SLSA Helicopter Rescue Services Pty Ltd is in need of finding a new location at some point in the not too distant future. Their current location at Brunswick Street has some operational issues with CASA conditions, flight path restrictions, size of the site, fuelling capabilities and the noise impact from their activities. This raises serious doubts as to the sustainability of their activities at the current site and relocating their operations to the airport would solve these problems. Such a move would also ensure that Lismore retains this important local community service.

In regards to the settlement condition, a settlement by 30 June 2011 is supported whereas an undated occupation is not. As to the first option to purchase their current site, Council has no obvious immediate or future demands for such a site and no action is intended.

Sustainability Assessment

Sustainable Economic Growth and Development

The acceptance of the recommendation of this report will lead to the recovery of a substantial percentage of the money paid to purchase the hangar lot at the airport, whilst providing security of access to the northern emergency access point, without the need to construct a new access road. Additionally the movement of the rescue helicopter operation to the airport would see all local air services integrated into the airport precinct.

Social Inclusion and Participation

The long term sustainability of the rescue helicopter operations at Brunswick Street is questionable. Movement of the operations to the airport precinct would ensure a sustainable operation of this important community service.

Protect, Conserve and Enhance the Environment and Biodiversity

The transfer of the rescue helicopter operations from its current site at Brunswick Street to the airport precinct would address the noise issues associated with its operation in the High Street and Lismore Palms Caravan Park areas, and as such would have a positive impact on the environment of that area.

Best-Practice Corporate Governance

The proposed activity from this EOI supports the best use of Council resources by securing road access to the northern end of the airport without the need to construct a new road, whilst recovering a majority of the funds used to purchase the lot encompassing the road.

Comments

Finance

Acceptance of the tender from Northern Region SLSA Helicopter Rescue Services Pty Ltd of \$391,000 and settlement on 30 June 2011 is supported.

Other staff comments

Not required

Public consultation

Not applicable

Conclusion

After lengthy assessment of the alternatives available for the sale of the hangar and old terminal, a selective tender for sale of a single lot encompassing both buildings and associated parking area was called with the two top bidders from the EOI process. The Northern Region SLSA Helicopter Rescue Services Pty Ltd was the only revised offer received and it more closely approaches Council's expenses incurred in acquiring the land. It also provides the opportunity to retain ownership of the existing roadway to the airport's northern emergency entry.

Longer term investigations of the development of additional operational hangar areas at the airport should proceed in the future, with the aim of satisfying other interested parties' requirements.

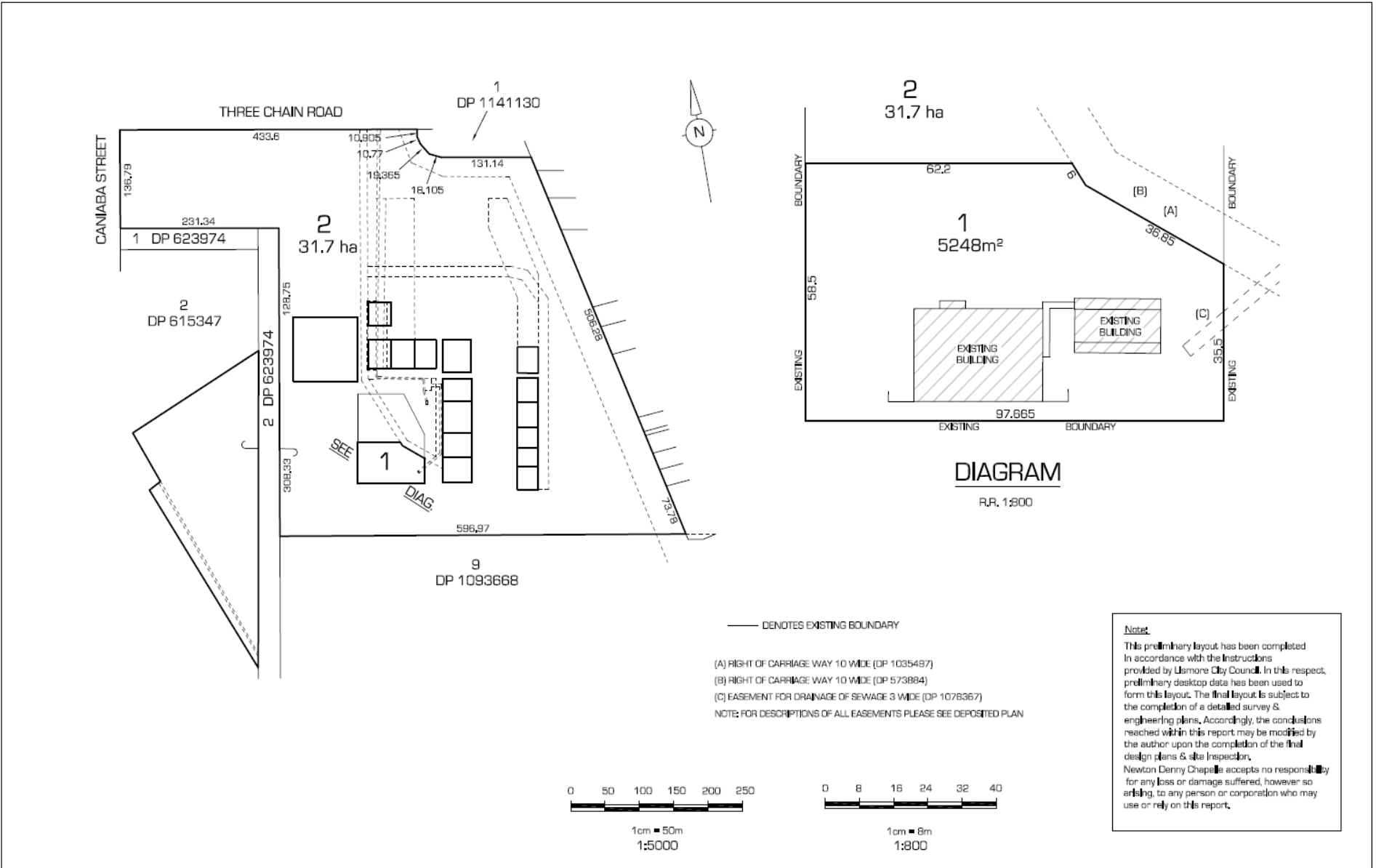
Attachment/s

1. Proposed Subdivision Plan - Sale of Airport Hangar and Old Terminal
2. Revised Submission from Northern Region SLSA Helicopter Rescue Services Pty Ltd for Sale of old Airport Terminal Building and Hangar T10/33 - *This matter is considered to be confidential under Section 10A(2) of the Local Government Act, as it deals with*

Recommendation

That:

1. Having conducted a selective tender process for the sale of the hangar and old passenger terminal building at the Lismore Airport, Council accepts the offer from Northern Region SLSA Helicopter Rescue Services Pty Ltd for \$391,000 (exclusive of GST), with settlement to occur by 30 June 2011.
2. Council proceed with the subdivision of the lot in accordance with the proposed plan included in this report.
3. The General Manager be authorised to finalise the settlement details and complete a contract of sale for the subdivided lot.
4. The General Manager and Mayor be authorised to sign and affix the Council Seal to all relevant documents deemed necessary to complete this resolution.



Note:
This preliminary layout has been completed in accordance with the instructions provided by Lismore City Council. In this respect, preliminary desktop data has been used to form this layout. The final layout is subject to the completion of a detailed survey & engineering plans. Accordingly, the conclusions reached within this report may be modified by the author upon the completion of the final design plans & site inspection. Newton Denny Chapelle accepts no responsibility for any loss or damage suffered, however so arising, to any person or corporation who may use or rely on this report.

Client: LISMORE CITY COUNCIL

Location:
LOT 201 DP 1076367 & LOT 2 DP 1141130
THREE CHAIN ROAD
SOUTH LISMORE

Amendments:	
Date	Changes
B 2.02.10	ALL LOTS ALTERED
C 2.11.10	3 LOTS NOW 2
D	
E	
F	

NDC
Newton Denny Chapelle
Surveyors Planners Engineers

Email: office@newtondennychapelle.com.au
Lismore Casino
31 Camphoton St, Lismore 2480 100 Berker St, Castro 2470
T & F: 8662 5000

PROPOSED SUBDIVISION

Drawn: CD

Date: 2.11.10 Scale 1:5000 & 1:800 @ A3 Ref No. 09/595C

Report

Subject	Nimbin Community Reference Group
TRIM Record No	BP10/695:EF09/2254
Prepared by	Community Services Coordinator
Reason	To provide Council with the information necessary to appoint nominated members to the Nimbin Community Reference Group
Community Strategic Plan Link	Social Inclusion and Participation

Overview of Report

This report provides Council with information to enable the appointment of Nimbin community members to the Nimbin Community Reference Group (NCRG).

Background

At the May 2010 Ordinary Council Meeting, Council resolved to work with the Nimbin Chamber of Commerce, the Nimbin Community Centre Inc. and the wider Nimbin Community to establish a community/Council reference and consultation structure.

Since that time, comprehensive community consultation has been undertaken within the Nimbin community. During these consultative processes the community suggested that, ideally, the group would include representatives from the major Non Government Organisation's (NGO's) delivering services within the village, representatives from the wider community and groups within Nimbin, an Indigenous Elder and youth representatives. It was felt that the group would, ideally, number between 8-10 members.

Expressions of Interest (EOI) for membership of the reference group were called for in early October 2010. This process was concluded on 19 November 2010. The EOI nomination process was widely publicised through the community and the Nimbin Good Times.

The following nine community members lodged EOI's:

- Lois Kelly
- Diana Roberts
- Sue Edmonds
- Natalie Meyer
- Venessa Johnstone-Koppel
- Gillian Jones
- Susan Stock
- Jennifer Parke
- Rebecca Ryall

Copies of individual application forms are attached to this report.

While these nine nominations satisfy the desire for representation from both community members, community groups and NGO's operating within the community, there is clearly a gender imbalance and no representation from either the Indigenous community or young people.

In the light of the exhaustive efforts which were undertaken by Council's Community Services team to broadly engage the breadth of the community in the EOI process (particularly men within the Nimbin community) and the desire of the community to see this process commenced, it is proposed that the above nine nominees be appointed in the first instance.

As part of the community consultation process to establish the NRG it was agreed that the precise term of service on the NRG should be left to the NRG to determine, however it should be noted that all Policy Advisory Group Members were appointed for the life of this Council plus three months.

It is anticipated that, once this group becomes operational, it will be possible to broaden the community's input into the group's work.

Sustainability Assessment

Sustainable Economic Growth and Development

The creation of a NCRG will create an opportunity for capacity building within the Nimbin community and will enable more effective engagement with Council; this will ultimately enhance the community's sustainability while enhancing economic outcomes.

Social Inclusion and Participation

The NCRG will provide opportunities to enhance a sense of participation and engagement among Nimbin residents. A formal mechanism through which community members can feel heard will reduce the sense of isolation which is frequently articulated by some sections of the Nimbin community.

Protect, Conserve and Enhance the Environment and Biodiversity

The NCRG will create a mechanism to address environmental issues through a whole of community response and more effective engagement with Council.

Best-Practice Corporate Governance

The formation of the Community Reference Group will demonstrate transparency and inclusion to the Nimbin community.

Conclusion

The intention of the Nimbin Community Reference Group consultative mechanism is to improve communications between Council and the Nimbin community. As the proposed consultation structure and appointment process has been drawn from recommendations made by the Nimbin community to Council the process has received strong support from Nimbin community. The community is eager to see this group established and able to commence meeting early in 2011.

Attachment/s

1. Applications for membership of the Nimbin Community Reference Group

Recommendation

That:

1. Council appoint the following nine nominated community members to the Nimbin Community Reference Group being: Lois Kelly, Diana Roberts, Sue Edmonds, Natalie Meyer, Venessa Johnstone-Koppel, Gillian Jones, Susan Stock, Jennifer Parke and Rebecca Ryall.
2. The period of appointment be the life of this Council plus three months.

x

The General Manager Lismore City Council
 PO 23A LISMORE NSW 2480
 or emailed to: council@lismore.nsw.gov.au
 or faxed: To the attention of the General Manager: 02 66250400.

Lismore City Council - Nimbin Community Reference Group (NCRG) NOMINATION FORM

Name...Gillian Jones.....
 Telephone No: Home0266891285... Mobile .0419412916..
 Email.....gillian.j@acenorthcoast.com.au
 Address.....PO Box 236 or 327 Crofton Road Nimbin 2480.....

1. Reasons I can effectively represent the interests of the Nimbin area are:
*(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations
 you may be involved in)*

My background is in small business, although currently I am the Business Development manager for ACE North Coast Inc. I have been a resident of the North Coast of NSW since 1992 (apart from 5 years away, overseas and in Brisbane)

I can contribute ideas, which involve knowledge of financial viability, funding opportunities, regional demographics and long-term local knowledge of the region.

As business Development Manager of ACE North Coast Community Colleges, I am involved in youth programs, Indigenous programs, arts, cultural and community development, as well as the Community Services sector.

I am also on the Arts PAG for Lismore City Council. I am also involved in round tables in sustainability as well as the arts.

2. What skills and knowledge can you bring to the NCRG?

As a long term resident of Nimbin, I am interested in maximising the tourist spend, time and experience in the smaller villages in the region.

Particularly, I am interested in the murals of Nimbin being strategically valued in terms of the tourist experience and popularity in the region. I am also interested in promoting the galleries, art workshops and craft outlets which I believe need a more regional marketing approach and support. As business development manager of an RTO, I have an educational and small business perspective to bring to the table.

My personal interest in the arts, environment and small business in the region, and my background in business development gives me skills and knowledge for the PAG. I am involved in travel both regionally and interstate on a regular basis, to participate in training and networking activities, to do with regional development and community capacity building.

1

I bring a knowledge of strategic thinking, negotiation, and also a financial awareness to the triple bottom line for sustainable development involving the arts and tourism in the region.

My acceptance of the 'culture" of Nimbin while working in mainstream, and my non-partisan approach to the variety of stakeholders in the Nimbin community, will hopefully enable a more focussed communication portal with that community.

3. Further comments to support your application:

I believe that as new people come to Nimbin the culture is changing rapidly, and for the better. I believe that the council could be more effective and positive in its approach to Nimbin in the way it communicates and consults with the community. It is a strident community with a variety of issues- both positive and negative- to be addressed in a sensitive manner.

I look forward to being involved in the community of Nimbin .My partner Dick Hopkins is president of the NCCI (Nimbin Community Centre Incorporated) and I have wanted a positive connection to my community, as I work in Lismore 4 days a week, using the skills I have gained over the years working in local and regional roles.

Gillian Jones

Lismore City Council - Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

NAME : Rebecca Ryall

TELEPHONE NO. HOME : 66897227

MOBILE: 0423596368

EMAIL : hrryall@gmail.com

ADDRESS: PO Box 144 NIMBIN 2480

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

1. Reasons I can effectively represent the interests of the Nimbin area are:
(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations you may be involved in)

I have lived in Nimbin since November 2002, raising three children here, and performing paid and unpaid work in a variety of fields. I have held positions on the Nimbin Community Preschool Management Committee, including President, Secretary, Fundraising Coordinator, Staff Liaison Officer and Public Officer. In addition I have actively supported the Nimbin Headers Soccer Club, the Nimbin A&I Society, the Nimbin Neighbourhood Centre, the Nimbin Soup Kitchen, and the Range to Range Futures Group.

I have been actively involved in all my children's schools, including Barkersvale Public School, Rainbow Ridge School for Steiner Education, and both Nimbin and Tuntable Falls Community Preschools.

2. What skills and knowledge can you bring to the NCRG?

In my years working in Nimbin I have communicated, verbally, and through email and written contact, with individuals, businesses and organisations, representing a broad cross section of the Nimbin Community.

I have advocated on behalf of the organisations for which I work, my aim always being the long term

health of these vital community organisations.

I have vast experience in working with steering and management committees, which often include people from differing backgrounds, and with sometimes opposing agendas.

3. Further comments to support your application:

Nimbin is my home. It is where I have chosen to raise my children, and build my life. I intend to stay here for a very long time. I have a vested interest in the health of this village, and it's myriad representative organisations.

I would be interested in engaging further with council on matters of interest to the Nimbin Community.

Lismore City Council - Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The

number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name...JENNIFER PARKE.....

Telephone No. Home 66897234.... Mobile ..0428510272.

Email...jenniferparke@bordnet.com.au.....

Address.....Lot 3 Blue Knob Rd Blue Knob.....

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

1. Reasons I can effectively represent the interests of the Nimbin area are:

(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations you may be involved in)

I have lived in the Nimbin area for 12 years. In that time I have been president of the Nimbin Preschool for 3 years, on the management committee of the Nimbin Family Day Care and the Nimbin Community Centre. I have worked as a consultant to Nimbin Aged care. My current work with the Juvenile Justice brings me into contact with young people, the school, the Neighbourhood centre, and local services and businesses. I am currently the consultant responsible for developing LCC's crime prevention plan so have a good understanding of the crime related issues in the community. I am an active member of the community volunteering for events such as International Children's Day and women's dinners.

2. What skills and knowledge can you bring to the NCRG?

...Oral and verbal communication skills, facilitation and planning skills, theoretical and practical knowledge of community development and family well being strategies,

3. Further comments to support your application:

I see a ground swell of change in Nimbin. There is a new demographic of people with young families who want to live in this beautiful environment without some of the extreme behaviours, views and consequent reputation that has plagued Nimbin. I believe I represent a wide range of views and priorities in the community.

Please use additional sheets if necessary.

Applications can be sent via mail:

The General Manager Lismore City Council

PO 23A LISMORE NSW 2480

or emailed to: council@lismore.nsw.gov.au

or faxed: To the attention of the General Manager: 02 66250400.ominations will be received

up until Friday 19 November, 2010
If you require assistance completing this form, have any
further questions or need to make a verbal application, please contact
Annie McWilliam on 1300 87 83 87

Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name... SUSAN STOCK
 Telephone No. Home 66891148 Mobile
 Email... Susana.stock@gmail.com
 Address... 2 Upper Tumble Falls Road
NIMBIN

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

What contribution could you make to the NCRG?

Town planning perspectives, tourism perspective,
involvement with local issues through Nimbin Good

Do you represent a particular community group or perspective? (Please provide details)

Secretary, Nimbin Environment Centre
Assistant Editor, Nimbin Good Times

What skills and knowledge can you bring to the NCRG?

Town planning, environment, visual arts,
media, local government experience, library.

Please use additional sheets if necessary.

See attached resume.

Applications can be sent via mail:

> have your **say**

The General Manager Lismore City Council

PO 23A LISMORE NSW 2480

or emailed to: council@lismore.nsw.gov.au

or faxed: To the attention of the General Manager: 02 66250400.

Nominations will be received up until ~~Friday 1 October, 2010~~

If you require assistance completing this form or have any

further questions please contact **Annie McWilliam on 1300 87 83 87**



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Lismore City Council - Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name..... Venessa Johnstone - Koppel
Telephone No. Home 66891974 Mobile 044 7013130
Email..... Venessa.Johnstone@gmail.com
Address..... 2 Shropshire rd Nimbin

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
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- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

1. Reasons I can effectively represent the interests of the Nimbin area are:
(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations you may be involved in)

I've been a centre link agent in Nimbin for the past 5 yrs.

2. What skills and knowledge can you bring to the NCRG?

Community well being

3. Further comments to support your application:

Interested in knowing what will be going on in the future of my community

Please use additional sheets if necessary.

Applications can be sent via mail:



The General Manager Lismore City Council
PO 23A LISMORE NSW 2480
or emailed to: council@lismore.nsw.gov.au
or faxed: To the attention of the General Manager: 02 66250400.
Nominations will be received up until Friday 19 November, 2010

If you require assistance completing this form, have any further questions or need to make a verbal application, please contact **Annie McWilliam on 1300 87 83 87**



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For Evaluation Only.

Lismore City Council - Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name..... NATALIE MEYER (we 66891692)
Telephone No. Home 6689 2029 Mobile #
Email..... nimbin.n.c.r.g@lismore.nsw.gov.au
Address..... PO BOX 20243 NIMBIN

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

1. Reasons I can effectively represent the interests of the Nimbin area are:
(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations you may be involved in)

I am Team leader of Nimbin Neighbourhood Centre

2. What skills and knowledge can you bring to the NCRG?

Planning, budgeting, project management & evaluation & so much more!

3. Further comments to support your application:

The neighbourhood centre is a key stakeholder in Nimbin & represents other stakeholders including disadvantaged community members, as well as the community as a whole around sustainability

Please use additional sheets if necessary.

Applications can be sent via mail:
> have your say

The General Manager Lismore City Council
PO 23A LISMORE NSW 2480
or emailed to: council@lismore.nsw.gov.au
or faxed: To the attention of the General Manager: 02 66250400.

Nominations will be received up until Friday 19 November, 2010.

If you require assistance completing this form, have any further questions or need to make a verbal application, please contact Annie McWilliam on 1300 87 83 87



**Lismore City Council - Nimbin Community
Reference Group (NCRG)
NOMINATION FORM**

Name: DIANA ROBERTS

Telephone: Home: 02 6689 1648 Mobile: 0427 886 748

Email...diana@nimbinapothecary.com

Address: PO Box 56, Nimbin 2480

1. Reasons I can effectively represent the interests of the Nimbin area are:

My roots within the Nimbin community are extensive and varied. I have been a resident of the Nimbin area for over 25 years, living on a community at Stony Chute. During this time I have had extensive involvement in many community organisations and community initiatives. Currently I am actively involved in Nimbin Community Centre (Secretary), Stony Chute Volunteer Bushfire Brigade (President), Nimbin Chamber of Commerce and Pan Community Council (an umbrella organisation for land sharing communities). Since 1985 I have owned and operated a successful main street traditional healing business, (Nimbin Apothecary). I am further connected to the health and healing side of Nimbin through my employment with North Coast Area Health Service.

2. What skills and knowledge can you bring to the NCRG?

I served as a Lismore Councillor for over 12 years. This has given me an extensive understanding of the workings of local government and what is possible in relation to communities such as Nimbin. I also have an extensive historical knowledge as regards Council's relationship with Nimbin and surrounds which will assist to inform the NCRG. I work in the area of community engagement so will be able to bring those skills to the Reference Group should they need to engage with the wider community. I have considerable experience of working productively with others in many and varied situations.

3. Further comments to support your application:

I have a passion for working at the local level and I am keen to actively participate in and help shape the future of the NCRG. I think it could be a positive and productive tool that will enable Council and the local community to be more effectively engaged with each other and, as someone instrumental in getting it to this point, I am keen to build on those efforts.

Applications can be sent via mail:
The General Manager Lismore City Council
PO 23A LISMORE NSW 2480
or emailed to: council@lismore.nsw.gov.au

Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name: Sue Edmonds
 Telephone No. Home 06 890009 Mobile _____
 Email: sueedmonds@hotmail.com
 Address: PO Box 20150 Nimbin 2480.
Lot 33 Jarlambah

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

What contribution could you make to the NCRG?

I have had considerable experience in community groups (20 years+)
and aim at objective outcomes

Do you represent a particular community group or perspective? (Please provide details)

member of FRIENDS OF NIMBIN POOL Nimbin School of Arts
(committee) Coordinated Nimbin Learning Centre (6 years)

What skills and knowledge can you bring to the NCRG?

my career has ranged from teaching through to the performing arts
in community. Adviser to Tas Govt. Radio Reporter

Please use additional sheets if necessary.

Applications can be sent via mail:

> have your **say**

The General Manager Lismore City Council
 PO 23A LISMORE NSW 2480
 or emailed to: council@lismore.nsw.gov.au
 or faxed: To the attention of the General Manager: 02 66250400.

Nominations will be received up until ~~Friday~~ 1 October, 2010

If you require assistance completing this form or have any further questions please contact **Annie McWilliam** on 1300 87 83 87



Lismore City Council - Nimbin Community Reference Group (NCRG)

NOMINATION FORM

Thank you for your interest in Lismore City Council's Nimbin Community Reference Group. The number of places on NCRG is limited. Council will choose NCRG members that provide the broadest perspective and range of skills and knowledge.

Name.....Lois Kelly

Telephone No. Home .0266 890240..... Mobile 0432476926

Email.....lois.kelly@bigpond.com.....

Address.....P.O. Box 682, Nimbin 2480

SCOPE

The scope of this Reference Group will include:

- Provide input into the delivery plan process.
- Identify potential funding and partnership opportunities.
- Assist in the prioritisation of projects related to the Nimbin community.
- Identify emerging community issues for Nimbin which are relevant to the strategic plan.
- Support Council's projects which are relevant to the Nimbin community.
- Advise on methods of consultation.
- Make submissions to the annual budget through the delivery plan.
- Any other matters as requested.

1. Reasons I can effectively represent the interests of the Nimbin area are:

(Please include details of any groups e.g. youth, aboriginal, elderly, disabled or organisations you may be involved in)

..20 years experience in community development – (particularly economic development), Nimbin resident for over 20 years
Well connected in the community
Strong consultation skills

2. What skills and knowledge can you bring to the NCRG?

..Grant writing, project development, consultation, a clear head!

3. Further comments to support your application:

.....I have well honed written and oral communication skills, a good understanding of how local government works, and years of experience with government funded projects.

Please use additional sheets if necessary.

Applications can be sent via mail:

The General Manager Lismore City Council

PO 23A LISMORE NSW 2480

or emailed to: council@lismore.nsw.gov.au

or faxed: To the attention of the General Manager: 02 66250400.
Nominations will be received up until Friday 19 November, 2010
if you require assistance completing this form, have any
further questions or need to make a verbal application, please contact
Annie McWilliam on 1300 87 83 87

Report

Subject	Application for Closure of part of Public Road - Frame Road, South Gundurimba
TRIM Record No	BP10/594:R4907
Prepared by	Property Services Administrative Assistant
Reason	To close part of the road reserve upon which the road is not constructed.
Community Strategic Plan Link	Improve Roads, Cycleways and Footpaths

Overview of Report

A proposal is submitted to close a portion of Council road generally running in an east-west direction affecting Lot 220 in DP755728 and Lot 100 in DP1114052 with the intention the road will be opened on the site of the road construction.

Background

Council is aware that a section of the constructed road adjoining Lot 220 in DP 755728 and Lot 100 in DP 1114052 (known as Nos. 35 and 93 Frame Road respectively), is not constructed within the road reserve but on the two adjoining allotments described above.

Council intends to apply for the closure of part of the road reserve containing approximately 2,765m² indicated by pink colour on the following diagram in exchange for the adjoining property owners agreeing to a road opening of the site of the constructed road within their properties containing approximately 2,866m² indicated by orange colour on the diagram below. The subject location is approximately 7.3km south-west of the township of Wyrallah.

The land is Zoned 1(a), General Rural Zone.

The road is formed and maintained by Council. No Council services are known to exist within the section of road subject to the application, therefore closure will have no impact on Council's existing infrastructure or services.

As Council has previously undertaken construction of the road and maintains this road reserve, in accordance with Section 38(2)(b) of the *Roads Act* 1993, upon closure, the former road will become vested in Council as operational land.



Sustainability Assessment

Sustainable Economic Growth and Development

The proposal is not considered to have any positive or negative effects on economic growth and development.

Social Inclusion and Participation

The proposal will ensure that the road reserve in this location aligns with the physical location of the constructed road. Having the constructed road partially located on private land is not recommended and could cause concerns for the private land owner. It is in Council's and the land owner's interests to resolve the matter.

Protect, Conserve and Enhance the Environment and Biodiversity

The proposal is not considered to have any positive or negative effects on the environment or biodiversity.

Best-Practice Corporate Governance

The proposed actions outlined in the report will ensure that the road reserve in this location aligns with the physical location of the constructed road.

Comments

Finance

All costs incurred as part of this road closure and consolidation will be met by Council from within approved recurrent rural road budgets. This approach is considered reasonable as the constructed road is not within the road reserve and this process will correct this situation.

Public consultation

This matter has come to Council's attention following concerns expressed by the owner of the adjoining land on which the public road is currently located. In particular the property owner was concerned about legal ramifications for maintenance of the road, or should an accident occur on that section of the road. As such Council has been in discussion with the owner of the property about the proposed land swap which will rectify the situation. The property owner has been kept informed throughout the process to date and is in agreement with the proposal.

If approved by Council, the Department of Lands takes responsibility for consulting with all adjoining landowners and the placement of public notices giving 28 days for interested parties to make submissions on the proposal.

Conclusion

The proposed road dedication and closure will result in the road reserve being formalised over the constructed road. Upon closure, the closed road is to be consolidated with the adjoining owner's land.

No known existing Council infrastructure or services will be impacted by the closure. However, should any impact become apparent during the closing process Council will be responsible for ensuring that their continuity and integrity is retained either by way of an easement or relocation.

As this road is formed and maintained by Council, the land comprising the former road will, upon closure, become vested in the Council as operational land.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. Council support the application to close the portion of road reserve adjoining Lot 220 in DP755728 and Lot 100 in DP1114052 shown in pink colour on the drawing included in the report.
2. All costs associated with the closure and sale process are to be met by Council.
3. Upon closure of the road, title will be transferred to the adjoining property owners and consolidate the respective portions with the respective lots.
4. The Department of Lands be advised accordingly and requested to progress the application.
5. The common seal of Council be affixed to any documentation as necessary to complete the road opening and closing, and transfer of title.

Report

Subject	21 Millar Street - Asset Protection Zone for Bushfire Protection
TRIM Record No	BP10/705:EF09/837
Prepared by	Manager - Assets
Reason	To gain Council approval for a proposed Asset Protection Zone on Council land to facilitate a proposed development at 21 Millar Street.
Community Strategic Plan Link	Sustainable Economic Growth and Development

Overview of Report

Council has received an application for the use of an area of Council owned land adjacent to the property at 21 Millar Street to meet the statutory requirements for provision of an asset protection zone to meet bushfire planning requirements.

In line with earlier decisions of Council in similar circumstances, the application is supported subject to resolution of a number of issues and the creation of appropriate legal instruments to clearly outline the responsibilities of both parties in relation to future maintenance of the land in question.

Background

Council at its meeting of 13 July 2010 resolved to support in principle the concept of permitting Council land to be used for the provision of asset protection zones (APZs) for two properties at 23 and 31 Millar Street, Lismore Heights. As part of that report the general concept of whether the use of Council land for such purposes would be acceptable was canvassed and generally agreed subject to certain considerations.

At its meeting of 10 November 2010 Council also agreed to a similar arrangement for the property at 15 Millar Street.

An application has now been received for an APZ on adjoining Council land to facilitate development of the property at 21 Millar Street, Lismore Heights.

The circumstances of this application are essentially identical to those of the earlier matters considered by Council for 15, 23 and 31 Millar Street.

A plan of the property is shown below.



Sustainability Assessment

Sustainable Economic Growth and Development

The legislation regarding bushfire protection has affected some parcels of land on the urban fringe detrimentally in that they can no longer be developed to the potential that would otherwise have been possible prior to the legislation coming into effect. This results in a negative economic effect for the owners of those parcels of land and reduces the value and potential of their investment.

If Council were to agree to the concept that Council owned land could be used as part of an APZ in certain circumstances, positive economic benefits would be created in the form of supporting development of those parcels of land.

Social Inclusion and Participation

Changes in legislation have created a situation where land owners have been prevented from developing blocks of land that they owned prior to the new legislation, to their full potential. The proposal to allow Council owned land to form part of an APZ in certain circumstances will restore that capability and is considered to be a positive social impact.

The proposal is not considered to have any negative social impacts.

Protect, Conserve and Enhance the Environment and Biodiversity

The proposal has the potential to affect bushland on the urban fringe. The criteria which will be used to assess the request include consideration of the zoning, classification and practical considerations e.g. maintenance required, vegetation types, etc. for the Council land in question. Applications will only be supported where it can be demonstrated that there are no detrimental effects on the environment.

In the case of Millar Street, the adjoining land in question is already partially maintained by Council. A sewer line runs through the area and a section of it is slashed regularly to maintain access. The remainder of the area has some vegetation on it and would be maintained and regenerated by the resident.

The terms of any required easement and agreement with the land owners can be formulated to ensure the protection or enhancement of environmental characteristics of the land concerned and would be a benefit.

Best-Practice Corporate Governance

The creation of a legal instrument, including an easement and positive covenant, would clearly set out the responsibilities of the property owners to maintain the areas in question.

Comments

Finance

If an asset protection zone (APZ) is created, the cost to do so and maintenance must be met by the land owner receiving the benefit. While cost recovery is logical, some recompense for the intrinsic value of the land asset in the form of a once only charging should also be considered as the easement created adds value to the adjoining privately owned property.

Other staff comments

Property Officer

When the matters of 15, 23 and 31 Millar Street were reported to Council in July and November 2010, the following comments were provided by the Property Officer:

The classification of the Council owned reserve to be burdened by an easement is operational land. The reserve was previously reclassified to operational land by LEP Amendment No. 12. (Easements are able to be created over operational land.)

The current zoning of the Council owned reserve is 1(a) - General Rural Zone. The draft LEP rezones this land to E3 - Environmental Management. Appropriate maintenance of the area of the easement will not be in conflict with the proposed new zoning.

Future use of the reserve is not expected to be affected by establishing the APZ. Also to be noted is that Council's sewer line is located partially within the proposed APZ.

All costs in relation to the creation of an easement are to be borne by the land owners of Millar Street, who will benefit from the easement.

All costs in relation to maintenance of the APZ shall be borne by the benefiting land owners. Creation of an easement, which will appear on the certificate of title, will also pass the responsibility to maintain the APZ to any future land owner/s. Wording of an easement shall ensure that Council will not be responsible for maintenance of this area. The responsibilities of the benefiting land owner/s shall be detailed within an instrument creating the easement.

Parks Coordinator

The maintenance of fire protection zones on Council land for private development must be carefully considered on a case by case basis. These areas will generally be remediated to an extent that maintenance will be effective and efficient and may include minor earthworks and removal of development debris such as rock. Support is given on the understanding that the full cost of maintenance is at the applicant's expense, that the adjoining Council land is cleaned of any development debris and that there are no private assets or structures placed on the land.

Public consultation

Not required. However, it is considered appropriate that should Council agree to the request, adjoining land owners be advised of Council's decision and the responsibilities of the land owners to maintain the area in question.

Conclusion

The development of existing land on the urban fringe can be affected in some instances by the vegetation on adjoining Council land. This occurs because certain requirements regarding APZs can be triggered under the planning legislation. These legislative requirements were introduced some years ago, however, there are some individual parcels of land that existed at that time and have not been developed due to these new planning requirements.

The request from the owners of 21 Millar Street is supported. The circumstances are essentially identical to those of 15, 23 and 31 Millar Street where Council has already agreed to a similar request.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. The owners of 21 Millar Street be advised that Council supports the principle of providing an easement on adjoining Council land for the purpose of complying with bushfire risk requirements, to enable the preparation of documentation in support of their proposed development application.
2. The owners of 21 Millar Street also be advised that Council reserves the right to further consider any finalised proposal for an easement following notification of the full requirements of the NSW Rural Fire Service.
3. The General Manager be authorised to progress the matter administratively in regard to the preparation of easements and that approval be given for all relevant documents to be completed under Council Seal.
4. The adjoining owners be informed of Council's in principle agreement.

Report

Subject Sale of Adjoining Council Land

TRIM Record No BP10/706:P5144

Prepared by Manager - Assets

Reason To obtain Council approval for the sale of a small piece of land adjoining the property.

Community Strategic Plan Link Best-Practice Corporate Governance

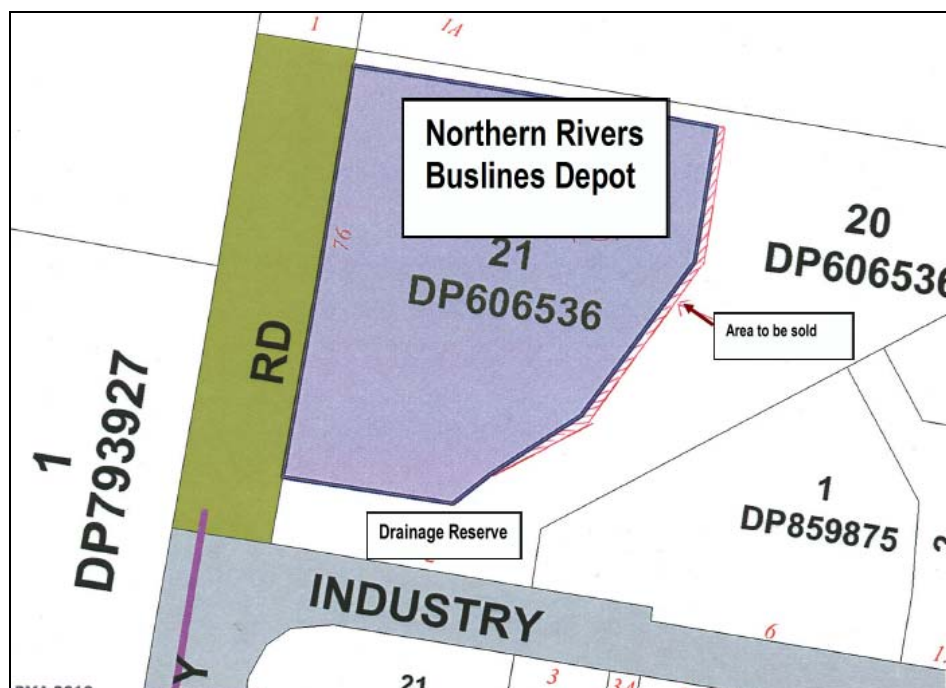
Overview of Report

This report outlines a proposal for the owners of 76 Military Road to purchase a small area of Council owned land adjoining their property. The area of land is approximately 400 square metres and is enclosed by a fence that has been in place for many years. Council has to date granted a licence to the owners of the property to occupy the land.

Background

The property at 76 Military Road is owned by REO Investments Pty Ltd and is home to Northern Rivers Buslines. Many years ago a fence was erected around the property outside the correct boundary line and enclosed with their property approx 400m² of Council's adjoining drainage reserve. In 2006 the company requested a boundary adjustment stating the fence had been erected some years prior but it had only become apparent by a recent survey that it was erected outside the correct boundary line.

A plan of the area in question is included below.



At the time there was some uncertainty about the classification of the Council land and whether it was community land or operational land. A licence agreement was entered into with the company with the intention that the classification of the drainage reserve would be resolved in order that a boundary adjustment could take place.

A check has confirmed that the land is in fact classified as operational land and it is open to Council to sell the area in order to correct the earlier error in constructing the fence.

The company has agreed to pay the following:

- Valuation fee
- Market value of land
- Survey fees
- Council fees
- Council legal costs.

Sustainability Assessment

Sustainable Economic Growth and Development

Resolution of this matter by undertaking the proposed sale and boundary adjustment will be a positive outcome for a local business.

Social Inclusion and Participation

The proposal is not considered to have any positive or negative social effects.

Protect, Conserve and Enhance the Environment and Biodiversity

The proposal is not considered to have any positive or negative effects on the environment and biodiversity. Sale of the land will not result in any physical changes at the site.

Best-Practice Corporate Governance

Sale of the land to the property owner and completion of the boundary adjustment will eliminate the need for ongoing licences to be issued. This will reduce administrative workloads for Council.

Comments

Finance

As market valuation and all associated costs are to be paid by REO Investments Pty Ltd, the recommendations are supported.

Other staff comments

Council's Parks staff have inspected the site and raise no objections to the proposal.

Public consultation

The proposed sale has been advertised for public comment and no objections have been received.

Conclusion

The land in question is an area that forms part of an existing drainage reserve. It is not required for any current or foreseeable future use and it is recommended that Council agree to the sale of the land.

Attachment/s

There are no attachments for this report.

Recommendation

That:

1. Council agree to sell the land adjacent to 76 Military Road to REO Investments Pty Ltd at market value.
2. REO Investments Pty Ltd meet all statutory, legal, survey and valuation costs associated with the sale.
3. The General Manager be authorised to finalise the matter and enter a contract for sale of the land.
4. The contract for sale be executed under seal of Council.

Report

Subject	Policy 1.5.4 - Investment Policy Statement Review
TRIM Record No	BP10/238:EF09/586
Prepared by	Management Accountant
Reason	The Investment Policy Statement has been updated to comply with ministerial and legislative requirements
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

As a result of the global financial crisis, the NSW Government, based on recommendations from the Cole Report, made significant changes to the range of eligible investments in which a council could invest.

The Division of Local Government (DLG) issued draft Investment Policy Guidelines resulting from the review in May 2009 and Council's Investment Policy Statement was amended in August 2009 to reflect the draft guidelines. The Investment Policy Guidelines were finally issued in May 2010. For information on the DLG's Investment Policy Guidelines, it can be found at www.dlg.nsw.gov.au under Publications.

On review, there are no material changes from the draft guidelines to those finally released, but to ensure Policy 1.5.4 – Investment Policy Statement fully complies with the Investment Policy Guidelines and Council meets its annual policy review requirements, minor changes are recommended. A copy of the policy is attached with the recommended changes highlighted in yellow.

Background

Council's Investment Policy Statement (IPS) includes an investment policy and investment strategy. The Investment Policy formalises the guidelines for investments. An investment policy typically contains the goals and objectives of the investor, the investment constraints and legislative requirements, the assets that are authorised for investment, the appointment of advisors and other external service providers and the identification of key risks. The Investment Strategy is used to implement the investment policy. An investment strategy will typically contain the target allocations to asset classes, how products are selected and managed and how risk is managed and mitigated.

To assist councils to invest funds in a prudent and appropriate manner, the DLG requires all councils to develop and regularly review their investment policy. Investments are not considered to be a principal activity for councils but the knowledge and skill required to manage investments can be quite specialised. Councils are encouraged to seek independent financial advice where necessary in preparing and reviewing their investment policy. Council's independent investment advisor, CPG Research & Advisory (CPG), have had a fundamental involvement in the IPS.

The Investment Policy Guidelines issued May 2010 apply to all general purpose and special purpose councils in New South Wales. They are issued under section 23A of the Local Government Act 1993 (Act). The objectives of the guidelines are to:

- Assist councils in investing funds in a prudent and appropriate manner
- Outline legislation associated with the investment of surplus funds

- Assist councils in preparing a suitable investment policy
- Outline key issues when investing funds
- Define duties and obligations of the council and council officers
- Outline requirements for internal control procedures
- Establish proper reporting and monitoring procedures.

As the role of the elected council is to direct and control the affairs of the Council in accordance with the Act. Councillors should use these guidelines to ensure that the Council:

- Has an appropriate investment policy that guides the investment of ratepayers' funds in compliance with the council's charter
- Approves the investment policy by resolution
- Approves amendments to the investment policy by resolution
- Reviews the policy each year, and
- Has in place mechanisms to support the open and transparent reporting of council investments to the council and to the ratepayers.

Council officers that are involved in selecting, reviewing and/or monitoring investment products use these guidelines and the adopted IPS to ensure that they understand the parameters, risks and expectations that Council requires to be taken into account when investing surplus funds.

With the final investment policy guidelines being released, a review of Council's Investment Policy Statement has taken place with the guidance of CPG to ensure it complies with requirements. While no material changes are required, this coupled with the annually review has resulted in some minor changes being recommended. The changes are highlighted in the IPS and commentary provided below on those recommended changes that are not self explanatory:-

Investment Policy

Definitions (Page 4-5) – More definitions are provided for the benefit of users.

Risk Management Guidelines (Page 8) – Counterparty had been replaced with Credit Risk – however the basis of the criteria has not altered.

Performance Benchmarks (Page 10) – The table showing performance benchmarks now includes Term Deposits for time horizons of a) 3 months to 12 months and b) 1 to 2 years. The purpose of this information is to be able to measure performance when investments are made in this investment category.

Investment Strategy

Investment Management Practices (Page 12) – Income (interest on investments) objective simplified to reflect a target that is consistent with the assumptions included in Council's Operational Plan.

Credit Quality Target & Limits (Page 14) – The Target Credit Quality Weighting has been updated to reflect Council's current weighting and anticipated weighting in rated/unrated/grandfathered investments.

Counterparty Limits (Page 15) – This table shows the levels of direct investment to be made in an approved institution based on its credit rating. A new column has been added to show the Direct Securities Target Limit and the Direct Securities Maximum Limit column has also been adjusted to reflect Council's position into the future.

Target Asset Allocation (Page 16-17) – This section sets out investment asset class limits. Previously, this was called 'Investment Category Allocation' and the associated wording has been amended slightly.

Attachment A: Target Maturity Profile & Return Expectations (Page 19) – Target Allocation %, Net Target Over Bank Bills and Weighted Contribution to Outperformance columns have been updated to reflect current and anticipated market situation along with Council's current investment holding pattern.

Attachment C: Target Asset Allocation (TaA) (Page 22) – Table amended to show Investments by Time Horizon rather than asset class.

Sustainability Assessment

Sustainable Economic Growth and Development

Council's main objective in investing funds is to preserve the capital, ie, prevent any loss to the amount invested, while gaining the most advantageous rate of return with minimum risk.

Social Inclusion and Participation

There is no social impact in relation to the Investments held by Council.

Protect, Conserve and Enhance the Environment and Biodiversity

There is no environmental impact in relation to the Investments held by Council.

Best-Practice Corporate Governance

Having an Investment Policy with clear objectives allows for the efficient use of council resources assisting council to invest funds in a prudent and appropriate manner. It also makes it easier to ensure investments comply with all relevant legislation and guidelines.

Comments

Finance

The recommended changes to Policy 1.5.4 Investment Policy Statement are supported as they are consistent with the requirements of the DLG's Investment Policy Guidelines and provide clear instructions to management on investments practice and governance.

Other staff comments

Not Required

Public consultation

Not Required

Conclusion

A well written investment policy with clear objectives makes it easier to ensure investments comply with all relevant legislation and guidelines. The attached IPS lists all requirements that a prudent person would be required to comply with before making an investment. The strict adherence to these requirements will significantly enhance the achievement of Council's objectives.

The Investment Policy Statement has been reviewed in conjunction with Council's independent investment advisor and meets the requirements set out in the Division of Local Government's Investment Policy Guidelines.

Attachment/s

1. Amended Policy 1.5.4 - Investment Policy Statement (Over 7 pages)

Recommendation

That Policy 1.5.4 - Investment Policy Statement is amended as shown in the attachment.

Report

Subject	Investments - November 2010
TRIM Record No	BP10/636:EF09/586
Prepared by	Management Accountant
Reason	Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy
Community Strategic Plan Link	Best-Practice Corporate Governance

Overview of Report

Investments as at 30 November 2010 are estimated to be \$40,880,344 subject to final market valuations typically provided after month end.

The interest rate reported for November 2010 is estimated to be 5.24% which is above the Bank Bill Swap Rate for the period of 4.98%. 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 October 2010</i> | <i>\$40,860,344</i> |
| • <i>Estimated Investments – at Market Value – 30 November 2010</i> | <i>\$40,880,344</i> |

Investments decreased by approximately \$3 million from the amount estimated as at 31 October 2010 to the actual balance at month end. This was mainly attributable to creditors and payroll payments made during the last days of the month.

The current rate of return on investments for November 2010 is estimated to be 5.24% which is above the Bank Bill Swap Rate for the period of 4.98%. 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 November 2010, no coupon payment is recognised.

The estimated interest earned for the financial year to November 2010 is favourable to the pro rata annual Budget. This is attributable to a higher than anticipated level of investments due to funds received in advance of the planned works, e.g. Financial Assistance Grants and Southern Trunk Main Loan and reduction of internal loans, and higher than anticipated interest rates. A favourable variance to the Budget will be reported to Council as part of the December 2010 Quarterly Budget Review.

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 November 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 November 2010 is estimated to be 6.71%.

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.

Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. For 30 November 2010 investments total \$40,880,344 and the annualised rate of return was 5.24%.

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 November 2010**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Base Capital Value	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)	
Cash Based Returns										
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated (Note 7)	High	15/10/2008	N/A	31/08/2010	\$ 2,076,360	\$ 1,987,755	\$ 2,076,360	Note 3
CBA Business On Line Banking A/C	Cash Management Account	Cash	High	N/A	N/A	30/11/2010	\$ 5,223,500	\$ 5,223,500	\$ 5,223,500	
Macquarie Cash Management Trust	Cash Management Account	Cash	High	1/9/2006	N/A	31/10/2010	\$ 257,612	\$ 257,612	\$ 257,612	
UBS Cash Management Trust	Cash Management Account	Cash	High	N/A	N/A	31/10/2010	\$ 884,997	\$ 884,997	\$ 884,997	
Bank of Queensland	Term Deposit	A2	High	2/6/2010	2/12/2010	02/06/2010	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	
Westpac Banking Corporation	Term Deposit	AA	High	4/12/2009	4/12/2010	04/12/2009	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	
Bank of Western Australia	Term Deposit	A1+	High	25/10/2010	14/12/2010	25/10/2010	\$ 2,000,000	\$ 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	\$ 1,000,000	
Newcastle Permanent	Term Deposit	A-2	High	18/12/2009	20/12/2010	18/12/2009	\$ 1,000,000	\$ 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	\$ 1,000,000	
Credit Union Australia (CUA)	Term Deposit	A-2	High	10/9/2010	10/1/2011	10/09/2010	\$ 1,000,000	\$ 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	\$ 1,000,000	
Newcastle Permanent	Term Deposit	A-2	High	30/9/2010	28/1/2011	30/09/2010	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	
Police & Nurses Credit Society Ltd	Term Deposit	Not Rated (Note 7)	High	30/9/2010	31/1/2011	30/09/2010	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	
New England Credit Union	Term Deposit	Not Rated (Note 7)	High	30/9/2010	31/1/2011	30/09/2010	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	
Bank of Cypius Australia Limited	Term Deposit	Not Rated (Note 7)	High	30/9/2010	31/1/2011	30/09/2010	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	
IMB Banking & Financial Services	Term Deposit	A-2	High	26/8/2010	2/2/2011	26/08/2010	\$ 2,000,000	\$ 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	\$ 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	\$ 2,000,000	
ING Bank Australia Limited	Term Deposit	A-1	High	1/9/2010	1/3/2011	01/09/2010	\$ 2,000,000	\$ 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	\$ 2,000,000	
Suncorp Bank	Term Deposit	A-1	High	9/11/2010	21/3/2011	09/11/2010	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	13/10/2010	13/7/2011	13/10/2010	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	
Herald Limited (Quartz)	Floating Rate CDO	CCC-	Low	1/9/2006	20/12/2010	30/06/2010	\$ 30,000	\$ 25,500	\$ 25,500	Note 5
Cypress (Lawson)	Floating Rate CDO	BB+	Low	1/9/2006	30/12/2010	30/06/2010	\$ 500,000	\$ 460,000	\$ 460,000	Note 5
Deutsche Bank CG Yield Curve Note	Euro Bond	A+	High	1/9/2006	18/10/2011	30/06/2010	\$ 250,000	\$ 247,500	\$ 247,500	Note 5
Magnolia (Flinders)	Floating Rate CDO	BB-	Low	1/9/2006	20/3/2012	30/06/2010	\$ 300,000	\$ 255,000	\$ 255,000	Note 5
Omega (Herley)	Floating Rate CDO	CCC	Low	1/9/2006	22/6/2012	30/06/2010	\$ 400,000	\$ 280,000	\$ 280,000	Note 5
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2013	30/06/2010	\$ 400,000	\$ -	\$ -	Note 5
Corsair (Torquay)	Floating Rate CDO	CCC-	Low	1/9/2006	20/6/2013	30/06/2010	\$ 500,000	\$ 20,000	\$ 20,000	Note 5
Zircon (Merimbula)	Floating Rate Note	Early Termination	Low	1/9/2006	20/6/2013	30/06/2010	\$ 300,000	\$ -	\$ -	Note 5
Corsair (Kakadu)	Floating Rate CDO	CCC-	Low	1/9/2006	20/3/2014	30/06/2010	\$ 500,000	\$ 125,000	\$ 125,000	Note 5
Longreach - Series 25	Equity Linked Investment	A+	High	2/4/2007	4/4/2014	30/06/2010	\$ 1,000,000	\$ 759,450	\$ 759,450	Note 2
Helium (Scarborough)	Floating Rate CDO	CCC-	Low	1/9/2006	23/6/2014	30/06/2010	\$ 200,000	\$ 16,000	\$ 16,000	Note 5

**Capital Value Movements
Summary of Investments held as at
30 November 2010**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Base Capital Value	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)	
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	Low	1/9/2006	20/9/2014	30/06/2010	\$ 150,000	\$ -	\$ -	Note 5
Zircon (Coolangatta)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/9/2014	30/06/2010	\$ 500,000	\$ -	\$ -	Note 5
Aphex (Glennelg)	Floating Rate CDO	CCC-	Low	1/9/2006	22/12/2014	30/06/2010	\$ 500,000	\$ 100,000	\$ 100,000	Note 5
Bendigo Bank FR Sub Debt	Subordinate Debt	BBB	Medium	1/9/2006	14/12/2015	31/08/2010	\$ 500,000	\$ 497,100	\$ 498,625	Note 5
Elders Rural Bank Sub Debt	Subordinate Debt	BBB-	Medium	1/9/2006	16/3/2016	31/08/2010	\$ 1,000,000	\$ 983,890	\$ 1,000,800	Note 5
Zircon (Miami)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2017	30/06/2010	\$ 50,000	\$ -	\$ -	Note 5
Commonwealth Bank of Australia - RTRL	Term Deposit	A1+	High	30/11/2009	29/11/2012	30/11/2009	\$ 400,000	\$ 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	\$ 250,000	
Investment on Hand							\$ 44,172,469	\$ 40,773,304	\$ 40,880,344	
Investments Redeemed during period (Note 6)										
National Australia Bank	Term Deposit	A1+	High	2/8/2010	1/11/2010	02/08/2010	\$ 2,000,000	\$ 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	\$ 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	\$ 2,000,000	

\$ 47,172,469 \$ 45,773,304 \$ 45,880,344

Note 1: Balance Sheet Valuation is the value reported in Council's Financial Report as at 30 June 2010 or the purchase price for investments purchased post 30/06/10
 Note 2: Capital Guaranteed note if held to maturity
 Note 3: The Balance Sheet Valuation is the Market Value as at 30/6/10 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's Investment Order and require no minimum credit rating.

"Indicative" Source of Funds

Externally Restricted	31,285,727
Internally Restricted	9,594,617
	<u>\$ 40,880,344</u>

**Estimated Interest
Summary of Investments held as at
30 November 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
Cash Based Returns						
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated	0.00%	\$ 2,076,360	\$ -	0.00%
CBA Business On Line Banking A/C	Cash Management Account	Cash	4.10%	\$ 5,223,500	\$ 17,602	0.49%
Macquarie Cash Management Trust	Cash Management Account	Cash	4.50%	\$ 257,612	\$ 953	0.03%
UBS Cash Management Trust	Cash Management Account	Cash	3.65%	\$ 884,997	\$ 2,655	0.07%
Bank of Queensland	Term Deposit	Not Rated	5.92%	\$ 2,000,000	\$ 9,732	0.27%
Westpac Banking Corporation	Term Deposit	A2	6.15%	\$ 2,000,000	\$ 10,110	0.28%
Bank of Western Australia	Term Deposit	AA	6.80%	\$ 2,000,000	\$ 11,178	0.31%
Southern Cross Credit Union	Term Deposit	A1+	5.35%	\$ 1,000,000	\$ 4,397	0.12%
Newcastle Permanent	Term Deposit	Not Rated	5.85%	\$ 1,000,000	\$ 4,808	0.13%
Community CPS Australia Ltd	Term Deposit	A-2	7.00%	\$ 1,000,000	\$ 5,753	0.16%
Credit Union Australia (CUA)	Term Deposit	Not Rated	6.01%	\$ 1,000,000	\$ 4,940	0.14%
Summerland Credit Union	Term Deposit	A-2	6.01%	\$ 1,000,000	\$ 4,940	0.14%
Newcastle Permanent	Term Deposit	Not Rated	6.50%	\$ 1,000,000	\$ 5,342	0.15%
Police & Nurses Credit Society Ltd	Term Deposit	A-2	5.96%	\$ 1,000,000	\$ 4,899	0.14%
New England Credit Union	Term Deposit	Not Rated	6.01%	\$ 1,000,000	\$ 4,940	0.14%
Bank of Cyprus Australia Limited	Term Deposit	Not Rated	5.96%	\$ 1,000,000	\$ 4,899	0.14%
IMB Banking & Financial Services	Term Deposit	Not Rated	6.05%	\$ 2,000,000	\$ 9,945	0.28%
Suncorp Bank	Term Deposit	A-2	6.00%	\$ 2,000,000	\$ 9,863	0.27%
Community CPS Australia Ltd	Term Deposit	A-1	6.35%	\$ 2,000,000	\$ 10,438	0.29%
ING Bank Australia Limited	Term Deposit	Not Rated	6.03%	\$ 2,000,000	\$ 9,912	0.28%
Credit Union Australia (CUA)	Term Deposit	A-1	6.25%	\$ 2,000,000	\$ 10,274	0.29%
Suncorp Bank	Term Deposit	Not Rated	6.25%	\$ 1,000,000	\$ 3,596	0.10%
Southern Cross Credit Union	Term Deposit	Not Rated	6.10%	\$ 2,000,000	\$ 10,027	0.28%
Herald Limited (Quartz)	Floating Rate CDO	CCC-	6.24%	\$ 25,500	\$ 154	0.00%
Cypress (Lawson)	Floating Rate CDO	BB+	6.31%	\$ 460,000	\$ 2,594	0.07%
Deutsche Bank CG Yield Curve Note	Euro Bond	A+	6.99%	\$ 247,500	\$ 1,437	0.04%
Magnolia (Flinders)	Floating Rate CDO	BB-	6.24%	\$ 255,000	\$ 1,539	0.04%
Omega (Henley)	Floating Rate CDO	CCC	5.63%	\$ 280,000	\$ 1,851	0.04%
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Corsair (Torquay)	Floating Rate CDO	CCC-	0.00%	\$ 20,000	\$ -	0.00%
Zircon (Merimbula)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Corsair (Kakadu)	Floating Rate CDO	CCC-	6.14%	\$ 125,000	\$ 2,523	0.02%

Note 1,3

**Estimated Interest
Summary of Investments held as at
30 November 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
Longroach - Series 25	Equity Linked Investment	A+	0.00%	\$ 759,450	\$ -	0.00%
Helium (Scarborough)	Floating Rate CDO	CCC-	6.63%	\$ 16,000	\$ 1,090	0.00%
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Zircon (Coolangatta)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Aphex (Glennelg)	Floating Rate CDO	CCC-	6.53%	\$ 100,000	\$ 2,684	0.01%
Bendigo Bank FR Sub Debt	Subordinate Debt	BBB	5.31%	\$ 498,625	\$ 2,182	0.06%
Elders Rural Bank Sub Debt	Subordinate Debt	BBB-	5.48%	\$ 1,000,800	\$ 4,501	0.13%
Zircon (Miami)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Commonwealth Bank of Australia - RTRL	Term Deposit	A1+	7.00%	\$ 400,000	\$ 2,301	0.06%
Local Government Financial Services - R	Term Deposit	A1	6.75%	\$ 250,000	\$ 1,387	0.04%
Investment on Hand				\$ 40,880,344	\$ 185,447	4.99%

Note 2,5

Note 4

Investments Redeemed during period

National Australia Bank	Term Deposit	Not Rated	5.60%	\$ 2,000,000	\$ 307	0.01%
Suncorp Bank	Term Deposit	A1+	6.05%	\$ 1,000,000	\$ 1,492	0.04%
Savings & Loans Credit Union	Term Deposit	A-1	5.74%	\$ 2,000,000	\$ 7,234	0.20%

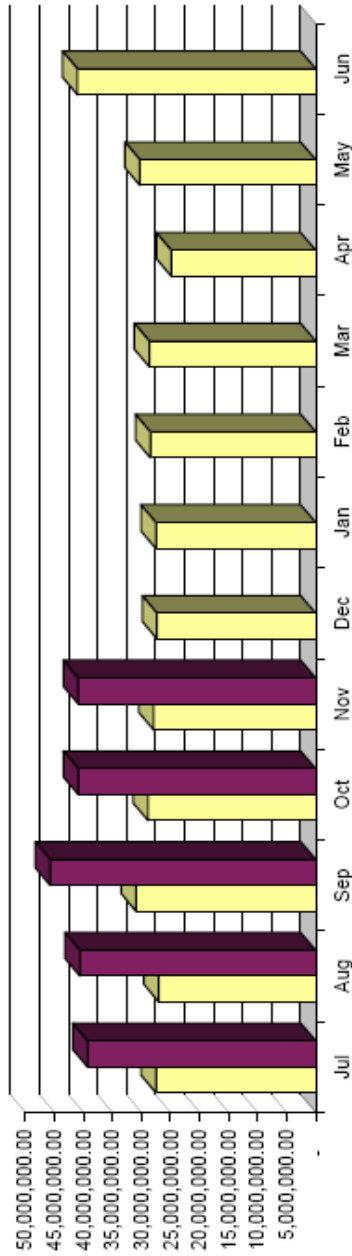
30/11/2010		5.24%
\$ 45,880,344	\$ 194,479	

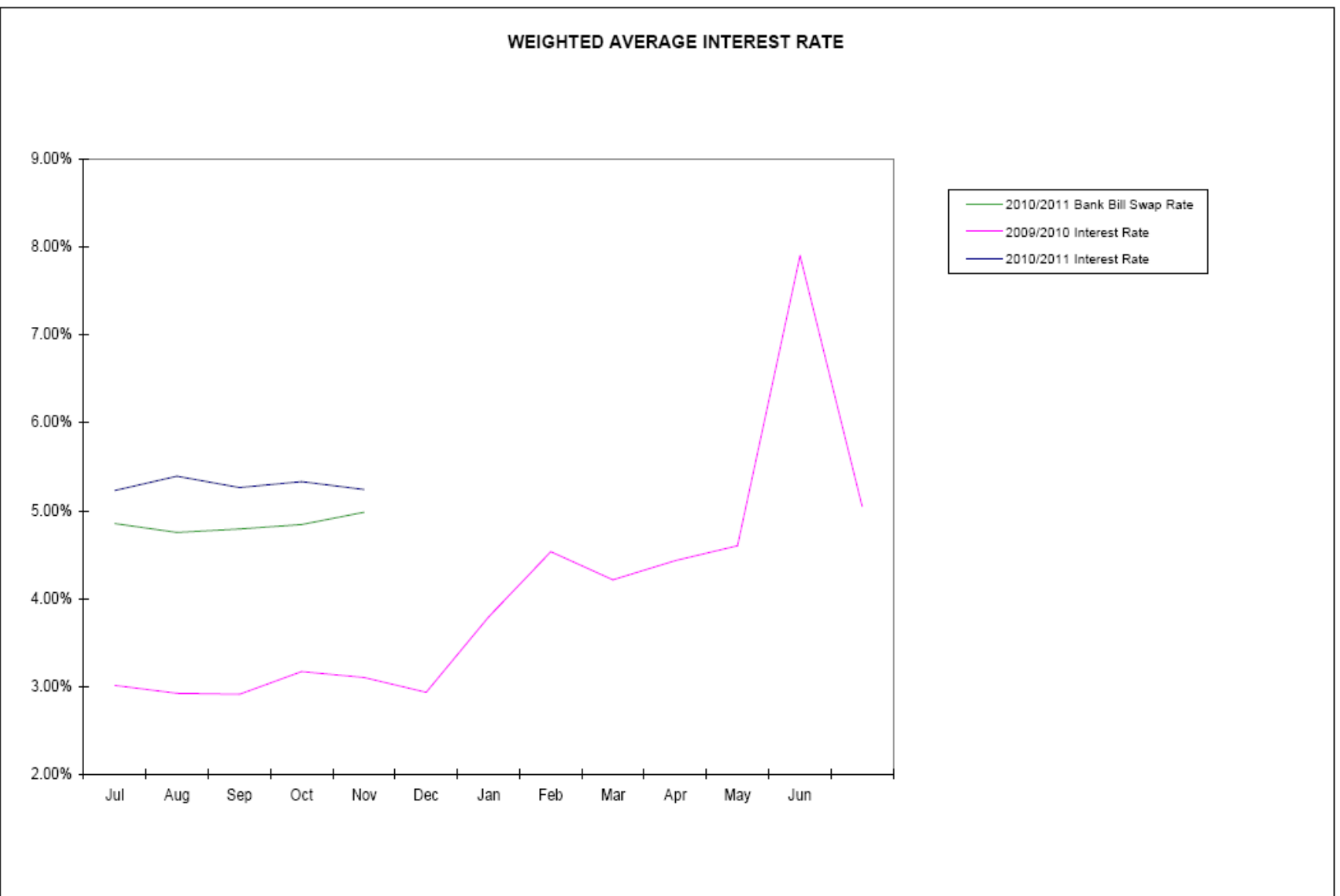
Investment Income Earned vs. Budget Year to Date

Estimated interest earned to date	\$ 984,797
Pro Rata annual budget	\$ 421,375

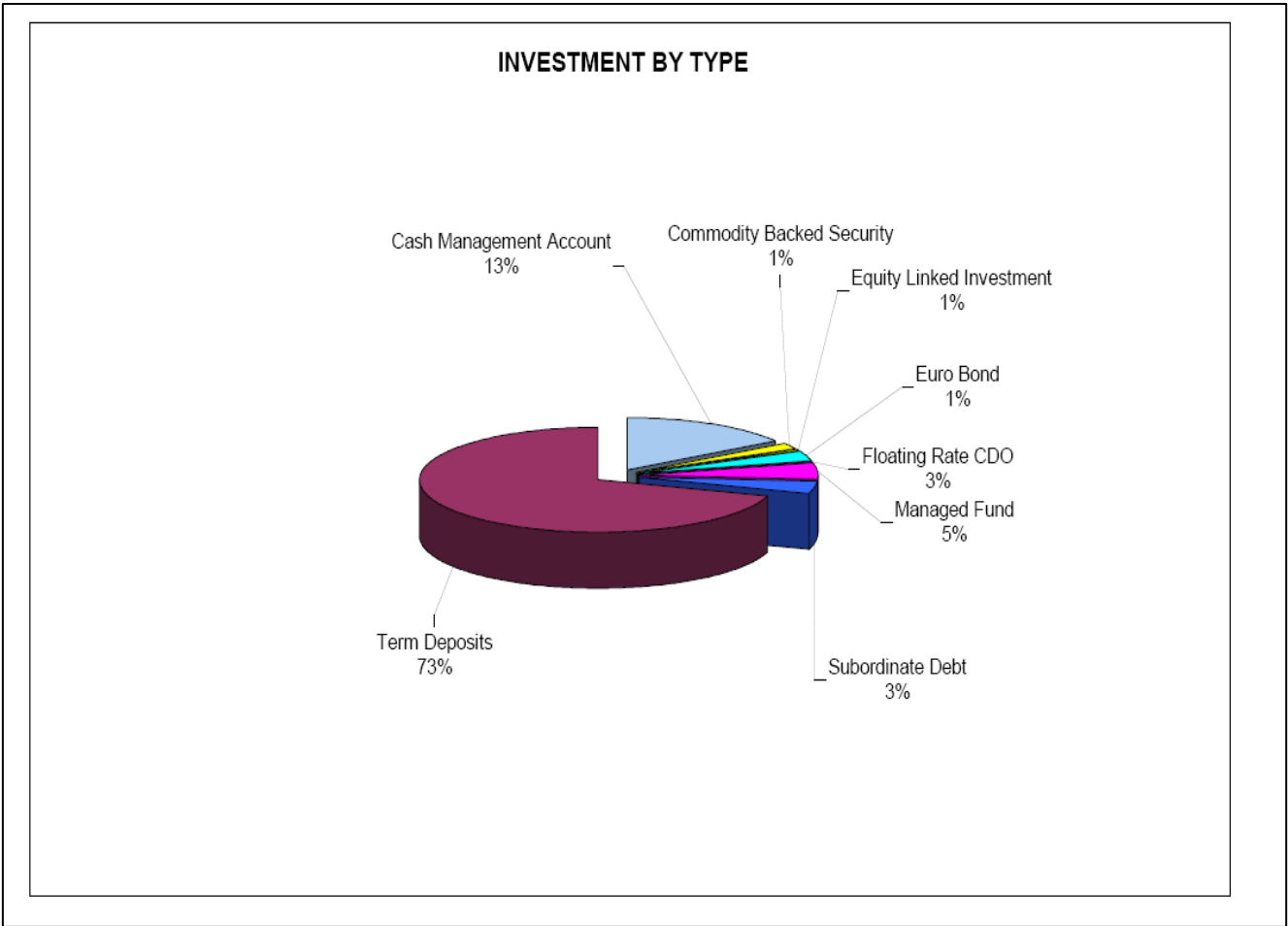
- Note 1: Interest return is calculated on (actual interest + plus accrued interest + plus realised gains - losses on disposal - expenses) / principal value
- Note 2: Capital Guaranteed note if held to maturity
- Note 3: Blackrock Care & Maintenance Fund interest rate is shown as zero as regular distributions 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.

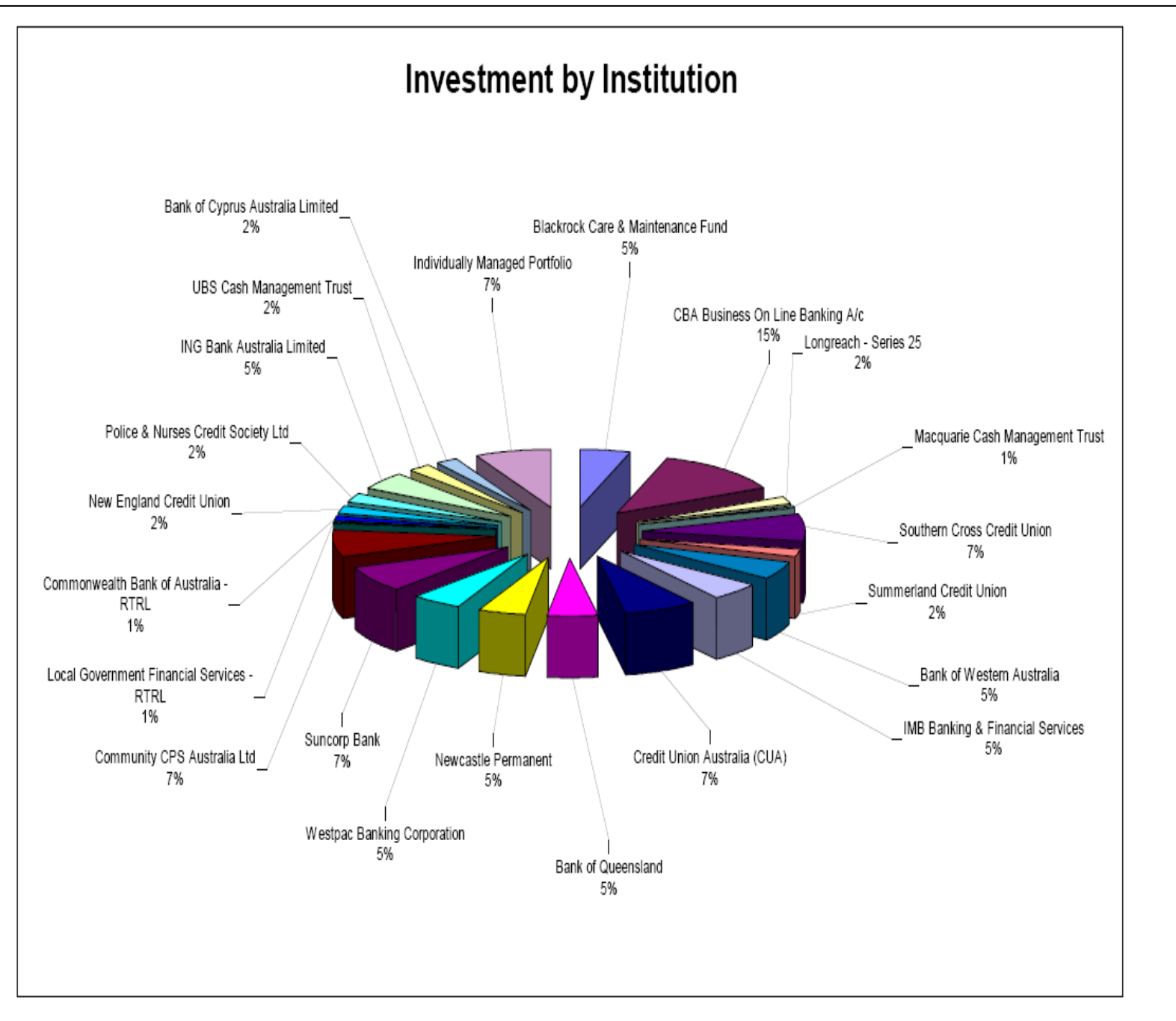
TOTAL INVESTMENT PORTFOLIO





2010-11 Investment Report for council.xls





Committee Recommendations



Committee Recommendation

MINUTES OF THE TRAFFIC ADVISORY COMMITTEE HELD IN THE MAGELLAN ROOM, CBD CENTRE, 55 MAGELLAN STREET, LISMORE, ON WEDNESDAY, 17 NOVEMBER 2010 AT 10.00AM.

Present

Councillor Jenny Dowell (*Chairperson*), Frank Smallman (*RTA*), Bronwyn Mitchell on behalf of Thomas George MP (*Member for Lismore*), Snr Const Steve Hilder (*Lismore Police*).

In Attendance

Bill MacDonald (*Co-ordinator -Traffic and Emergency Services*).

Apologies

TAC98/10 An apology for non-attendance on behalf of Thomas George MP (*Member for Lismore*) was received and accepted.

Confirmation of Minutes

TAC99/10 The Committee was advised that the minutes of the Traffic Advisory Committee meeting held on 15 September 2010 were confirmed by Council on 9 November 2010.

Disclosure of Interest

Nil

Part 'A' – Committee Recommendations

Summerland Sports & Classic Car Club Inc. – Car Show/ Static Display 2011

Requesting permission to use Clyde Campbell Car Park for the annual car show / static display on Sunday, 7 August 2011. (C110/31747:EF10/129)

This event has been held in the Clyde Campbell Car Park for a number of years apart from this year when it was held in Carrington Street and Bounty Street.

The Club has determined that the car park better suits their needs and being held on a Sunday there is little conflict with other users. Access to the Harvey Norman and Mary Gilhooleys businesses will be maintained with appropriately placed barriers.

TAC100/10 **Recommended** that approval be granted for the use of Clyde Campbell Car Park for the annual car show / static display on Sunday, 7 August 2011.

John Bancroft, Events Co-ordinator – Closure Magellan Street – V8 Modifieds Street Party

Forwarding a proposal for Magellan Street between Keen and Carrington Streets to be closed to through traffic on Thursday, 20 January 2011 between 4pm and 9pm for a V8 Modifieds Street Party. (EF10/129)

It is proposed that the vehicles will be displayed in Magellan Street as a precursor to the National Event at the Lismore Showground.

Committee Recommendation

A Traffic Management Plan was tabled at the meeting. It was noted that the organisers were currently speaking with those businesses directly affected by the proposed closure.

- TAC101/10** **Recommended** that approval be granted for the closure of Magellan Street, between Keen and Carrington Streets, on Thursday, 20 January 2011 from 4pm to 9pm in accordance with the Traffic Management Plan and subject to concurrence of adjoining residents and businesses.

Part 'B' – Determined by Committee

St Carthage's School P & C – Closure Leicester Street – Christmas Carnival

Requesting permission to close Leicester Street between Dawson Street and Menins (Foodworks) on Sunday, 5 December 2010 between 8am and 5pm. (EF10/129)

The closure is proposed as part of the St Carthage's School P & C Christmas Fete.

A Traffic Management Plan was tabled at the meeting. Being on a Sunday it is unlikely that the proposed closure will be of significant inconvenience and access to Menins (Foodworks) will be maintained via Hindmarsh Street.

- TAC102/10** **It was agreed** that approval be granted for the closure of Leicester Street between Dawson Street and Menins in accordance with the Traffic Management Plan and subject to concurrence of adjoining residents and businesses.

Pamela Smith - Speed Limit, Rous Road

Again requesting the Committee review the speed limit on Rous Road due to the number of incidents occurring and particularly in light of the new quarry approved for Mollys Grass Road. (CI10/29418:R6610-05)

A review of the speed limit on Rous Road between Skyline Road and Tregeagle Road was carried out by the Roads & Traffic Authority some time ago with the result that an 80kph speed limit was introduced between McIntosh Road and Connor Road.

Due to an increase in volumes and accidents on the section of Rous Road further east, it is suggested that a further assessment be carried out to ascertain the appropriate speed limit on the balance of Rous Road.

- TAC103/10** **It was agreed** that this matter be referred to the Roads & Traffic Authority for assessment of the appropriate speed limit on Rous Road east of Connor Road.

Therese and Mark Elliott, 193 Wyrallah Road, East Lismore - Sight Restriction

Requesting a road safety mirror be constructed on the corner of Wade Street and Wyrallah Road due to sight restriction when backing out of their driveway.

(CI10/29579:R5201-08:R7481)

An onsite meeting was held with Mr Elliott where it was agreed that a convex safety mirror would not necessarily address current concerns.

The property was serviced by two separate driveways and with some modifications it would allow the vehicles to be driven on to and out of the property in a forward movement. This would improve sight distance and allow smoother integration with through traffic. Mr Elliott accepted this would be a better option and would further explore.

Committee Recommendation

TAC104/10 It was agreed that the outcome of the onsite meeting be noted and that Mr Elliott had undertaken to further explore driveway modifications within his property to improve vehicular access safety.

Jan Fadelli and Rob Grant – Sight Restriction, Exit from Leycester Road

Concern was expressed to the Mayor regarding the intersection of Leycester Road and Kyogle Road at Tuncester Hill when exiting from Leycester Road and turning left.
(R2707-03, R2750)

A section of Kyogle Road including its intersection with Leycester Road has recently been reconstructed. The intersection now includes a separate right turn bay and sight distance to vehicles travelling on Kyogle Road in both directions is considered very good.

Whilst it is possible that approach speeds to the intersection may have increased as a result of the high road standard, additional works are not considered warranted.

TAC105/10 It was agreed that the residents be advised that an inspection of the location had been carried out and that additional works were not considered warranted.

Manager-Works - Wyrallah Road – Speed Limit Reduction

Requesting consideration of reducing the speed limit on Wyrallah Road between Wyrallah Village and Tucki Road.

The section of Wyrallah Road south of Wyrallah Village is in need of reconstruction and has been listed for funding within a four year program. Due to its current condition an 80kph speed limit had been proposed, however Mr Smallman advised that the proposal did not fall within current guidelines as any assessment would be solely based on road condition.

It was suggested that it would be more appropriate to erect suitable warning signs. It was likely that the 85th percentile speed was close to 80kph in any case and classifiers would be installed to determine actual speeds.

Manager-Works - Wyrallah Road – Speed Limit Reduction (Cont'd)

TAC106/10 It was agreed that suitable warning signs such as 'Rough Surface' or 'Uneven Surface' be erected on Wyrallah Road between Wyrallah Village and Tucki Road.

Closure

This concluded the business and the meeting terminated at 10.30 am.

Recommendation

That the minutes be received and adopted and the recommendations contained therein be adopted.

Documents for Signing and Sealing



Document for Signing and Sealing

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

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

Recommendation

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

Lease to BP Australia – Part of Lot 9 DP 1093668 (P25804) and part of Lot 2 DP 1141130 (P30662)

Lease at the Lismore Regional Airport for the purpose of an aircraft fuel site. This is a renewal of a previous Lease and is for a period of 5 years from 1 January 2011.

Lease to Wincase Pty Ltd. - Lot 1 DP 839665 (22032)

Lease of the overhead walkway in Larkin Lane which provides access between the previous Brown & Jolly buildings in Woodlark Street and Larkin Lane. This lease is an exercise of an option of renewal for a period of five years from 1 September 2010.

Licence to Bureau of Meteorology – Part of Lot 9 DP 1093668 (P29428)

Licence to the Bureau of Meteorology for the site of an automatic weather station. The Licence is for a period of 10 years from 1 December 2010 with one ten year option.

Financial Assistance - Section 356



Financial Assistance – Section 356

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

Budget Approved: \$21,400

Spent to date: \$14,040.69

NSW Department of Premier & Cabinet is requesting Council waive the hire fees (\$318) and set up fees (\$360) for use of the City Hall for the Lismore Aboriginal Community Information Assistance Day in March 2011. A range of State Government Agencies, Medicare, Australian Taxation Office and non government organisations will be invited to set up stalls. The Lismore venue would service the Kyogle, Casino, Goonellabah, Coraki, Nimbin and Lismore Aboriginal communities.

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fees and set up fees applies. **\$678.00**

Funky Moves Dance Studio is requesting Council discount the hire fees (\$4,563) for use of the Dance Studio during Term 4, 2010 because the air conditioning is not functional and the amenity of the space is reduced because of the hot weather.

Comment: It is agreed that the amenity of this space is reduced during spring and summer. As such, a discount is supported. While there are no guidelines as to when a reduction should apply, a 50% reduction is recommended on days where the maximum temperature was greater than 25 degrees centigrade. From the information provided, this would apply to approximately 50% of the time from 11 October to 30 November.

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fees and set up fees applies. **\$1,140.75**

Reverend Dorothy Harris-Gordon is requesting Council discount the hire fees (\$227) for use of the City Hall for a special occasion on 4 December 2010. An entrance fee is not to be charged.

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fees and set up fees applies **\$56.75**

Sanctuary Northern Rivers Inc is requesting Council discount the hire fees (\$227) for use of the City Hall for volunteer training on 13 November 2010. An entrance fee is not to be charged.

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fees and set up fees applies **\$56.75**

Sanctuary Northern Rivers Inc is requesting Council discount the hire fees (\$227) for use of the City Hall for an African Refugee food event on 4 December 2010. An entrance fee is not to be charged.

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fees and set up fees applies. **\$56.75**

RaHOW organiser is requesting Council discount or waive the hire fees (\$129) for use of the City Hall for the event "Remembering and Healing Old Wounds" on 25 April 2011. An entrance fee is not to be charged.

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fees and set up fees applies. **\$32.25**

Financial Assistance – Section 356

Our Health organiser is requesting Council waive the hire fees (\$318) for use of the City Hall for a public meeting on “Our Health” on 8 December 2010. An entrance fee is not to be charged.

Comment: Given the significance of health reforms, special consideration of this request is recommended.

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fees and set up fees applies. **\$319.00**

Lismore Soup Kitchen is requesting Council waive the hire fees (\$348) for use of the City Hall for the annual Christmas Day Soup Kitchen Lunch on 25 December 2010. An entrance fee is not to be charged.

Recommendation: In accordance with Clause 5 of the policy, a donation of 100% of the hire fees and set up fees applies. **\$348.00**

In accordance with policy.

b) Development & Other Application Fees – Policy 1.4.7 (GL390.200.15)

Budget Approved:\$300 Spent to date:(\$857)

Nimbin Neighbourhood & Information Centre are requesting Council discount or waive fees (\$3,514.92) associated with development applications (DA) for the Community Solar Farm Project. The project has encountered issues with progress primarily caused by changes in NSW State Government legislation after the project was approved. This has resulted in additional costs and required DA's for six not-for-profit host organisations in Nimbin.

Recommendation: In accordance with clause B of the policy, a donation of 30% of the development application fees applies. **\$1,054.48**

In accordance with policy.

c) Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (GL390.965.15)

Budget:\$11,000 Spent to date:\$6,612.78

October 2010

Animal Right & Rescue \$14.55
Caroona Opportunity Shop \$0.00
Multitask \$141.12
Five Loaves \$170.85
Friends of the Koala \$66.08
1st Lismore Scout Group \$0.00
Lismore Soup Kitchen \$43.64
LifeLine \$153.19
Saint Vincent De Paul \$0.00
Westpac Life Saver Helicopter \$29.10

Total **\$618.53**

November 2010

Animal Right & Rescue	\$29.10
Caroona Opportunity Shop	\$0.00
Multitask	\$168.46
Five Loaves	\$296.94
Friends of the Koala	\$51.09
1st Lismore Scout Group	\$0.00
Lismore Soup Kitchen	\$0.00
LifeLine	\$170.89
Saint Vincent De Paul	\$0.00
Westpac Life Saver Helicopter	\$87.66
Total	\$804.14

In accordance with policy.

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

Budget:\$2,700 Spent to date:\$800

Friends of the Koala, Koala Care Centre Team have recently been recognised with the Northern Rivers Volunteer Team Award in the 2010 State Volunteering Awards. They are seeking funding to send the Koala Care Centre Coordinator and Team Leader, Lola Whitney, to represent the group at the State Award Ceremony in Sydney (C110/35721). **\$50**

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



Confidential Matters–Closed Council Meeting

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

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

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

Clause 34 of Council Code of Meeting Practice

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

Recommendation

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

Item	17.1 Property Acquisition
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.

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBERS, 43 OLIVER AVENUE GOONELLABAH ON TUESDAY, 9 NOVEMBER 2010 AT 6.00PM.

Present

Mayor, Councillor Dowell; Councillors Battista, Chant, Clough, Ekins, Graham, Houston, Marks, Meineke, Smith and Yarnall, together with the General Manager, Executive Director-Sustainable Development, Executive Director-Infrastructure Services, Manager-Finance, Manager-Arts, Tourism and Leisure, Manager-Information Services, Manager-Integrated Planning, Strategic Planning Coordinator, Senior Development Assessment Officer, Communications Coordinator, Corporate Compliance Coordinator and General Manager's Personal Assistant.

Confirmation of Minutes

234/10 **RESOLVED** that the minutes of the Lismore City Council ordinary meeting held on 12 October 2010 be confirmed.

(Councillors Chant/Clough)

235/10 **RESOLVED** that the minutes of the Lismore City Council extra ordinary meeting held on 26 October 2010 be confirmed.

(Councillors Graham/Marks)

Disclosure of Interest

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

Report – Draft Section 94 Contributions Plan – Neighbourhood Park, McLeans Ridges

Nature of Interest: Opponents to the Cameron Road development assisted in my election campaign by making non-reportable donations. I do not regard this as a significant interest and will stay in the Chamber and participate in the vote.

Councillor Chant declared a pecuniary interest in the following item:

Report – Tender No. 2011-11 – Laying of Asphalt

Nature of Interest: I am a 50% owner of Clark Asphalt one of the tenderers for the contract.

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

Report – Draft Section 94 Contributions Plan – Neighbourhood Park, McLeans Ridges

Nature of Interest: Members of the community opposed to this development donated amounts less than \$1000 to my election campaign.

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:

Janine Wilson - Recruitment of the General Manager

Ms Wilson of the Lismore Community Action Group spoke the on findings of the group on the appointment of General Managers. She identified such items as independence, transparency, independence from Council staff, pros and cons of using consultants and size and composition of the selection panels as key issues for Councillors to focus on.

Evan Elford - Draft Section 94 Contributions Plan - Neighbourhood Park, McLeans Ridges

Mr Elford spoke to the alternative 'without prejudice' offer. He described it as a better outcome for the community and the Council. He did not support the recommendation in the Business Paper.

Heather Dunn - Draft Section 94 Contributions Plan - Neighbourhood Park, McLeans Ridges

Ms Dunn of McLeans Ridges Community Group spoke in support of the current Section 94 Plan proposal. She described the alternative as inferior. She emphasised the communities objection to the initial rezoning.

Sue Harris - DA09/175 - Shopping Centre Development and Commercial / Residential Subdivision - 47 Sibley Street, Nimbin

Ms Harris stressed her local connection to the area and this development. She outlined her personal needs and the needs of the community for an expanded supermarket.

Mayoral Minutes

8.1 Recruitment of the General Manager

A MOTION was MOVED that:

1. The Selection Panel for the engagement of a consultant to facilitate the process for recruitment of a General Manager be formed comprising the Mayor and three Councillors.
2. The Mayor arrange for consultants to be interviewed and assessed by the Selection Panel prior to Council, at the December 2010 Council meeting, appointing the consultant and resolving the terms of engagement for the facilitation of the recruitment process.
3. The Council delegates authority to the Selection Panel to prepare, with advice from the selected consultant, the:
 - a) position description;
 - b) selection criteria;
 - c) employment package details; and
 - d) preferred process, including interview arrangements for the ultimate recruitment of the General Manager.

This information to be presented to Council at the 8 February 2011 Council meeting for determination.

4. The Council acknowledges the Mayor as the key contact point, maintaining information flow to members of the Selection Panel and Councillors.

(Councillors Dowell/Chant) (BP10/624)

AN AMENDMENT was MOVED that:

1. The Selection Panel for the engagement of a consultant to facilitate the process for recruitment of a General Manager be formed comprising the Mayor and five Councillors.
2. The Mayor arrange for consultants to be interviewed and assessed by the Selection Panel prior to Council, at the December 2010 Council meeting, appointing the consultant and resolving the terms of engagement for the facilitation of the recruitment process.
3. The Council delegates authority to the Selection Panel to prepare, with advice from the selected consultant, the:
 - a) position description;
 - b) selection criteria;
 - c) employment package details; and
 - d) preferred process, including interview arrangements for the ultimate recruitment of the General Manager.

This information to be presented to Council at the 8 February 2011 Council meeting for determination.

4. The Council acknowledges the Mayor as the key contact point, maintaining

information flow to members of the Selection Panel and Councillors.

(Councillors Battista/Meineke) (BP10/624)

On submission to the meeting the AMENDMENT was DEFEATED.

Voting for: Councillors Houston, Meineke and Battista.

Voting against: Councillors Clough, Chant, Marks, Smith, Dowell, Graham, Yarnall and Ekins.

236/10

RESOLVED that:

1. The Selection Panel for the engagement of a consultant to facilitate the process for recruitment of a General Manager be formed comprising the Mayor and three Councillors.
2. The Mayor arrange for consultants to be interviewed and assessed by the Selection Panel prior to Council, at the December 2010 Council meeting, appointing the consultant and resolving the terms of engagement for the facilitation of the recruitment process.
3. The Council delegates authority to the Selection Panel to prepare, with advice from the selected consultant, the:
 - a) position description;
 - b) selection criteria;
 - c) employment package details; and
 - d) preferred process, including interview arrangements for the ultimate recruitment of the General Manager.

This information to be presented to Council at the 8 February 2011 Council meeting for determination.

4. The Council acknowledges the Mayor as the key contact point, maintaining information flow to members of the Selection Panel and Councillors.

(Councillors Dowell/Chant) (BP10/624)

Voting for: Councillors Houston, Meineke, Clough, Chant, Marks, Smith, Dowell, Graham, Yarnall and Ekins.

Voting against: Councillor Battista.

Selection Panel for the General Manager (Cr John Chant) - EF10/4

237/10

RESOLVED that the Councillor membership of the Selection Panel consist of members of the General Manager's Review Panel - Councillors Graham, Yarnall and Clough.

(Councillors Chant/Smith)

Reports

12.1 Draft Section 94 Contributions Plan - Neighbourhood Park, McLeans Ridges

238/10

RESOLVED that:

1. Accept, in principle, the 'without prejudice' offer made by Ardill Payne & Partners on behalf of the McLeans Ridges Landowner Collective for provision of a Community Lot to be used as a neighbourhood park in McLeans Ridges received 28 June 2010 as detailed in the Council report and shown on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10 subject to:
 - (i) The drafting of a further Planning Agreement with respect to the Park's location and size, embellishments to the Park and timing of its dedication to Council;
 - (ii) No more than two (2) rural residential lots being created on the land shown as Lot 2 Community Lot on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10;
 - (iii) The costs (including legal costs) associated with the drafting of the additional Agreement being shared equally between the Council and the land owners;
 - (iv) The public exhibition of the draft Agreement for a period of 28 days contemporaneously with the amended development application.
2. Prepare a further draft Planning Agreement that specifies that:
 - (a) the community lot will have an area of no less than 14,000m² and will be located as shown on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10;
 - (b) the community lot will be dedicated as Public Reserve when 50 lots in the Cameron Road subdivision have been registered;
 - (c) earthworks, retaining walls, topdressing and grassing are completed on the Community Lot to achieve an area of 3,600m² with a crossfall of 1% prior to the Community Lot being dedicated as Public Reserve;
 - (d) a graded, grassed carparking verge for a minimum of six (6) car bays will be provided as shown on the plan titled Alternate Community Lot Details Drawing No. 6937-CL1 dated 18-6-10 prior to the Community Lot being dedicated as Public Reserve;
 - (e) park embellishments to the value of \$70,000 (indexed to CPI) are constructed and installed on the Community Lot and include a picnic shelter, slab floor, tables, seating, bin, swing, tank and water tap and landscape trees.
3. Defer consideration of the Draft Section 94 Contributions Plan for a Neighbourhood Park in Cameron Road, McLeans Ridges until the public exhibition period has closed for the draft Planning Agreement and the response is reported to Council.

(Councillors Meineke/Battista) (BP10/427)

Section 375A Voting Record

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

Voting against: Nil.

12.2 DA09/175 - Shopping Centre Development and Commercial / Residential Subdivision - 47 Sibley Street, Nimbin

239/10 **RESOLVED** that:

PURSUANT TO SECTION 80/91 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. Council as the consent authority, grant consent under delegated authority to Development Application No. 5.2009.175.1 for a staged commercial (shopping centre) and commercial/residential subdivision. In particular, the commercial development comprises a supermarket, bakery and five (5) specialty shops and the subdivision comprises three (3) commercial allotments and twenty (20) residential lots subject to the following conditions for the reasons outlined in the conclusion to this report.
- B. Council rectify the zone boundary discrepancy for this property within the new Local Environmental Plan zoning process and any reference to this land within the new Lismore Development Control Plan.

DEVELOPMENT CONDITIONS

PLANNING

1 In granting this development consent, Council requires:

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

and be substantially in accordance with the following approved plans submitted with the application:

Drawer/Name	Description of Plan	Drawing No.	Revision	Date
Brown Evans & Associates	Site Plan 1:500	SD01	P13	30/4/10
Brown Evans & Associates	Site Plan 1:250	SD02	P4	30/4/10
Brown Evans & Associates	Commercial Building Elevations	SD03	P3	23/3/09
Brown Evans & Associates	Pylon Sign Details	SD04	P2	20/4/09
Farr Engineers	Conceptual Allotment Layout Plan	CO10	4	13/10/10
Farr Engineers	Subdivision Plan: conceptual building envelopes, development buffers & 100yr waterway inundation plan & details	CO11	2	13/10/10

A copy of the approved plans are attached to this consent.

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

2 Staging of Development

The applicant has indicated an intention of possibly constructing the commercial (shopping centre) development as stage 1 and the commercial/residential subdivision as stage 2. The proposed development can be constructed in one or two stages. If it is decided to construct the commercial (shopping centre) development first then the applicant would have to complete all of the nominated general and commercial building conditions of consent outlined within this consent notice.

Reason: *To correctly describe what has been approved and ensure the proper management of the site and protection of residential amenity.*

GENERAL CONDITIONS

3 A detailed landscaping plan (in duplicate) is to be submitted to Council and approved **prior to release of the Construction Certificate for the commercial (shopping centre) building or the commercial/residential subdivision**. Landscaping plans shall be in accordance with Council's Landscape Guideline and relevant Development Control Plans. Species identified in Council's Landscape Guideline shall be planted wherever possible. Landscaping plans shall indicate:

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

- Implementation and maintenance program for plantings.

In order to comply with Council's 'Community Sun Protection Strategy' the proposed car park area must incorporate sun shade structures and/or the planting of mature trees throughout the car park area as part of the proposed landscape plan.

The landscape plan submitted to Council must include the payment of all plan assessment and inspection fees.

The Council approved landscaping shall be completed prior to the release of the Interim Occupation Certificate for the commercial building and/or the Subdivision Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval. Landscape plantings are to be established and maintained in accordance with the approved maintenance program to the satisfaction of Council for a minimum period of at least three (3) years. Failure to comply may result in fines for non compliance with development consent conditions.

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

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

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

- 5 The hours of work for any noise generating activity relating to any demolition work, bulk subdivision earthworks and/or the construction of the proposed commercial (shopping centre) building 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))*

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

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

- 7 The proposed landuse shall not result in the emission of offensive noise.

Offensive noise includes:

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

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

SEDIMENT AND EROSION CONTROL

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

The measures must:

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

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

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

- 9 **Prior to release of the Construction Certificate or commencement of any works** upon the site a "Soil Erosion and Sedimentation Control Plan of Management" (SESCPM) must be submitted to and approved by Council. The plan must outline what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site in accordance with the requirements of **Condition**

No. 9. The plan must be consistent with the “*Managing Urban Stormwater-Soils and Construction*” (blue book). It must have a summary sheet and be 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. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the SESCOPM.

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

- 10 **Prior to release of the Construction Certificate or commencement of any works** upon the site the applicant is to obtain approval from Council for the design, construction and management of the sedimentation basins. The development is to be strictly in accordance with the “Managing Urban Stormwater: Soils, and construction (Landcom, 2004)” guidelines; based on the 90th percentile five day rainfall event as a design criterion (i.e. 60mm).

The rehabilitation of the existing dam located on proposed lot 23 shall comply with the requirements for Retardation/Detention Basins as set out in the Northern Rivers Local Government “*Handbook of Stormwater Drainage Design*”. Council may however consider other Detention Basin designs if the applicant submits a detailed risk assessment that complies with AS 4360. Any such designs must be prepared by a competent engineer with experience in hydraulic analysis and public safety.

(Note: This condition needs to be read in conjunction with Condition No.25)

Reason: *To protect the environment.*

WASTE MANAGEMENT

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

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

- 12 The burning off of vegetative and other wastes arising from the development is prohibited. Suitable arrangements shall be made for the processing and/or re-use of all waste materials generated by the development activity or alternatively wastes shall be transported to an approved waste facility.

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

- 13 **Control of Noxious Weeds and Weeds of National Significance**
Any exotic plant species declared noxious under the Noxious Weeds Act 1993

in the control area of the Far North Coast County Council, or plants declared as Weeds of National Significance by the Australian Weeds Strategy are to be controlled on the subject site.

Weeds are to be controlled according to current best practice and in accordance to the control requirements for each of the five classes of noxious weeds identified in the Act.

Include the removal of *Cinnamomum camphora* (Camphor Laurel), *Ligustrum lucidum* (Large Leaved Privet) and *Ligustrum sinense* (Small Leaved Privet) and any other woody weed at any stage of growth located both within the subject site and/or from any boundary fence.

A plan for the control of Noxious Weeds and Weeds of National Significance is to be incorporated into a Vegetation Management Plan.

Reason: *To ensure appropriate control of weed species on the subject site.*

14 Regeneration/revegetation of the riparian corridors of watercourses

Stream 1 on the subject site is a second order watercourse that flows directly into Mulgum Creek. A west flowing first order watercourse (Stream 2) joins Stream 1 in the north east corner of the subject site.

For both Stream 1 and Stream 2 a riparian corridor is to be established follows:

- Stream 1 – Revegetated from the top of the northern and eastern banks of to both the northern and eastern boundary of the subject site respectively and to a minimum of 30 m from the top of the southern and western banks.
- Stream 2 – From the top of the northern bank of to the northern boundary of the subject site.

Regeneration/revegetation are to be conducted in accordance with the following guidelines:

- Raine and Gardiner (1997). Revegetating Streams in the Richmond Catchment: A Guide to Species and Planting Methods. Department of Land and Water Conservation NSW, Maitland, NSW. (Contained in Lismore City Council (2007). Landscape Guidelines. Lismore City Council, Lismore, NSW).

The width of this riparian corridor is consistent with the following guidelines:

- DWE (2008a). Guidelines for controlled activities: Riparian Corridors. Department of Water and Energy NSW, Sydney, NSW.

A plan for the regeneration/revegetation of the riparian corridor is to be incorporated in a Vegetation Management Plan.

Reason: *To ensure that the width of proposed riparian corridors meet NSW State Government guidelines and to meet Objectives 4 and 5 of the Lismore Development Control Plan, Part B, Chapter 6 Nimbin Village.*

15 Design of stormwater outlet structures draining into the northern stream

Any vehicular and/or stock crossing of the above watercourse are to be

designed and constructed in accordance with the following guidelines:

- DWE (2008b). Guidelines for controlled activities: Outlet structures. Department of Water and Energy NSW, Sydney, NSW.
- DWE (2008c). Guidelines for controlled activities: In-stream works. Department of Water and Energy NSW, Sydney, NSW.

Reason: *To ensure that the design and constructions of stormwater outlet structures meet NSW State Government guidelines.*

16 Submission and approval of a Vegetation Management Plan

Prior to the commencement of any works on-site a comprehensive Vegetation Management Plan for the subject site is to be developed based on the approved lot layout plan and submitted to Council. At a minimum, this plan is to incorporate a plan for the:

- Control of Noxious Weeds and Weeds of National Significance
- Revegetation of the riparian corridor of Stream 1 and Stream 2
- Regeneration of remnant and regrowth native vegetation on the subject site
- Establishment of vegetation within the bio-retention zones and the detention basin

The Vegetation Management Plan is to include a comprehensive list of plant species found to occur on the site.

Council is to give written approval to the Vegetation Management Plan prior to the commencement of works on site.

The Vegetation Management Plan shall be prepared in accordance with structure and content of the following guidelines:

- Lismore City Council (2010). *Guidelines for the preparation of Vegetation Management Plans*. Lismore City Council, Lismore, NSW

The Vegetation Management Plan shall be prepared and implemented by person(s) with appropriate knowledge, qualifications and experience in current best practices for indigenous vegetation rehabilitation and management as detailed in the above guidelines.

Reason: *To ensure appropriate management and rehabilitation of retained native vegetation, weed management and the revegetation of cleared areas. To meet the requirements of the Lismore Development Control Plan, Part B, Chapter 6 Nimbin Village. To ensure that the Vegetation Management Plan can be assessed in accordance with both NSW State Government and Lismore City Council guidelines.*

17 A works programme for the Vegetation Management Plan must be submitted to Council to ensure that all works associated with the submitted and approved Vegetation Management Plan are completed within an appropriate timeframe.

Subject to compliance with the recommendations and performance criteria detailed within the Vegetation Management Plan, the works are to be

undertaken in accordance with the following schedule:

- Year 1 – 40% of work
- Year 2 – 10%
- Year 3 – 10%
- Year 4 – 10%
-
- Year 5 – 30%

It is the responsibility of the landowner to arrange for the relevant Council inspections with Council's ecologist and pay all necessary inspection and administration fees associated with that inspection.

If the works are not carried out in accordance with this condition Council is able to apply fines for failing to comply with this condition of consent.

***Reason:** To ensure compliance with the recommendations and performance criteria contained in the approved Vegetation Management Plan.*

18 Monitoring implementation of the Vegetation Management Plan

A monitoring report relating to the implementation of the approved Vegetation Management Plan shall be submitted to Council following the completion of primary planting and then at annual intervals until the end of the five (5) year maintenance period.

A final monitoring report shall also be submitted with relevant assessment fees and approved by Council upon completion of the maintenance period.

***Reason:** To ensure that implementation of the approved Vegetation Management Plan meets performance criteria established in the plan.*

ROADS

- 19 Prior to commencement of any works** upon the site the proponent shall obtain a Construction Certificate for the proposed road and associated stormwater drainage works. The construction certificate application shall include full design details of the proposed engineering works to satisfy conditions 56, 66, 98 and 99. Such application shall be accompanied with the relevant 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. (EPA Act Sec 79C(a)) and to comply with requirements of EPA Act Sec 81A(4)*

- 20 Prior to commencement of any subdivision bulk earthworks or the commercial building** a Construction Traffic Management Plan shall be submitted to, and approved by, Council. Such plan shall include: scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community; details of haulage routes to be utilised for delivery and removal of material from the site; traffic control plans prepared by an RTA accredited person for any works that impact upon the movement of vehicles or pedestrians upon the public road; a requirement for any damage to road infrastructure arising from construction activities to be reinstated at the

developers cost prior to completion of the project.

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

PEDESTRIAN ACCESS

- 21 **Prior to the release of the interim Occupation Certificate for the Commercial Building** the proponent shall construct a 2m wide reinforced concrete combined cycleway/footpath along Sibley Road connecting the existing pathway at the Nimbin Bowls Club through to the proposed retail area/supermarket internal pathway network as shown in the Brown Evans and Associate Architects drawing SD02 revision P4. Prior to the release of a subdivision certificate the proponent shall construct a 2 m wide combined cycle way/footpath connecting the proposed Sibley Street cycle way/footpath for the full length of the internal road on the verge fronting lots 12 through to 22 and terminating at the boundary to lot 641 DP 1063413. Any costs shall be the responsibility of the proponent.

Reason: *To ensure an adequate pedestrian network in accordance with adopted standards*

- 22 **Prior to the release of either the Interim Occupation Certificate for the Commercial Building or the Subdivision Certificate** the applicant shall obtain a certificate of completion for the roadworks and associated stormwater drainage structures 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.*

- 23 **Prior to the issue of a Construction Certificate for the Commercial Building or the Subdivision bulk earthworks** the proponent shall lodge a bond equivalent to 5% of the cost of the proposed works with Council to cover any damage to infrastructure within the road reserve arising during the construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public infrastructure. Any damage arising from construction activities to roads, kerb and gutter, footpaths or any other infrastructure within the road reserve shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended) to Council's satisfaction prior to refund of the bond. Certification as to compliance with this condition shall be provided to Council prior to the issue of **either the Interim Occupation Certificate for the Commercial Building or the Subdivision Certificate.**

Reason: *To ensure an adequate road network in accordance with adopted*

standards.

STORMWATER

- 24 **Prior to being issued with a Construction Certificate for the Commercial Building or the Subdivision bulk earthworks** the proponent shall lodge full design details of a 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. The discharge of stormwater from the site shall be limited to the pre-development flow for an ARI of 10 years. These plans shall include a schedule that identifies each component of the stormwater management system and how that component satisfies the qualitative and quantitative objectives of the stormwater management plan.

The application must be accompanied by a Stormwater Management Plan (SWMP), which must be reviewed/updated to ensure compliance with contemporary standards and requirements with any subsequent renewal of the Section 68 approval. The SWMP must comprehensively address maintenance requirements (including timetabling of maintenance), access to facility, longevity for all stormwater devices, and the performance monitoring of the installation and discharges. The SWMP must be written in such a manner that it can be readily understood and be implemented by the person/s nominated to action the plan.

The compliance with the requirements of the SWMP shall be the responsibility of the owner of the proposed lot 22.

***Reason:** To manage stormwater quality and quantity and to protect the environment.*

- 25 **Prior to release of the Construction Certificate** detailed design showing that unobstructed overland flow path/s have been provided to prevent any inundation of future habitable structures and to drain all surcharge and surface waters for the major system design event.

Appropriate easements including:

- The overland flow path identified in the Farr Engineer's report 208047 dated 19 October 2009 (amended) section 6.0 "Road works, Filling and Excavation" paragraph 6.7 which identifies an overland flow path along the boundary of lot 21 and 22
- The area encompassing the detention pond, bioremediation, gross pollutant trap and all other elements of the treatment train.
- The flow path of stormwater discharge from the proposed internal road through private property
- The flow path of the discharge from the detention pond to the local creek which traverses lot 101
- Any other overland flow that may be identified during the design and construction phase of the development shall be created to ensure that the flow paths will not be obstructed by any non approved structures, landscaping or the like, that will reduce flow path design capacity. Appropriate management practices must be put in place to ensure that

the integrity of this condition is maintained at all times, and when the development is operational.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff.*

COMMERCIAL BUILDING CONDITIONS

26 The commercial (shopping centre) building requires the lodgement of a Construction Certificate.

Reason: *To advise of the need to obtain an approval.*

27 Provide an on-site sign at the shopping centre site, in a prominent visible position, stating:

- (a) That unauthorised access to the site is not permitted, and
- (b) Showing the name of the builder or person responsible for the site and a telephone number at which such person can be contacted outside working hours.

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

28 Provide a fence, hoarding or other measure to restrict public access to the shopping centre 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.*

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

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

30 No advertising structures other than those approved with this development must be erected and no advertising sign or material must be affixed or displayed on any building or land without the prior approval of the Council. A separate application is to be made on the prescribed form.

Reason: *To advise of the need to obtain an approval.*

31 The shopping centre building must be clad in low-reflective material.

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

32 The shopping centre building is not to be occupied until an Occupation Certificate has been issued by the Principal Certifying Authority.

Reason: *To ensure compliance with statutory requirements.*

- 33 The location of the shopping centre building on the site must be established by a Registered Surveyor and must comply with this approval.

Reason: *To ensure the building is located on site in accordance with this approval.*

- 34 Demolition of the existing dwelling structure must be in accordance with Sections 2 and 3 of AS 2601 "The Demolition of Structures".

Reason: *Required by the Environmental Planning and Assessment Act 1979.*

- 35 Structural Engineering details for the shopping centre building are to be submitted to and approved by the principal certifying authority prior to commencement of the work.

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

- 36 A site report from an approved Geotechnical Engineer must be submitted to the Principle Certifying Authority prior to commencement of work, certifying that a structure may satisfactorily be erected on the site.

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

- 37 A fire hydrant and fire hose reel system shall be provided to serve the Shopping Centre, in accordance with the requirements of the Building Code of Australia and the AS2419.1-005. Design details and certification of its compliance with the Building Code of Australia (BCA) and Australian Standard, by a suitably qualified hydraulic consultant, shall be submitted to the Principle Certifying Authority prior to issue of a Construction Certificate.

Reason: *To ensure compliance with the Building Code of Australia and all relevant Australian Standards.*

- 38 The noise generated by the post construction operation of the development must not exceed the following project specific noise levels (PSNL) measured as:

- (i) **Continuous Noise Sources** (fixed mechanical plant, fixed refrigeration units and the like)

- Daytime – 7.00am to 6.00pm 45dB(A)
- Evening – 6.00pm to 10.00pm 42dB(A)
- Night – 10.00pm to 7.00am 35dB(A)

The noise is to be assessed at the nearest affected sensitive location in accordance with the NSW Industrial Noise Policy and is to be measured as an $L_{Aeq,adj T}$ level, in the absence of any extraneous noise.

- (ii) **Intermittent Noise Sources**

- Average daytime - 7am to 6pm 56dB(A)
- Average evening - 6pm to 10:00pm 53dB(A)
- Average night - 10:00pm to 7:00am 42dB(A)

The noise is to be assessed at the nearest affected sensitive location in accordance with the NSW Industrial Noise Policy and is to be measured as an $L_{A10,adj T}$ level, in the absence of any extraneous noise.

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

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

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

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

- 40 **Within 90 days of the issue of an Occupation Certificate**, a document prepared by a suitably qualified noise assessment professional, must be provided to Council certifying that the post construction operation of the development satisfies the project specific noise levels nominated within Condition No.40 of this consent notice.

Note: Where the assessment identifies non-compliance appropriate ameliorative measures shall undertaken and further reporting completed to demonstrate compliance with this condition.

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

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

Monday to Saturday - 7.00am to 6.00pm
Sundays or public holidays – 9.00am to 6.00pm

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

- 42 **Prior to the issue of a Construction Certificate** an amended acoustic report shall be submitted to and be approved by Council detailing acoustic treatments (to a design detail standard) required for the development (enclosures of fixed plant, acoustic barriers etc) to achieve compliance with the nominated project specific noise levels.

Note: Where necessary plant and equipment must be acoustically treated and have soft start capability to prevent noise emissions from adversely impacting on receivers.

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

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

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

44. **Prior to the issue of a Construction Certificate**, a waste management plan in accordance with the provisions of Chapter 15 - Waste Minimisation of the Lismore Development Control Plan, must be prepared, submitted to and approved by Council.

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

45. All car park and external lighting must be designed and installed to ensure no adverse impact on neighbouring premises and motorists. Appropriate light selection and shielding and/or other measures must be implemented, and the installation must comply with AS4282 *Control of the Obtrusive Effects of Outdoor Lighting*.

Prior to the issue of a Construction Certificate details prepared by an appropriately qualified person and demonstrating compliance with this condition shall be submitted to and be approved by the Certifying Authority. A copy of this documentation must be provided to the Consent Authority (Lismore City Council) for record purposes.

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

46. Any outdoor display lighting shall be appropriately located or shielded so no additional light is cast on adjoining land or distracts traffic.

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

47. Any sign material that is likely to be flood affected shall be flood compatible.

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

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

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

49. The sign shall be securely affixed to the supporting structure.

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

- 50 The sign shall be located so as to not restrict the vision of traffic either upon the public roadway or entering/exiting private property and in the location as shown on the approved 'site plan'.

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

- 51 Only those signs approved with this development consent can be erected without a development application. Any modification and/or new signage will require separate development consent from Council.

Reason: *To preserve the amenity of the area*

- 52 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Construction Certificate is granted**. The rates and amounts applying at the date of this notice, totalling **\$112,048**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All levies, fees, contributions, bonds etc. shall be paid prior to the **Construction Certificate granted**.

The levies are those applicable as at date of original consent. If these levies are not paid within twelve (12) months of the date of original consent, the rates shall then be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index (Sydney), as applicable at the time of payment.

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

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

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

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or

any amending or succeeding legislation.

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

- 53 The owner/operator of the commercial (shopping centre) development is to establish a 'graffiti management plan' as part of the overall maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within a 24 hour period. It is also recommended that graffiti resistant materials are utilised throughout the development.

Reason: *To comply with recommendations of NSW Police and to assist in Crime Prevention Through Environmental Design Principals (CPTED).*

- 54 Following the establishment of the approved landscape plan the owner/operator of the commercial (shopping centre) development is to establish a 'vegetation landscape management plan' as part of the overall maintenance plan for the development. In this regard it is important that the height of shrubs is kept to 600mm and trees with lower limbs trimmed as part of the vegetation/landscape maintenance program.

Reason: *To comply with recommendations of NSW Police and to assist in Crime Prevention Through Environmental Design Principals (CPTED).*

Road Works

- 55 **Prior to the release of an Interim or Final Occupation Certificate** for the commercial (shopping centre) building the proponent shall provide the following roadwork's with associated stormwater drainage structures. The geometric design of the road network shall comply with all details set out in the Lismore Development Control Plan – and section D1 Geometric Road Design of the Northern Rivers Local Government Development and Design manual (as amended).

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadwork's include:

- Construction of the proposed internal road to an asphaltic concrete sealed road shape with a width of 9m between kerbs.
- Thorburn Street to be upgraded to the standard of urban local street with two 3m traffic lanes and either two 2.5m parking lanes or approved verge parking.
- Construction of a roundabout with Kerb and Channel at the intersection of Sibley Street and the proposed internal road complying with the Northern Rivers Local Government Development and Design manual D1.18 Roundabouts and AUSTRROADS Pt 4B "Guide to Road Design – Roundabouts". However, for the geometric design of the roundabout, the

19 metre Semi-trailer and the Single Unit Truck/Bus (12.5m) are to be used as design vehicles for cross section elements and turning paths, the car is used as the design vehicle for horizontal and vertical geometry. The geometric design should also be checked for other design vehicles such as B-Doubles where they may be permitted on the roads.

(Note: This condition needs to be read in conjunction with Condition No.20)

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.*

CAR PARKING

56 **Prior to the release of an Interim or Final Occupation Certificate** provision shall be made for 104 car parking spaces and a loading bay suitable for a articulated vehicle with a bitumen sealed/paved or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 1, Part A, Chapter 7 - Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence is to be submitted to the Principal Certifying Authority. / Design plans to be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate.

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

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

Reason: *To provide adequate off street parking space for the anticipated traffic that will be generated by the development.*

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

Reason: *To ensure adequate access to and from the development.*

59 Conventional ("zebra") pedestrian crossing markings are not to be used to delineate the pedestrian route across the internal traffic laneways. Alternate markings shall be used to identify shared pedestrian/traffic zones.

Reason: *Conventional crossings cannot be regulated on private property.*

60 The applicant shall provide a pedestrian link from the western carpark to north east corner of the shop buildings by converting carparking spaces 122 and 99 to a raised pedestrian refuge and provide appropriate pavement markings on the access roadway.

Reason: *Provide pedestrian access and connectivity corridors*

- 61 The applicant shall provide bicycle 10 bicycle parking spaces adjacent to the entrance to the proposed retail area/supermarket in accordance with “Bicycle Parking Guidelines” – ACT Planning and Land Authority and 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.*

- 62 The proponent shall provide a tapered bus bay including a timber and metal clad bus shelter in accordance with Council’s standard Drawing No. SD 1256 on Sibley Road adjacent to the frontage on the proposed retail area/supermarket at no cost to Council.

Reason: *To provide for adequate public transport infrastructure.*

- 63 The proponent shall provide a taxi rank to be located internally in the carpark in close proximity to the entrance of the proposed retail area/supermarket.

Reason: *To provide for adequate public transport infrastructure.*

STORMWATER

- 64 The proposed internal drainage design and levels adopted for the proposed carparking and landscaping areas shall be appropriately designed to ensure the continued flow of stormwater from adjoining properties. The design shall not restrict flows from adjoining properties that would increase the ponding of water upon the adjoining property.

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))*

- 65 **Prior to commencement of works/release of the Construction Certificate** the detailed design of stormwater drainage systems for the commercial development shall ensure the discharge of stormwater from the site shall be limited to the pre-development flow (rural flow) for an ARI of 10 years and a time of concentration of 6 minutes. On-site retention of stormwater shall be encouraged to achieve this requirement.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b)).*

FLOODING

- 66 The floor level of the commercial building shall not be less than a level of RL 56.5m (AHD).

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

WATER AND SEWER

- 67 A Certificate of Compliance issued by Lismore City Council, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to being issued with a Construction Certificate.**

Notes:

- a) *A Notice of Requirements advising of the matters that must be completed prior to issuing the Certificate of Compliance should have been forwarded to the applicant with this notice of determination.*
- b) *Applicants are advised via the Notice of Requirements of any water authority requirements that must be met prior to being issued with a Construction Certificate, prior to construction commencing, during construction and prior to occupation.*
- c) *If you are intending to act upon this consent and have not obtained a Notice of Requirements please contact Lismore Water. Go to web site www.lismore.nsw.gov.au, or telephone Lismore Water on 1300 87 83 87.*

Reason: *To ensure compliance with the statutory requirements of Lismore City Council.*

SUBDIVISION CONDITIONS

- 68 Prior to the commencement of the subdivision bulk earthworks and/or the approval by Council of the Subdivision Certificate for the residential allotments, the existing dwelling on the subject land must be either demolished, removed from the site (note this may require a separate approval) or relocated on the site within the boundaries of a residential allotment within the approved subdivision. If the demolition option is chosen then the demolition of the structure must be carried out in accordance with the applicable provisions of Australian Standard AS 2601-2001 "The Demolition of Structures".

Reason: *To ensure the proper management of the site and/or that the demolition is conducted in a safe manner.*

- 69 Bulk earthworks associated with the subdivision require the lodgement of a Construction Certificate and shall not commence on site **prior to the release of the Construction Certificate.**

Reason: *To ensure protection from the effects of subsidence and/or slip and compliance with the approved development and the Environmental Planning and Assessment Act.*

- 70 All earthworks, roadworks, stormwater drainage structures and associated civil infrastructure as shown in the Brown Evans Associates Architects and the Farr Engineers Associates Pty Ltd Engineering Documentation shall be amended as required so that all infrastructure is designed and constructed in accordance Council's Development, Design and Construction Manual (as amended) and Chapter 5 of Lismore Development Control Plan - Part A "Subdivision and Infrastructure – Urban subdivision" as well as amendments listed elsewhere in this approval. The proponent shall be responsible for any costs, including

maintenance, for a period of six months from the date of approval of completion of the work and shall lodge a security equivalent to 5% of the cost of the works with Council to guarantee rectification of any defects.

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.*

- 71 **Prior to approval of the Subdivision Certificate**, a Certificate of Compliance from an accredited electricity infrastructure provider shall be required confirming that it has provided underground electrical power to each lot, adequate street lighting for the development as required by the Australian Standard and that charges for the extension of electricity supply have been paid.

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

- 72 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is available to all lots. A Certificate of Availability from the relevant utility provider shall be required confirming that the respective utility's requirements have been met.

Reason: *To ensure adequate provision of utility services. (EPA Act Sec 79C(b))*

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

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

- 74 No restriction as to user shall be imposed upon any allotment that would purport to restrict development that would otherwise be permissible under the terms of the Lismore Local Environmental Plan or the Environmental Planning and Assessment Act.

Reason: *To ensure appropriate planning controls are applied to the development and to comply with Clause 26 of the Lismore Local Environmental Plan.*

- 75 Road names proposed for the subdivision shall be submitted for Council and Geographical Names Board **approval with the Construction Certificate** application for the engineering design plans. A suitable name for any new roads shall be in accordance with Council and Geographic Names Board Policy. Street signage in accordance with Council's adopted standard shall be erected **prior to release of the Subdivision Certificate**.

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

- 76 **Prior to release of the Subdivision Certificate** the proponent shall place street number identification at the road frontage of the property to indicate the property address.

Reason: To identify the property correctly (EPA Act Sec 79C(e)).

WATER AND SEWER

- 77 A Certificate of Compliance issued by Lismore City Council, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to release of any linen plan for subdivision.**

Notes:

- a) *A Notice of Requirements advising of the matters that must be completed prior to issuing the Certificate of Compliance should have been forwarded to the applicant with this notice of determination.*
- b) *Applicants are advised via the Notice of Requirements of any water authority requirements that must be met **prior to being issued with a Construction Certificate**, prior to construction commencing, during construction and prior to being issued with a Certificate of Subdivision.*
- c) *If you are intending to act upon this consent and have not obtained a Notice of Requirements please contact Lismore Water. Go to web site www.lismore.nsw.gov.au, or telephone Lismore Water on 1300 87 83 87.*

Reason: To ensure compliance with the statutory requirements of Lismore City Council.

GEOTECHNICAL

- 78 **Prior to being issued with a Construction Certificate**, certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:

- proposed civil engineering works, including retaining walls, have been assessed as structurally adequate,
- proposed civil engineering works will not be affected by landslip either above or below the works,
- proposed civil engineering works will not be affected by subsidence either above or below the works, and
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works .

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))

- 79 **Prior to being issued with a Construction Certificate** a qualified practising structural engineer shall provide **Council** with a design certification for any proposed retaining walls in the development. The certification shall state that the walls have been designed to resist soil and water loadings for full saturation of the height of the wall and surcharge from any structure within the zone of influence of the wall. Retaining walls shall be founded on residual soil or

weathered rock. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

Reason: *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*

- 80 **Prior to release of the Subdivision Certificate** a qualified practising structural engineer shall provide Council with a certificate of structural adequacy for any structures, including retaining walls, constructed as part of the development.

Reason: *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*

- 81 Bulk earthworks shall not commence on site **prior to the release of the Construction Certificate.**

Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*

- 82 Any filling shall be with clean fill only. Building rubble and contaminated material is not to be used.

Reason: *To protect the environment.*

- 83 The slope of any cut or fill batter shall not exceed 1:4 unless specific geotechnical advice as to the stability of the proposed batters is provided by a suitably qualified geotechnical engineer.

Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*

- 84 During construction any area of seepage identified at the base of filling or behind filling shall be brought to the attention of the supervising geotechnical engineer and treated by the provision of a suitable drainage mechanism. Details of any necessary works are to be provided to Council.

Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*

- 85 **Prior to the release of the Subdivision Certificate**, a NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any fill material has been placed in accordance with Australian Standard 3798 "Guidelines on earthworks for commercial and residential developments". The completion report must note that the; foundation, fill materials, workmanship, fill compaction density and fill moisture contents are acceptable for the intended and certified use of the fill and meet the specifications of the site. Filling in excess of 2m of height must be accompanied by a geotechnical slope stability analysis of the final construction undertaken using limit equilibrium techniques and site specific parameters.

Reason: *To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

86 **Prior to the release of the Subdivision Certificate**, a qualified practising Engineer, experienced in soil mechanics and local conditions, shall submit documentary evidence in the form of a Geotechnical Investigation Report to Council for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings. Such reports shall generally be done in accordance with the following requirements:

- Reports shall be site specific, and
- Include an investigation of the subsurface conditions typically involving more than two test pits or boreholes per site.

Reason: *To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

87 **Prior to the release of the Construction Certificate** full details of the proposed landscaping within the road reserve shall be submitted to and approved by Council. Prior to the release of the subdivision certificate the proponent shall obtain written confirmation from Council's Parks and Reserves section that the gardens within the road reserve have been landscaped to the satisfaction of Council's Parks and Reserves section.

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

88 **Prior to release of the Subdivision Certificate** the proponent shall place street number identification at the road frontage of the property to indicate the property address.

Reason: *To identify the property correctly (EPA Act Sec 79C(e)).*

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

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

90 The proposed internal road shall be extended to the boundary of Lot 641 DP1063413 and align centreline to centreline with proposed Road 3 of the adjoining development on Lot 641 DP1063413.

A temporary sealed gravel turnaround is to be constructed on the road verge at the end of the internal road to allow sufficient room for the design vehicle (a heavy rigid truck) to make a U-turn in all weather conditions.

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

SUBDIVISION LEVIES

- 91 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Subdivision Certificate is released**. The rates and amounts applying at the date of this notice, totalling **\$138,817.00**, are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20, 000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the release of the Subdivision Certificate**.

The levies are those applicable as at date of original consent. If these levies are not paid within twelve (12) months of the date of original consent, the rates shall then be increased on an annual basis in accordance with the prevailing Australian Bureau of Statistics Consumer Price Index (Sydney), as applicable at the time of payment.

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

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

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

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

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

- 92 The construction of the subdivision shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise.

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

RESTRICTION ON TITLE

- 93 The final plan of subdivision shall be supported by an instrument under Section 88B of the Conveyancing Act 1919. The instrument shall burden proposed Lots 23, 1 – 4 and 6 - 11 with restrictions to the user as follows:
- a. The riparian zone planting within proposed Lot [insert lot number] shall be established and retained as a conservation area;
 - b. For the purpose of maintaining the riparian zone planting, access to the riparian zone planting shall be provided to person(s) acting on Vegetation Management Plan [insert lot no] for the five (5) year term of this plan;
 - c. No vegetation clearing, altering of vegetation structure or damage to vegetation shall be permitted within the riparian zone planting except as required to remove Noxious Weeds, Environmental Weeds or other exotic plant species;
 - d. Stock shall be excluded from the Buffer Planting;
 - e. Fencing shall be erected and maintained in working order and shall not be removed, damaged or allowed to fall into disrepair at any time;
 - f. The land shall be managed in accordance with the Vegetation Management Plan [insert reference no] prepared for the site;
 - g. In accordance with the Vegetation Management Plan for the subject site, the land shall be maintained such that there is a maximum of 5% Environmental Weed cover (as listed by North Coast Weeds) and the land is 100% free of Noxious Weeds declared within the Lismore Local Government Area.

Reason: To ensure that the conservation area is kept free of stock and is maintained in perpetuity by the owner of the subject site.

BUSH FIRE MANAGEMENT

94 **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- At the issue of subdivision certificate and in perpetuity the entire developed portion of the site shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of NSW Rural Fire Service 'Planning for Bush Fire Protection 2006' document and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Reason: To comply with the requirements of the NSW Rural Fire Service

95 **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

Reason: To comply with the requirements of the NSW Rural Fire Service.

- 96 Water, electricity and gas are to comply with section 4.1.3 of NSW Rural Fire Service 'Planning for Bush Fire Protection 2006' document.

Reason: To comply with the requirements of the NSW Rural Fire Service

97 **Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

- Public road access shall comply with the following requirements of section 4.1.3 (1) of the NSW Rural Fire Service 'Planning for Bush Fire Protection 2006' document'.
- Roads are two way, with a carriageway 8 metres minimum kerb to kerb.
- Dead end roads shall incorporate a 12 metre outer radius turning circle and be clearly signposted as a dead end.
- Property access roads shall comply with section 4.1.3 (2) of the NSW Rural Fire Service 'Planning for Bush Fire Protection 2006' document'.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

Reason: To comply with the requirements of the NSW Rural Fire Service

ROADS

- 98 Design details for driveways to battle-axe blocks included in this development shall be submitted with the **Construction Certificate**. The driveway designs shall generally be in accordance with Council's Design and Construction Specification for Vehicular Access and Australian Standard AS2890.1 Parking Facilities – Offstreet Parking. In addition the driveway shall be a minimum width of 3.0m wide where servicing 1 lot. An asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the driveway. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended) prior to the issue a Subdivision Certificate. The Subdivision certificate shall create reciprocal right of way giving benefit to all lots proposed to utilise the shared access.

Provision shall be made for the future supply of the following services within the access shaft:

- water supply
- sewer
- stormwater
- telephone
- power

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

STORMWATER

- 99 The proponent shall make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any

existing or proposed lots can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. Any lots proposed to drain to the road kerb and gutter shall be provided with two kerb adapters and pipes across the verge. Kerb adapters shall be provided in accordance with Standard Drawings R-08. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements.

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.*

100 **Prior to release of the Subdivision Certificate**, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- all stormwater has been directed to a Council approved drainage system.

Reason: *To ensure the development is completed in accordance with the conditions and approved engineering construction design plans.*

CONSOLIDATION

101 **Prior to release of the Subdivision Certificate**, proposed lot 23 to be combined with lot 22.

Reason: *To manage stormwater quality and quantity and to protect the environment.*

DEVELOPMENT/SUBDIVISION NOTES

1. Approval is required for all retaining wall structures (including rockwalls, sleepers, crib walls and the like) proposed to be erected on the land.
2. Earthworks shall not take place without prior Council approval.
3. Benching (i.e. cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a development application to build on the land.
4. Council's planning instruments require a development consent for most forms of advertising signs and structures. Development Control Plan No. 36 Outdoor Advertising Structures (as amended) sets out standards for various forms of advertising. Information is available from Council.
5. All lots created shall be maintained by regular mowing, slashing or the like. Maintenance shall prevent excessive growth of vegetation to reduce fire hazard and/or vermin.
6. Subdivision and civil works are subject to a levy under the Building and Construction Industry Long Service Payments Act 1986 for works valued over

\$25,000. It is the responsibility of the proponent to satisfy Council that where a levy is applicable, payment has been made prior to the release of the Subdivision Certificate.

7. The Subdivision Certificate shall not be released by Council until all conditions of this Development Consent Notice have been complied with to the satisfaction of Council.
8. Council's Planning Services Section shall certify the satisfactory completion of all civil works prior to release of a Subdivision Certificate. Bonding arrangements for construction of civil works shall not be accepted. Exceptions shall only be for maintenance of work periods and/or by written approval of Council.
9. The applicant or developer is advised that Water and Sewerage works cannot be certified by private certifiers.
10. The proposed landscaping plan is not to incorporate any environmental weeds as identified on the Far North Coast Weeds website, www.fncw.nsw.gov.au.
11. **The proponent shall not commence** construction of any part of the water management works for either the commercial building or commercial/residential subdivision **prior to receiving an Activity Approval** specifically for the water management works and plans with Council's stamp of approval imprinted thereon. The proponent should note:
 - a) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
 - b) If applicable, an approved Road Opening Permit and Traffic Management Plan must accompany the application for Activity Approval.
 - c) Processing applications may take up to twenty-eight (28) days. Council will return the plans within twenty-eight (28) days of their receipt provided no amendments are required.
 - d) A set of approved plans must be kept on site during construction. Variations proposed during construction must have Council's prior approval.
 - e) All works shall be the subject of a Plumbing Permit and Minor Works Permit purchased from Council. Permit fees and inspection fees apply. The number of inspections will be nominated on the Activity Approval. Fees are as adopted at the time of payment and as set out in Council's Fees and Charges.

(Councillors Clough/Smith) (BP10/588)

Section 375A Voting Record

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

Voting against: Nil.

12.3 Sale of Koala Child Care Centre

240/10

RESOLVED that:

1. Council accept the revised offer of \$520,000 from Luisa Marchant and Pierina Paron Berry to purchase the Koala Child Care Centre and business.
2. The General Manager be authorised to finalise negotiations and enter a contract for sale of the facility subject to completion of a satisfactory financial background check of the successful parties.
3. The contract for sale be executed under seal of Council.
4. In the event that the financial background check is not to the satisfaction of Council, or any other aspect of the negotiations cannot be resolved to the satisfaction of Council, the General Manager be authorised to conduct negotiations with the other respondents to the process in the following priority order based on prices submitted and report again to Council:
 - (1) Lisa Martin;
 - (2) Jennifer Cornell;
 - (3) Jennifer Morrin;
 - (4) Rhian Mannix and Leesa Maher.

(Councillors Graham/Marks) (BP10/608)

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

Voting against: Councillors Battista and Ekins.

12.4 Nimbin Caravan Park

241/10

RESOLVED that:

1. Council proceed with an open tender process for lease of the Nimbin Caravan Park, noting that any lease could not commence until the expiration of the current

management contract in April 2011.

2. Council write to the existing managers of the facility and the permanent residents to advise of the decision.

(Councillors Graham/Chant) (BP10/139)

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

Voting against: Nil.

12.5 Additional funding for Roads and the Environment

242/10 **RESOLVED** that that the objective to finance an extra \$500,000 for roads and \$200,000 for the environment is considered during the review of the Lismore Community Strategic Plan 2008-2018 in 2012.

(Councillors Smith/Graham) (BP10/580)

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

Voting against: Councillors Yarnall and Ekins.

12.6 September 2010 Quarterly Budget Review Statement

A MOTION WAS MOVED that:

1. Council adopt the September 2010 Quarterly Budget Review Statement for General, Water and Wastewater Funds.
2. This report be forwarded to Council's Auditor for information.

(Councillors Clough/Chant) (BP10/579)

AN AMENDMENT WAS MOVED that A MOTION WAS MOVED that:

1. Council adopt the September 2010 Quarterly Budget Review Statement for General, Water and Wastewater Funds.
2. This report be forwarded to Council's Auditor for information.
3. The uncommitted funds from the RTA contract works reserve be referred to the Infrastructure Assets Policy Advisory Group.

On submission to the meeting the AMENDMENT was approved and became the MOTION.

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

Voting against: Nil.

243/10 **RESOLVED** that:

1. Council adopt the September 2010 Quarterly Budget Review Statement for General, Water and Wastewater Funds.
2. This report be forwarded to Council's Auditor for information.
3. The uncommitted funds from the RTA contract works reserve be referred to the Infrastructure Assets Policy Advisory Group.

(Councillors Yarnall/Graham) (BP10/579)

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

Voting against: Nil.

12.7 2010 Supplementary State of the Environment Report

244/10

RESOLVED that:

1. Council endorse the 2010 State of the Environment (SoE) report as attached and submit it to the Division of Local Government by 30 November 2010.
2. Once adopted by council, that council publicly promote the SoE and take into account any feedback which may influence council's response to local environmental impacts.

(Councillors Clough/Smith) (BP10/562)

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

Voting against: Nil.

12.8 Proposed Amendment to Council's Wastewater Charging Policy

245/10

RESOLVED that Council's *Wastewater Usage Charging Strategy* be amended in the following manner:

1. Insertion of a new Clause 3.2.1 as follows:

3.2.1 Exceptional Circumstances

In circumstances where the development of a given property does not match the categories of development listed within Appendix 1 to this strategy, Council may determine alternative means of determining non-residential wastewater charges applicable to this property. Any alternative means of calculating wastewater charges determined under this clause must be authorised by Council's General Manager.

2. Amendment of the second paragraph of Clause 3.3.1 to read:
The annual charge will be calculated as per Category 1 (3.2 or 3.2.1 above).
3. The amendments apply to the calculation of non residential charges from 1 July

2010.

(Councillors Smith/Marks) (BP10/576)

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

Voting against: Nil.

12.9 Review of Telecommunications Services

246/10 **RESOLVED** that Council:

1. Note the current contractual obligations with Telstra Corporation Ltd for telecommunications services outlined in this report will be maintained until the contract expires in August 2011.
2. Prior to entering a new service contract which may be procured through either a tender process or by utilising existing Contracts available from NSW Government, the proposed future arrangements be reported to Council for endorsement.

(Councillors Graham/Clough) (BP10/578)

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

Voting against: Nil.

At this juncture Councillor Ekins left the meeting.

12.10 15 Millar Street - Asset Protection Zone for Bushfire Protection

247/10 **RESOLVED** that:

1. The owners of 15 Millar Street be advised that Council supports the principle of providing an easement on adjoining Council land for the purpose of complying with bushfire risk requirements, to enable the preparation of documentation in support of their proposed development application.
2. The owners of 15 Millar Street also be advised that Council reserves the right to further consider any finalised proposal for an easement following notification of the full requirements of the NSW Rural Fire Service.
3. The General Manager be authorised to progress the matter administratively in regard to the preparation of easements, etc.
4. The adjoining owners be informed of Council's in principle agreement.

(Councillors Meineke/Graham) (BP10/582)

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

Voting against: Nil.

12.11 Tender No. T2011-12 - Concreting Works

248/10

RESOLVED that:

1. Council award the contract for concreting works for the period to 31 October 2011 to MWL & Co Pty Ltd.
2. Council note that, subject to satisfactory performance by the contractor, the contract contains an option to extend the contract for an for an additional year.
3. The General Manager finalise details and proceed to execute a formal instrument of agreement with MWL & Co. Pty Ltd.

(Councillors Graham/Marks) (BP10/584)

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

Voting against: Nil.

12.12 Tender No. T2011-10 - Pavement Stabilising Works

249/10

RESOLVED that:

1. Council accept all tenders received for pavement stabilisation works with works to be offered to suppliers on a priority order basis.
2. Based on the assessment of the tenders received, the priority order of suppliers is:
 1. Stabilised Pavements of Australia
 2. Downer EDI Works
 3. Accurate Asphalt & Road Repairs.
3. Available work will first be offered to the highest priority supplier, and if they are unable or unavailable to undertake the work, it will then be offered to the second and third in turn.

(Councillors Meineke/Battista) (BP10/590)

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

Voting against: Nil.

At this juncture Councillor Ekins returned to the meeting and Councillor Chant left the meeting.

12.13 Tender No. 2011-11 - Laying of Asphalt

250/10

RESOLVED that:

1. Council accept all tenders received for the Laying of Asphalt with works to be offered to suppliers on a priority order basis.
2. Based on the assessment of the tenders received, the priority order of suppliers is:
 1. Clark Asphalt Pty Ltd
 2. Boral Asphalt
 3. Mid Coast Road Services
 4. J&S Profiling.
3. Available work will first be offered to the highest priority supplier, and if they are unable or unavailable to undertake the work, it will then be offered to the second through to fourth priority suppliers in turn.

(Councillors Meineke/Smith) (BP10/592)

Voting for: Councillors Houston, Meineke, Clough, Marks, Smith, Battista, Dowell, Graham, Yarnall and Ekins.

Voting against: Nil.

At this juncture Councillor Chant returned to the meeting.

12.14 2009/10 Financial Reports

251/10

RESOLVED that Council, having formed an opinion on the audited 2009/10 Financial Reports and having presented them to the public, formally adopts the 2009/10 Financial Reports as tabled.

(Councillors Smith/Marks) (BP10/605)

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

Voting against: Nil.

12.15 Delivery Plan Progress Report - September 2010

252/10 **RESOLVED** that the report be received and noted.

(Councillors Graham/Clough) (BP10/625)

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

Voting against: Nil.

12.16 Council Meetings and Public Forums for 2011

253/10 **RESOLVED** that:

1. The first ordinary meeting of Council be held on Tuesday, 8 February 2011 at 6.00pm and the second Tuesday of the month thereafter.
2. The Rural Contact Forums be held at the following locations and dates:

Jiggi	21 March
Wyrallah	18 April
Dorroughy	16 May
Caniaba	15 August
Clunes	19 September
Nimbin School of Arts	21 November.
3. The Policy Number 1.2.7 be amended to reflect the deletion of the City Contact Forums and the increase of the Rural Contact Forums to five plus the Nimbin Community Meeting.

(Councillors Graham/Clough) (BP10/612)

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

Voting against: Nil.

12.17 Investments - October 2010

254/10 **RESOLVED** that the report be received and noted.

(Councillors Smith/Marks) (BP10/586)

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

Voting against: Nil.

Documents for Signing and Sealing

14.1 Documents for Signing and Sealing

255/10 **RESOLVED** that the following documents be executed under the Common Seal of the Council:

Plan of Subdivision and sale of land in Bristol Circuit, Goonellabah (P30579)

A plan of subdivision has been prepared for Lot 54 DP 1137015 creating three residential allotments and a residue allotment and Section 88B Instrument creating and releasing easements.

The Mayor and General Manager be authorised to sign and affix the Council seal to plan of survey, Section 88B Instrument, Contracts for Sale of Land (three lots), transfer documents and any other documents deemed necessary to complete this transaction.

Licence for Hire Car desk at Lismore Airport - Surrender of Licence and issue of new Licence (P25804)

The franchise for Thrifty Car Rental has been sold. The existing licence to Kingmill Pty Ltd is being surrendered and a new licence is being issued to Jonday Holdings Pty Ltd for the remainder of the original term expiring on 30 June 2013.

The Mayor and General Manager be authorised to sign and affix the Council seal to the Deed of Surrender and new Licence.

Licence for Lismore Community Garden – 50 Brewster Street, Lismore(P1296)

A licence was granted for a term of three years from 1 July 2009 in favour of Rainbow Region Community Farms Inc and Northern Rivers Social Development Council to establish the garden. Northern Rivers Social Development Council lost its funding for this project effective 30 June 2010. A new licence in favour of Rainbow Region Community Farms is being issued for the remaining two years of the term.

The Mayor and General Manager be authorised to sign and affix the Council seal to the new Licence.

(Councillors Marks/Chant) (BP10/628)

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

Voting against: Nil.

Financial Assistance – Section 356

15.1 Financial Assistance – Section 356 Report

256/10 **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/Smith) (BP10/591)

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

Voting against: Nil.

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

Budget Approved: \$21,400 Spent to Date: \$0

St John's College, Woodlawn requesting Council discount hire fees (\$10,221) for use of the City Hall for HSC examination in October.

Recommendation: In accordance with Clause 5 of the policy, a donation of 25% of the hire fee applies. **\$2,555.25**

Lismore Music Teachers Collegiate requesting Council waive all hire fees (\$796) for a concert for secondary music students featuring over 300 secondary school students at the City Hall on 7 December 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. **\$199.00**

Funky Moves Dance Studio requesting Council discount hire fees (\$4,550) by 50% during Term 3 due to the air conditioning not functioning and the amenity of the space is greatly reduced because of the weather. An entrance fee is to be charged.

Staff Comment: Council approved a 50% reduction in hire costs for Term 1 due to the extreme heat and humidity. This equated to a reduction in charges of approximately \$2,250. A similar request for Term 2 was not supported as weather conditions were different. While it is acknowledged that the air conditioning is not working and insufficient funds exist to replace it, a reduction in charges because of the weather, which has been relatively mild during this period, is not supported.

Recommendation: Not agree to Funk Moves Dance Studio's request to reduce hire fees for the use of the Dance Studio for Term 3. **\$0.00**

Spiritual Assembly of the Baha'is of Lismore requesting Council discount hire fees (\$129) for an annual dinner and multicultural dance night for the presentation of children's work for teachers, parent and children at the City Hall on 12 November 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**

The Lismore Music Festival Society requesting Council waive all hire fees (\$13,174) associated with the annual Lismore Eisteddfod held at Lismore City Hall 6 – 24 September 2010. The festival provided some 4,000 participants aged from 4 to 70 plus years the opportunity to gain valuable performing arts experience.

Staff Comment: Council has waived all hire fees for this event for some considerable time. The request for 2010 is considered consistent with previous years requests.

Recommendation: In accordance with Clause 4 of the policy, a donation of 100% of the hire fee applies.

In accordance with policy.

b) Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (GL390.965.15)

Budget:\$11,000 Spent to date:\$3,701.35

Animal Right & Rescue \$14.55
Caroona Opportunity Shop \$4.91
Multitask \$290.90
Five Loaves \$147.27
Friends of the Koala \$27.27
1st Lismore Scout Group \$0.00
Lismore Soup Kitchen \$14.55
LifeLine \$162.06
Saint Vincent De Paul \$0.00
Westpac Life Saver Helicopter \$50.92

Total **\$712.43**

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

Budget:\$2,700 Spent to date:\$700.00

North Coast TAFE is seeking a donation for the Goori design student tour of Vietnam. **\$50.00**

Anthony James Proberts of Goonellabah is seeking a donation for a TAFE Goori design student tour of Vietnam. **\$50.00**

d) Miscellaneous Donations

Lismore Community College are seeking a waiver of the onsite electricity costs for their picnic in the park event as part of Social Inclusion Week on Sunday, 21 November 2010 at Heritage Park (CI10/29465). **\$70.00**

Matter of Urgency – Solar Feed In Tariffs

A MOTION WAS MOVED that in relation to solar feed in tariffs be considered as a matter of urgency.

(Councillors Yarnall/Clough)

On submission to the meeting the MOTION was defeated.

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

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

Confidential Matters – Closed Council Meeting

257/10 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters:

Item **17.1 Property Acquisition**

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.

Item **17.2 Section 339 Report - Senior Staff**

Grounds for Closure Section 10A(2) (a):

Public Interest Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to personnel matters concerning particular individuals (other than councillors).

(Councillors Chant/Clough)

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

Voting against: Nil.

Resumption of Open Council

That Council having met in Closed Council to consider the following matters:

17.1 Property Acquisition

17.2 Section 339 Report - Senior Staff

Recommends that Council adopt the following recommendations:

17.1 Property Acquisition

That Council defer this matter until Council has held a workshop that addresses:

1. The design issues with the Bruxner connection.
2. The potential Bangalow Road connection.
3. The Section 94 review.
4. The TTM Bruxner corridor study.

And in respect of:

17.2 Section 339 Report - Senior Staff

That Council note the contents of this report and acknowledge compliance with the requirements of Section 339 of the Local Government Act.

17.1 Property Acquisition

258/10

RESOLVED that Council defer this matter until Council has held a workshop that addresses:

1. The design issues with the Bruxner connection.
2. The potential Bangalow Road connection.
3. The Section 94 review.
4. The TTM Bruxner corridor study.

(Councillors Clough/Chant) (BP10/623)

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

Voting against: Nil.

17.2 Section 339 Report - Senior Staff

258/10 **RESOLVED** that Council note the contents of this report and acknowledge compliance with the requirements of Section 339 of the Local Government Act.

(Councillors Clough/Chant) (BP10/581)

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

Voting against: Nil.

Closure

This concluded the business and the meeting terminated at 10.10pm.

CONFIRMED this FOURTEENTH DAY of DECEMBER 2010 at which meeting the signature herein was subscribed.

MAYOR