

COUNCIL Business Paper



LISMORE
City Council

SEPTEMBER 19, 2000



NOTICE OF COUNCIL MEETING

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on TUESDAY, SEPTEMBER 19, 2000, at 6.00pm and members of Council are requested to attend.

At 5.00pm prior to supper a presentation will be made in the Supper Room by David Miles of Ambidji Frontec Pty Ltd re Management of Lismore Airport.

Prior to the Ordinary Meeting commencing a presentation of Local Government Association long service medals will be made to Councillor Crowther.

(Ken Gainger)
GENERAL MANAGER

September 12, 2000

COUNCIL BUSINESS AGENDA

September 19, 2000

PUBLIC ACCESS SESSION:

PAGE NO.

PUBLIC QUESTION TIME:

OPENING OF MEETING AND PRAYER (MAYOR):

APOLOGIES AND LEAVE OF ABSENCE

CONFIRMATION OF MINUTES – Ordinary Meeting 29/8/00

CONDOLENCES

DISCLOSURE OF INTEREST

MAYORAL MINUTES

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CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE

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NOTICE OF RESCISSION MOTION

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

That the subsequent resolution regarding the Memorial Baths be rescinded.

221/00 *RESOLVED that, subject to agreement with the RSL on the land matters and following the expression of interest process, Council authorise the General Manager to short list five registrants, proceed to selective tender for the design of the Memorial Baths Redevelopment and report recommendations for tender selection to Council.*

COUNCILLOR R M Irwin

COUNCILLOR D J Roberts

COUNCILLOR D R Tomlinson

DATE August 29, 2000

(00-13270: P6768)

NOTICE OF MOTION

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

That Council rescind the agreement with the Fullertons dated December 22, 1998.

COUNCILLOR F F Swientek

DATE 15/8/00

STAFF COMMENT BY ACTING GROUP MANAGER-PLANNING & DEVELOPMENT:

(As per Page 6 of previous business paper)

As Council is aware staff have been involved in this matter since the end of 1997. In managing the use of stable waste materials on the Fullerton's property staff have utilised a combination of processes including site investigation, external auditing, attempted mediation, direction and negotiation.

Council at the Ordinary Meeting held October 6, 1998 formally considered this matter and resolved:

1. *The report be noted.*
2. *Council endorse the action taken by staff on this matter and that any future Council involvement relating to health matters be dealt with by staff only.*

On the December 22, 1998 Mr & Mrs Fullerton entered into an agreement with Council basically guiding the management and use of stable waste materials on their property. This agreement was signatured following discussion and amendment to an original draft. The statement that the Fullertons 'signed the agreement under pressure believing that it would end the controversy' is not supported. The agreement was an optional matter recommended by staff to resolve the matter but is one that has not been committed to by the Fullerton's. If they signed the agreement with that commitment to end the controversy and actioned the agreement the matter would have at that point not required any further Council involvement. Copies of this correspondence are provided as attachments. The outcome of a signed agreement is a result that would have been anticipated from the original mediation process should it have continued. The agreement is seen as a reasonable position for all parties and avoided unnecessary legal action to solve a local issue.

Justice Blanch of the District Court handed down a judgement on December 3rd, 1999. He considered a claim in the form of both nuisance and negligence from the adjoining property owner. The judgement states that "there was no evidence which has been produced which establishes the necessary connection which must be proved by the plaintiff".

Justice Blanch comments that what the evidence before the court establishes is that 'they (flies) could have been in nuisance proportions. What has to be established is that they were; not only that they were bred in nuisance proportions on the defendants land but those same flies were the flies that caused the nuisance to the plaintiffs property'. This matter was determined on the lack of evidence presented to the court, not on whether the nuisance existed.

The Notice of Motion is interpreted as requesting that Council have no further role in the management of this matter. This request is not supported as action to date has only resulted from assessments determining intervention as appropriate.

The management of this matter by staff is considered to have been reasonable and appropriate, in what would be recognised as a sensitive and difficult environment.

(00-12534: Z8098)

(00-12528: Z80098,P17483)

Subject/File No: PROVISION FOR AIRPORT MANAGEMENT SERVICES – T20005

Prepared By: CONTRACTS OFFICER, CHRIS ALLISON

Reason: To inform Council of process undertaken in the evaluation of Tenderers

Objective: Council approval of selected Contractors

Management Plan Activity: Client Services / Business & Enterprise

Background:

At the November 23, 1999 meeting of Council, Council resolved to accept a report by the Group Manager Business and Enterprise to undertake a two (2) part process to in order to engage contractors for various services at the new terminal. The report proposed calling for registrations of interest and negotiating directly with the respondents to achieve the most favourable outcome and to form a contract.

Advertisements were placed in the Northern Star, Northern Rivers Echo, the Gold Coast Bulletin and Flight Safety Australia. The advertisements were run over a five (5) week period during February and March with the ROI closing March 28, 2000.

Five submissions were received for the management of the airport, with three of these submissions being non-complying and not considered any further. The remaining two registrants were interviewed and appeared more than capable of undertaking the services required. The two (2) registrants, Robert Wilson, an individual currently employed as the airport manager at the Ayres Rock Airport and Ambidji Frontec Pty Ltd a joint venture between an Australian company, which consults to the aviation industry, and a Canadian corporation which specialises in airport management.

Robert Wilson

The submission from Mr. Wilson proposed a 3 – 5 year term with a remuneration package negotiable to \$85,000, inclusive of a Council registered vehicle. The submission was intended as an employment contract. As a Council employee, this package would also attract on-costs of 37.5%. Mr Wilson would appear more than capable of undertaking the works, however an employment contract was not the intention of the process. In addition, there was no provision for back up services in the event of sickness or holidays.

Ambidji Frontec Pty Ltd

Ambidji Frontec Pty Ltd was formed as a specialist airport and aviation facility management company in the Asia-Pacific region. The Ambidji Group is an Australian company and has extensive experience in the aviation industry, which includes providing consulting services to all levels of government and contracting directly with CASA for a number of projects. The Ambidji Group has undertaken responsibility for partial management of Sale and Ayres Rock Airport and were an unsuccessful bidder for the management of Essendon Airport in Melbourne. The Frontec Corporation is a Canadian company, which currently manages several airports in regional areas in Canada. Ambidji Frontec Pty Ltd have demonstrated that it is capable of undertaking the management of the Lismore Airport. Council established direct contact with two Regional Councils in Canada and received valuable information regarding the airport management credentials of Frontec. Ambidji Frontec have indicated that a full time staff member, currently involved in airport management, would be employed at the Lismore Airport. Their submission also provides back up staff as required.

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Provision for Airport Management Services – T20005

The basis of the financial proposal was that Ambidji Frontec Pty Ltd would take control of the current budget together with additional costs for the employment of staff, administration charges and a management fee. Negotiations between Council and Ambidji Frontec Pty Ltd have now reached a stage where there is agreement with regard to the financial proposal. In addition, negotiations have been undertaken within regard to various contract conditions, which have been agreed to by Ambidji Frontec Pty Ltd, the contract will be a performance based contract for a 5 year term with a five year option, with the following conditions included:

- A full review of the contract after 3 years and should Ambidji Frontec Pty Ltd fail to meet all targets, in particular the proposed accumulative cash position, the contract can be terminated by Council without compensation;
- Operational income over the budgeted income will be split between the contractor and Council;
- Savings in operational expenditure at the end of the financial year, where service levels are maintained are to be split between the contractor and Council; and
- Where the contractor is responsible for generating capital income, Council will pay a bonus, at the rate of 10% of the sale price excluding GST.

Details relating to the agreed financial conditions and contract conditions are provided in Attachment "A".

Manager - Finance & Administration Comments

The Ambidji Frontec Pty Ltd proposal has involved a major review of the operating budgets for the Lismore Aerodrome. This includes the recognition of all marketing opportunities and conservative expenditure allocations. In respect of the proposal, the first year contract cost is estimated to be \$148,000 and the overall budget remains approximately 'break even'.

This contract offers incentives for the contractor to perform above the contract requirements. If achieved, this will result in a financial benefit to both the contractor and council. This arrangement is supported.

I think it is important to note that this contract for Airport Management Services is far more than just employing an Airport Manager. Basically, all responsibilities associated with operations will rest with the contractor. There is a major shift in direction away from day to day management to focusing on outcomes. As we are not experts in the field of airport management, this is the appropriate type of arrangement for this facility. Consequently, if management were undertaken on a day labour basis it is unlikely that the same benefits would be derived.

A summary of the total budget is included as Attachment "B".

Group Manager – Business & Enterprise

The principle of the airport being a self-funding activity of Council has underpinned the airport operations for some years. The objective of Council management has been to determine the level of income and allocate expenditure accordingly. Historically to reduce the cost of operating the airport, management of the facility was brought back to a minimum where 20% of an engineering position was allocated for the purpose. This has seen the level of service and standards of the airport as a whole decline to a level that is not in accordance with a regional airport.

Limited effort, prior to the last two years, was put into the evaluation of the income earning capacity of the airport. To achieve improved financial performance other airlines, potential industries and ancillary activities must have the Lismore Regional Airport marketed to them. This requires time and resources that Council does not currently have. This was recognised in the independent report on airport development and was the catalyst that set Council on this course of action.

The original forecasts for the contract manager prepared in 1998 based on data from 1996-7 provided a sum of \$65,000 for the purpose. The allocation of additional responsibilities such as the collection of revenue, invoicing of services and the novating of all existing leases and contracts on site to the head agreement, has broadened the responsibilities and consequently decreased the amount of resources required from Council. Based upon the outcome of the expressions of interest process the allocation of \$65,000 in the 2000-01 budget was not sufficient. Robert Wilson as an employee of Council would have required an allocation of \$85,000 plus 37.5% or \$116,875. While Mr Wilson had unquestioned ability to manage the airport he could not demonstrate, to the same level as Ambidji Frontec Pty Ltd, an ability to generate further revenue streams that are critical for ongoing development.

The revised Ambidji Frontec proposal originally set a best case and worst-case scenario. (See Attachment "C") A mid line between these two cases, that met the self funding principal, was set as the benchmark for achievement by Ambidji Frontec. This benchmark includes a payment over and above salary and oncosts to Ambidji Frontec for General Overhead of 6% and a Management Fee of 14% of expenditure. These fees total \$52,753 in Year 1 and rise to \$67,342 in Year 5. The salary proposed for the commencement of the arrangement is \$65,000 per annum plus on-costs and establishment costs.

The agreement provides incentives for the sharing of additional income or expenditure savings provided overall financial outcomes were achieved and service levels as stipulated in the contract are met. This outcome provides a mechanism for Council and Ambidji Frontec to share in the upside of the agreement.

Should Ambidji Frontec fail to meet the cumulative financial outcome as disclosed in the agreement within three years Council has the right to terminate the contract with only compensation accrued for long service leave. Any over expenditure of budget line items must be approved by Council, which limits the possibility of adverse budget variations occurring without Council's consent. This arrangement limits Council's downside substantially and apart from normal termination provisions, provides an avenue to exit the agreement should financial expectations not be met.

Including a contribution of \$20,000 plus CPI each year to Lismore City Council Support Service Charges and repayment of principal and interest charges on airport loans the financial projection included in the agreement allows for a cumulative deficit after 5 years of \$14,503. This deficit is to be funded from existing airport reserves, retaining the self-funding status of the airport. Should the Support Service Charges be fully excluded, the outcome after 5 years would be projected as \$91,680. The correct projected outcome will depend on future budget negotiations.

In summary, in accordance with Council resolution a Registration of Interest process for the management of the airport was undertaken. Of all respondents Ambidji Frontec Pty Ltd have demonstrated the greatest capacity to manage the technical aspects of the airport, develop the revenue earning capacity of the airport and to have the necessary systems and procedures to undertake the routine invoicing and payment of creditors as part of the service provided. This is offered in a performance based contract that if achieved preserves the self-funding principle of the airport.

Public Consultations

Public consultations were sought throughout the airport strategy development process. The public were invited to register expression of interest as part of the process.

Other Group Comments

Not required.

Conclusion

Although only two conforming registrations of interest were received for the management of the airport, both submissions were of a high standard. Ambidji Frontec offered a complete package for the management of the airport and although the company has not directly managed an airport in Australia, the company is proposing to employ staff with the relevant experience. In addition, the Canadian corporation has extensive experience in airport management in Canada, in particular the management of airports for several Councils in rural areas of Canada.

Recommendation GM28

- 1 That Council resolve to contract with Ambidji Frontec Pty Ltd for a five year period, with a five year option, for the management of the Lismore Airport.
- 2 The Mayor and General Manager be authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.

Subject/File No: HEPBURN PARK PLAN OF MANAGEMENT
(S375)

Prepared By: Alex Wilford, Recreation Planner

Reason: The Draft Plan of Management for Hepburn Park has been exhibited and submissions invited

Objective: Council adoption of the final Plan of Management for Hepburn Park

Management Plan Activity: Community Services

Introduction:

The public exhibition and submission period for the Draft Plan of Management for Hepburn Park ended on September 4, 2000.

The purpose of this report is to advise Council of the results of the exhibition and submission process and to seek formal adoption of the Plan of Management. A copy of the Draft Plan was forwarded to all Councillors for the July 18, 2000 meeting.

Background:

At the July 18, 2000 Council meeting it was resolved that –

1. Council give in-principle endorsement of the Draft Plan of Management for Hepburn Park.
2. The Draft Plan be placed on exhibition and public submissions be invited until September 4, 2000.

The Draft Plan was subsequently placed on exhibition and public submissions were invited. This process was undertaken over a 6-week period until September 4, 2000.

During this period, a copy of the Draft Plan was made available for public examination at Council's Administration Centre. Advertisements notifying the community of the Draft Plan exhibition and submission period were placed in the Northern Star and Northern Rivers Echo. Copies of the Draft Plan were previously forwarded to all key stakeholder groups.

No submissions to the Draft Plan were received.

Key Elements of the Plan

The key elements of the Plan of Management are listed below. Further details are contained in section 4 of the Plan.

Access and Parking

- Provide emergency vehicle access points.
- Provide disabled parking and passenger set down points.
- Provide adequate disabled access to any new facilities.
- Investigate strategies to improve and increase car parking.

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Hepburn Park Plan of Management

Amenities and Recreation Facilities

- Enable the upgrade of field lighting.
- Enable the provision of playground equipment when/if required according to community needs.
- Enable the provision of spectator and/or informal park seating.

Landscaping, Tree Planting and Park Maintenance

- Ensure satisfactory standard and frequency of park maintenance.
- Select and install a suitable ground irrigation system.
- Increase shade provision through native shade tree planting.

Sports Facility Development

- FNC Hockey to develop a new clubhouse facility as proposed within the area they lease.
- Enable the development of a table tennis facility by the FNC Table Tennis Assoc. within the area leased by the Lismore RSL Club.
- Enable extension (second storey) and/or upgrade of the existing clubhouse facilities used by the Lismore Touch Association and Far North Coast Hockey affiliates.

Process following Council Adoption of the Plan

Upon Council adoption of the final Plan, the following will be undertaken:

- Send the affected lessees a copy of the final Plan;
- Make a copy of the final Plan available for public inspection at Council's Administration Centre;
- Prepare a media release regarding Council's adoption of the Plan;
- Advertise adoption of the Plan in Council's Public Notices.

Implementation and Budgetary Requirements

The objectives and performance targets for the park, the means in which these will be achieved and assessed and their priorities are outlined in section 5 of the Plan.

It is important to note that major works such as the development of the proposed hockey clubhouse facility and table tennis facility are to be funded and implemented by the respective sporting associations. Far North Coast Hockey have secured a \$130,000 grant from the Department of Sport and Recreation towards their new clubhouse facility.

Council's responsibilities for implementation predominantly relate to continued park maintenance and minor improvements. \$10,000 has also been allocated within the Urban Sportsground Fund for work at Hepburn Park in 2000/2001.

Manager - Finance & Administration Comments

Not required.

Public Consultations

Extensive consultation with key stakeholders, local residents and relevant Council officers occurred during the preparation of the Draft Plan. The exhibition and submission period provided further opportunity for public input and feedback before finalising the Plan.

Full details of the consultation process and results are contained within section 3.4 of the Plan.

Conclusion

The Plan of Management for Hepburn Park reflects the results of consultation with key stakeholder groups, the local community and relevant Council officers. The Plan presents objectives, targets, actions and priorities for the future development, management and use of this important sport and recreation area.

In accordance with provisions of the Local Government Act 1993, the Draft Plan has been exhibited and public submissions were invited. No submissions were received, indicating community and stakeholder acceptance of the Plan.

Recommendation (COR39)

That Council adopt the Plan of Management for Hepburn Park.

Subject/File No: ADAM GILCHRIST PARK – DRAFT PLAN OF MANAGEMENT
D/980007

Prepared By: Alex Wilford, Recreation Planner

Reason: A Draft Plan of Management has been prepared for Adam Gilchrist Park.

Objective: To seek Council endorsement of the Draft Plan of Management for Adam Gilchrist Park before it is placed on public exhibition.

Management Plan Activity: Community Services

Background:

Council granted consent for development of the Caniaba Village (Perradenya Estate) subdivision (Development Application No. 98/7 Amended) in August 1999. As part of the conditions of consent the applicant is required to:

- transfer title of Lot 116 (Adam Gilchrist Park) to Council free of cost before registration of the final plan of subdivision for Stage 1.
- provide a tennis court, changeroom/pavilion, and associated parking, full size oval, childrens playground and barbecue facilities at the release of the final plan of subdivision for Stage 1.
- submit a Plan of Management for Adam Gilchrist Park in accordance with the Local Government Act 1993 (LGA 1993) prior to the land being dedicated to Council.

Plans of management must be prepared for all Council owned community land.

Construction of the Park was recently completed and a Draft Plan of Management has been prepared by Walker and Newton Consulting Surveyors and Planners. A copy of the Draft Plan is separately attached.

The purpose of this report is to seek Council's in-principle endorsement of the Draft Plan before it is placed on public exhibition. In accordance with provisions of the Local Government Act 1993 (LGA 1993) the Draft Plan must be exhibited for a minimum 28 days with a further 14 days allowed for submissions.

Park Facilities

Adam Gilchrist Park is located on Fredericks Road, Caniaba and incorporates the following facilities:

- Multi-use sports oval
- Outdoor basketball court
- Two tennis courts
- Clubhouse
- Skate park
- Childrens playground
- Car parking

All facilities are newly constructed and are in excellent condition. A site layout plan is contained within the Draft Plan. No additional facilities are proposed within the five-year term of the Plan.

Key Elements of the Draft Plan

The park will provide a range of structured and unstructured sport and recreation opportunities for the local community. The sports oval will predominantly cater for organised team sports during both winter and summer. The tennis courts and basketball court will be available for organised sport and general community recreational use. The skate park is available for general community use. The clubhouse premises will be available in conjunction with organised sporting events and for various community uses (public meetings, etc.)

The guiding principles that underpin the ongoing management of the park are listed in section 3.7 of the Draft Plan. More specific management issues and recommendations are discussed in section 4. As the park is already fully developed, the recommendations focus upon ongoing maintenance, management and improvement of the park and its facilities.

A local Community Association is to be established to manage several of the park's assets. It is anticipated that the Community Association will be a legally constituted incorporated body. It is intended that the Association will enter into a legal agreement with Council with regard to its management role and responsibilities.

Maintenance of the park and its facilities will remain the responsibility of the developer until a time mutually agreed between the developer and Council. The timing of the transfer of maintenance responsibilities is still under negotiation as part of the Development Application process.

Process following Council's Endorsement

Upon Council endorsement of the Draft Plan, the following will be undertaken:

- The Draft Plan will be placed on public exhibition and submissions will be invited. This will be undertaken over a minimum six-week period.
- Advertise the exhibition of the Draft Plan in the Northern Star and Northern Rivers Echo.
- Consider any public submissions received and review the Draft Plan.
- Submit the Final Plan to Council for adoption. Details of any submissions received will be provided for Council's consideration.
- Advertise adoption of the Final Plan.

Implementation and Budgetary Requirements

There will be no immediate implementation or budgetary requirements for Council. In accordance with the provisions of the development consent conditions, the maintenance of the park will remain the responsibility of the developer until a time mutually agreed between the developer and Council. Recurrent maintenance costs will be incurred once the responsibility for maintenance is transferred to Council.

Manager - Finance & Administration Comments

It is clear that Council will not be required to commit to the development of this facility. Our commitment will be to the ongoing maintenance when this responsibility is transferred to Council.

The annual maintenance budget for Parks and Recreation will need to be increased once this situation occurs.

Public Consultations

The developer held several formal and informal public meetings to define the initial concept for the Perradenya Estate, including the park. Monthly community information meetings have also been conducted to allow ongoing community involvement with the park and its facilities and management.

Council's Recreation Planner, Recreation Officer, Public Land Strategic Management Team and the Lismore District Sports Association have also been consulted during the preparation of the Draft Plan.

The public exhibition and submission period will provide further opportunity for community feedback and input.

Conclusion

A Draft Plan of Management for Adam Gilchrist Park has been prepared by Walker and Newton to comply with conditions of development consent for the Perradenya Estate subdivision and provisions of the Local Government Act. The Plan will direct the management and use of the park over the next five years.

Whilst there has been considerable community input to the Draft Plan, the exhibition and submission period will provide the opportunity for further community input and feedback before finalising the plan.

Recommendation

That –

1. Council give in-principle endorsement of the Draft Plan of Management for Adam Gilchrist Park.
2. The Draft Plan be placed on exhibition and public submissions be invited in accordance with the Local Government Act 1993.

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| Subject/File No: | REVIEW OF LISMORE LOCAL ENVIRONMENTAL PLAN 2000 |
| Prepared By: | Strategic Planner – Bruce Blackford |
| Reason: | To identify existing anomalies in LEP 2000 |
| Objective: | To obtain Council's resolution to prepare a draft LEP Amendment to rectify anomalies in the LEP |
| Management Plan Activity: | Strategic Planning |

Background:

Lismore Local Environmental Plan 1992 contained a number of anomalies and inconsistencies, many of which only became apparent over an extended period of using the Plan. Some of these were carried over into LEP 2000. A list of known anomalies in LEP 2000 has now been compiled together with other opportunities that have been identified for improving the application and readability of the existing document. These are listed below by LEP clause number in the order that they appear in the LEP. Included with the list is a short discussion of the problems that have been encountered with each clause and recommendations for addressing those problems.

Clause 5 – Adoption Of Model Provisions:

The LEP adopts a number of clauses in the Environmental Planning and Assessment Model Provisions 1980 including the following:

- **Clause 4(1) Model Provisions - Definitions**

The LEP adopts many of the definitions contained within clause 4(1) of the Model Provisions except for 20 definitions separately listed under clause 5. The LEP adopts a further 50 definitions of its own as listed in Schedule 7. This makes the LEP fairly cumbersome to use without access to a consolidated list of adopted definitions that includes the adopted ones from the Model Provisions and those listed in Schedule 7. It is recommended that all definitions adopted by the LEP be included in Schedule 7 as a 'one stop shop'. This will make the LEP more user-friendly for both staff and members of the public. Clause 4(1) would then be deleted from the list of adopted Model Provisions clauses in the LEP.

- **Clause 32 Model Provisions- Extractive Industry, Transport Terminal**

The LEP adopts clause 32 of the Model Provisions that sets restrictions on direct access to main and arterial roads for extractive industries and transport terminals. The problem is that the LEP does not adopt the Model Provisions definition of 'transport terminal' so the clause is rendered inoperable. The LEP has a separate definition of 'goods transport terminal'. It also has its own clause (clause 25) for restricting access to a main road for certain types of development. These developments are listed in Schedule 3. To overcome this problem it is recommended that 'goods transport terminal' and 'extractive industries' be included in Schedule 3 as development referred to in clause 25. Clause 32 could then be deleted from the list of adopted Model Provisions clauses in the LEP.

Clause 11 – Subdivision of Land Generally

This clause provides that 'Despite any other provision of this plan' a person may subdivide land only with development consent granted in accordance with that Division. The clause would appear to be in contradiction with other provisions of the LEP such as clause 36(6), that expressly allows subdivision for certain purposes without consent. The clause also refers to consents granted in accordance with this Division. The restructuring of the LEP has changed the divisions of the plan and the reference to 'division' should be deleted.

It is recommended that the wording of the clause be amended to read – *‘Except as otherwise provided in this plan, a person shall not subdivide land to which this plan applies except with the consent of the Council.’*

Clause 18 – Preservation of Trees

For the purposes of clarification it is recommended that the following wording be added to the beginning of subclause (2): *‘Despite any other provision of this plan’*

Clause 19 - Development of Land near adjoining Zones

This clause enables certain development to be carried out on land in any zone (except 7(a) & 7(b)) that is permissible in an adjoining zone providing the site is within 50 metres of the zone boundary. There is no problem with the operation of the clause as it applies to the listed zones, however there are some areas in the LGA that are not zoned under the LEP. These areas include main roads and rivers such as the Wilson’s River and Leycester Creek. It is appropriate that any development proposal within such areas should be considered in terms of what is permissible in the adjoining zone. It is therefore recommended that the provisions of clause 19 be expanded to include any land not zoned under the Lismore LEP.

Clause 23 – Irrigation, Forestry and Flood Mitigation Works

It is recommended that the word *‘reafforestation’* under 23(d) be changed to *‘reforestation’*.

Clause 24 - Development for the Purpose of Advertisements

This clause is very detailed (being over four pages long) and contains much information that could otherwise be included in a DCP. It is recommended that the clause be amended as follows:

- *That subclause (1)(Definitions) be deleted and that the definitions be inserted in DCP 36 – Outdoor Advertising Structures.*
- *That the Table to subclause (2) be deleted and that this also be included in DCP 36.*
- *That the remaining part of subclause (2) be reworded so as to refer to advertisements listed in DCP 36. (DCP 36 would need to be amended and adopted by Council prior to the gazettal of the LEP amendment).*

Clause 27 – Local Art and Craft Galleries

Having a separate clause that relates to one form of land use only adds a layer of complexity to the LEP. This could be avoided by inserting the definition in Schedule 7 and including the use as either ‘with consent’ or ‘prohibited’ within each of the zone tables. It is also considered that the current requirement for items of art and craft to be locally made is unnecessary and in any case would be difficult to enforce. It is therefore recommended that:

- the word ‘local’ be removed from the definition,
- the definition of ‘art and craft galleries’ be inserted in Schedule 7 (Definitions),
- art and craft galleries be included within the relevant zone tables as either permissible or prohibited development, and
- art and craft galleries be included within Schedule 3 – Development with restricted access to roads.

Clause 28 – Additional Development on Certain Land

Subclause (2) of this clause is virtually incomprehensible and appears to serve no functional purpose. It is recommended that it be deleted.

Clause 29 – Zone Objectives and Zone Control Tables

This clause is currently within Part 3 of the LEP but as it refers to all zones in the LEP it is recommended that it be moved to Part 2 – General Provisions of the LEP.

Clause 30 – Zone No 1(a) (General Rural Zone)

1. NSW Agriculture (in a letter to Council dated June 1999) has suggested that the zone objectives for the 1(a) zone are too broad, partly conflicting and in need of tightening. It is agreed that the existing objectives are very wordy and would benefit by being reduced in number and condensed so as to be more succinct. The following new objectives have been drafted and are recommended as alternatives to the existing ones:
 - (a) to maintain and encourage sustainable agricultural activities within the zone; and
 - (b) to enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment; and
 - (c) to prevent the fragmentation of rural land; and
 - (d) to restrict the establishment of inappropriate traffic generating uses along main road frontages; and
 - (e) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the character and nature of the locality.
2. There are a number of uses currently permitted with development consent in the 1(a) zone that are considered to be potentially high impact development and should be listed as 'advertised development'. These include abattoirs, extractive industries, generating works, institutions, liquid fuel depots, mines, and offensive or hazardous industries. It is recommended that they be listed under subclause 30.4 (Only with development consent – advertised development).
3. Commercial premises are listed as a prohibited use under subclause 30.4 *'unless allowed with consent'*. This wording is illogical. Under certain circumstances commercial premises may be permitted in the 1(a) zone where the use is ancillary to another approved use. This would be considered on merit and does not need to be explicitly stated in the zone tables. In any case the current wording is confusing. It is recommended that the words – (*unless allowed with consent*) be deleted.

Shops are also listed as a prohibited use 'other than convenience shops and shops ancillary to a permitted use'. The wording *'and shops ancillary to a permitted use'* is considered superfluous and it is recommended that this be deleted.

Clause 31 – Zone No 1 (b) (Agricultural Zone)

1. NSW Agriculture has suggested a minor modification to objective (a) under subclause 31.1 by adding the words *'for agricultural production'* to the end of sentence. This suggestion is supported.
2. It is recommended that an additional objective be added to the 1(b) objectives as follows: *'To prevent the fragmentation of rural land'*.
3. There are a range of permissible uses in the 1(b) Agricultural zone that could be considered to be inappropriate uses of prime agricultural land and would certainly be inconsistent with the zone objectives. These include abattoirs, airfields, caravan parks, extractive industries, helipads, heliports, institutions, liquid fuel depots, mines, offensive or hazardous industries, service stations and tourist facilities (other than rural tourist facilities). It is recommended that these uses be listed as prohibited development under subclause 31.5.

4. Shops are listed as prohibited development under subclause 31.5 *'unless allowed with consent'*. This wording is illogical and it is recommended that the wording be changed to *- shops (other than convenience shops)*.
5. 'Large scale generating works' are listed as prohibited development in the zone. The same description also appears as prohibited development in the 1(c) zone. Although 'generating works' are defined in the adopted Model Provisions definitions, there is no indication of what 'large scale' might be. It is recommended that the words *'large scale'* be deleted as generating works would be considered inappropriate in both the 1(b) and 1(c) zones.

Clause 32 – Zone No 1(c) (Rural Residential Zone)

Mines are listed as prohibited in the 1(c) zone under subclause 32.5 but not extractive industries. Extractive industries could be considered an incompatible use within a rural residential zone as could offensive or hazardous industries and it is recommended that they be listed as prohibited uses.

Clause 35 – Zone No 1(r) (Riverlands Zone)

1. Given that the primary purpose of the 1(r) zone is to identify rural lands that are subject to flooding, objective (d) of subclause 35.1 would appear to be the principal objective of the zone and would certainly have much greater importance than objective (c). It is recommended that objective (d) be made objective (a).
2. It is recommended that an additional objective be added to the 1(r) objectives as follows: 'To prevent the fragmentation of rural land.'
3. Extractive industries and mines are permissible with consent in the zone however, given the potential impacts of such development, it is recommended that they be listed as advertised development.

Clause 36 – Subdivision and Development in Rural Zones

1. The table indicating minimum lot sizes in the rural zones under subclause (1) could potentially be misleading as some of the minimum areas listed are subject to further qualification in later clauses of the LEP. For example, the 20 ha minimum area for the 1(b) zone may be reduced to 13 ha under certain circumstances as per subclause 36(2). Another example is the 0.2 ha minimum area for the 1(c) zone which can only be achieved when the average area of all allotments created by the subdivision is not less than 0.5 ha (as per clause 40). To clarify the situation it is recommended that:
 - An asterisk be placed against the 20 ha minimum area for the 1(b) zone with a footnote referring to subclause 36(2).
 - In the case of the minimum lot size for the 1(c) zone, it is considered that no useful purpose is served by having separate 'minimum' and 'average' lot sizes. The current situation causes administrative problems when it comes to subsequent subdivisions of larger parcels in the 1(c) zone. It is recommended that the minimum lot size be the same as the average lot size of 0.5 ha. This will not reduce the overall potential lot yield of any unsubdivided land in the 1(c) zone.
 2. Subclause (3)(a) should refer to *'NSW Agriculture'* rather than *'the Department of Agriculture'*.
 3. In the interests of keeping the wording in the LEP straightforward and in plain English, it is recommended that phrase *'the purpose of a building, work, place or land use'* in subclause (4) be replaced with *'a permissible use'*.
-

4. Subclause (5) enables boundary adjustments between rural lots. Subclause (d) of subclause (5) provides that consideration be given to the minimum lot sizes contained in the Table to subclause (1). The 13 ha minimum allowed under subclause (2) should also be a consideration when determining applications involving rural boundary adjustments in the 1(b) zone and it is recommended that this be added to subclause (5)(d).

Clause 37 – Rural Dwellings Generally

This clause deals with dwelling eligibility in the rural zones. Subclause (4)(a) requires that consent only be granted to the erection of a dwelling house where the allotment has an area equal to or greater than the area specified in the Table to clause 36(1). This means that an allotment of between 13 and 20 ha in area in the 1(b) zone, created in accordance with subclause 36(2), or any allotment legally created by boundary adjustment pursuant to subclause 36(5) but less than the minimum specified in the Table to subclause 36(1), would theoretically not have a dwelling eligibility. This was clearly not the intent of the clause and it is recommended that the words *‘or that has been created in accordance with subclause 36(2) or subclause 36(5) of this plan’* be inserted in subclause (4) as an additional head of consideration.

Clause 39 – Rural Workers’ Dwellings

1. Subclause (2) sets out circumstances under which rural worker’s dwellings may be approved on a rural property. NSW Agriculture has recommended that the provisions for rural workers’ dwellings be strengthened by adding the following considerations to subclause (2):

- The principal dwelling is occupied by the landowner or manager or someone engaged in the operation of the farm;
- The dwelling shares the same road access as the principal dwelling;
- The agricultural enterprise has sufficient net return to pay for a rural worker

Council’s draft Rural Housing Strategy lists essential requirements for Council approval of a rural worker’s dwelling as follows:

- The dwelling must be on the same legal title as the principal farm dwelling.
- The dwelling must not require construction of an additional road access.
- The dwelling must be located so that it minimises conflict with adjoining land uses.
- The farm must generate enough income to support the employee who is to be housed in the dwelling.
- Evidence is to be provided showing how the employee will assist in the operation of the farm.
- Evidence is provided that no alternative local labour or housing is likely to be available.

The requirements for rural worker’s dwellings in the draft Strategy address most of the issues raised in NSW Agriculture’s letter. Although the Strategy is still in draft form, it has been publicly exhibited and only 2 of a total 61 submissions received have raised issue with the proposed requirements for rural worker’s dwellings. It is recommended that the requirements for rural worker’s dwellings as listed in the draft Strategy be incorporated with the existing requirements in subclause 39(2) of the LEP together with an additional requirement *‘that the dwelling be rendered uninhabitable should its use as a rural worker’s dwelling cease’*

2. It is unclear from the current wording in subclause (3) whether the restriction on the number of dwellings per hectare includes the principal farm dwelling or refers only to rural workers’ dwellings. It would appear that the intention is to apply to rural workers’ dwellings only and if this is the case, then the clause should be reworded to clearly state this. It is recommended that the wording *‘the total number of dwellings will not exceed...’* be changed to *‘the total number of rural workers’ dwellings will not exceed...’*

Clause 40 – Rural Residential Development

As previously discussed under clause 36, it has been recommended that the minimum lot size for the 1(c) zone be 0.5 ha. This would make subclause (2)(e) of this clause obsolete and it is recommended that it be deleted.

Clause 41 – Development on Ridgetops in Rural Areas

Subclause (3)(f) would seem to be irrelevant to the assessment of whether a development should be permitted on or near a ridgeline. It is recommended that it be deleted.

Clause 42 – Rural Dual Occupancy

1. This clause applies to dual occupancy in the rural areas. Dual occupancy is defined in the LEP as a building containing two dwellings only. It therefore does not include detached dual occupancy. To make the LEP easier to use, it is recommended that this clause be incorporated as a subclause under clause 37.
2. Clause 42 prohibits dual occupancy within the 1(r) Riverlands zone. It appears that the intent of the clause is to restrict dual occupancy on land that is subject to flooding hazards. However clause 37 requires that the site and access for a dwelling house be not subject to adverse flooding hazards. As dual occupancy referred to in clause 42 must be attached to a dwelling house, it is considered that there is no valid reason why this form of development should be prohibited in the 1(r) zone providing the issues of a flood free site and access are similarly addressed. It is therefore recommended that dual occupancy be permitted in the 1(r) zone providing the site and access are not subject to adverse flooding hazards.

Clause 45 – Water Catchment and Inundation Area for Proposed Dam near Dunoon

It is recommended that subclause (3) be simplified by changing the wording to:

Notwithstanding subclause (2), the concurrence of Rous County Council is not required for a dwelling house unless the development is to be carried out on land shown hatched on the map (being the land to be inundated by the Dunoon Dam).

Clause 46 – Bed and Breakfast Establishments

In the interests of making the LEP easier to use, it is recommended that the definition of 'bed and breakfast establishments' in clause 46 be included within Schedule 7 (Definitions) and that bed and breakfast establishments then be listed within the relevant zone tables as either permissible or prohibited. Subclause (2) would still remain but the rest of the clause could be deleted.

Clause 47 – Temporary use of Land in Private Ownership

This clause currently applies to zones 1(a), 1(b), 1(c), 1(d) and 1(r) only. It is considered that there is merit in extending these provisions to enable temporary events to also take place in zones 2(v), 3(a) and 3(f) without the need for a full development consent. However there are also concerns about the current operation of clause 47 and Council's inability to regulate or condition certain events that are exempted from development consent by this clause. It is considered that the solution is to make the temporary use of land in private ownership complying development. This would resolve the issue concerning conditions as standard conditions would be included in DCP No 40 – Complying Development. It would also minimise processing times by avoiding the full DA process. It is therefore recommended that clause 47 be deleted. Prior to this occurring amendments to DCP 40 would be required listing the temporary use of land in private ownership as complying development in the 1(a), 1(b), 1(c), 1(d), 1(r), 2(v), 3(a) and 3(f) zones.

Clause 48 – Zone No 2(a) (Residential Zone)

1. Under the Commonwealth Telecommunications Act 1997, telecommunications facilities require development approval from Council unless they are classified as 'low impact'. Low impact facilities are listed in Council's Draft Telecommunication Code for the Siting and Aesthetics of Telecommunication Facilities. 'Communications Facilities' are listed as advertised development in the residential zone under subclause 48.4 but are not defined in

Schedule 7 or in the Model Provisions. It is recommended that a definition be inserted in Schedule 7 (as per Council resolution of November 17, 1998) as follows:

Communication facility means a facility used for communications, other than "low impact" facilities as described in the Telecommunications Act, 1997.

The zone tables will then need to be amended ensuring that communication facilities are listed as either permissible with consent or prohibited in each of the zones.

2. Home Offices' are listed as prohibited development in the 2(a) zone under 48.5. However home offices are very similar in definition to home occupations that can be carried out without consent. There is also an inconsistency with the fact that medical centres are permitted (with up to 3 practitioners) as advertised development in the zone. It is considered that home offices do not need to be separately defined in the LEP as they are adequately covered by other defined uses. It is recommended therefore that the definition be deleted from Schedule 7 and that reference to home offices be removed from each of the relevant zone tables.
3. 'Institutions', 'helipads' and 'offensive or hazardous industries' are all currently permissible with consent in the 2(a) zone (Institutions are defined as 'a penal or reformatory establishment'). It is considered that these uses would be incompatible in a residential zone and it is recommended that they be listed as prohibited.

Clause 49 – Zone No 2(f) (Residential (Flood Liable) Zone)

'Offensive or hazardous industries' are currently permissible with consent in the 2(f) zone. It is considered that this use would be incompatible in such a zone and it is recommended that it be listed as prohibited.

Clause 50 – Zone No 2(v) (Village Zone)

'Institutions' are currently permissible with consent in the village zone. It is considered that such use would be incompatible with a village character and it is recommended that institutions be listed as a prohibited use in the 2(v) zone.

Clause 53 – Dwellings in Urban areas

Subclause (3) permits attached and detached dual occupancy within the 2(f) zone. This appears to be inconsistent with clause 52- (Subdivision of land in Zone No 2(f)) which prohibits subdivision in the 2(f) zone for the purposes of a dwelling house. As the intent of clause 52 is to discourage higher residential densities on flood prone land, it is recommended that reference to zone 2(f) be deleted from clause 53 so that dual occupancies are prohibited in that zone.

Clause 54 – Urban Dual Occupancy

This is a complex clause that was initially introduced to circumvent the now repealed State Environmental Planning Policy No 25 (Residential Allotment Sizes). This clause allows a subdivider to nominate specific dual occupancy and medium density lots on the basis that no other lots will subsequently be approved for dual occupancy development. The provision only applies where it can be demonstrated that the subdivision design will result in an ultimate density of not less than 15 dwellings/ha (excluding parks, roads and other public places). The clause has not been used by developers and its retention in the LEP is considered unnecessary. However it is considered that the LEP should have a requirement for applicants to demonstrate that a minimum number of dwellings per ha can be achieved in urban subdivisions over a certain size. This would be consistent with the North Coast REP that requires Councils to be satisfied that the density of dwellings in residential areas is maximised without adversely affecting the environmental features of the land. Council has resolved that there should be a minimum requirement of 12 dwellings/ha. A new clause with this requirement could replace existing clause 54. Alternatively the requirement could be incorporated into clause 51 (Subdivision of land in Zones Nos 2(a) and 2(v)). It is recommended that clause 54 be deleted and that a requirement for a minimum 12 dwellings/ha in the 2(a) zone be inserted in clause 51.

Clause 57 – Bed and Breakfast Establishments in Urban Areas

As previously recommended, the definition of bed and breakfast establishments should be moved to Schedule 7 and the use inserted in the relevant urban zone tables.

Clause 58 – Zone No 3(a) (Business Zone)

It is considered that extractive industries would be an incompatible use in a Business zone but they are not listed as prohibited development. It is therefore recommended that they be included as a prohibited use under subclause 58.5.

Clause 59 – Zone No 3(b) (Neighbourhood Business Zone)

Extractive industries would also seem to be an incompatible use in a Neighbourhood Business zone but would be permissible as advertised development. It is recommended that they be included as a prohibited use under subclause 58.5.

Clause 60 – Zone No 3(f) (Services Business (Flood Liable) Zone)

1. 'Liquor outlets' are currently listed as prohibited but would seem to be an appropriate use in the flood liable Services Business zone. It is recommended that they be made permissible with consent.
2. Dwelling houses are listed as prohibited in the 3(f) zone other than those 'lawfully erected prior to 27 March 1992'. This seems to be a superfluous statement in the LEP as such dwelling houses would in any case enjoy existing use rights. It is therefore recommended that this wording be deleted.
3. 'Exhibition homes' are listed as a prohibited use but are not defined as such in Schedule 7. It is recommended that this wording be changed to '*exhibition dwellings*' to comply with the definition.
4. 'Extractive industries' and 'offensive or hazardous industries' would be considered incompatible uses in a flood liable business zone. It is therefore recommended that they be listed as prohibited uses.

Clause 62 – Bed and Breakfast Establishments in Business Zones

As previously recommended, the definition of bed and breakfast establishments should be moved to Schedule 7 and the use inserted in the relevant business zone tables.

Clause 63 – Zone No 4(a) (Industrial Zone)

Although 'restricted premises' are prohibited in the industrial zone, 'brothels' are permitted as advertised development. This would seem to be an anomaly in the zone tables. It is recommended that restricted premises be made permissible as advertised development in this zone.

Clause 67 – Zone No 6(a) (Recreation Zone)

Utility installations are listed as permissible with consent in the zone but only where they do not include 'gas holders' or 'generating works'. Generating works are separately defined in the Model Provisions and so would not be considered as a utility installation in any case. Gas holders are not defined in Schedule 7 or the Model Provisions. It is considered that this proviso to utility installations is unnecessary and it is recommended that it be deleted.

Clause 70 – Acquisition of Land

Subclause (4) provides that Council is not required to acquire land where it is required to be dedicated as a condition of development consent. This can only occur when such land has been identified in a Section 94 Contributions Plan. It is therefore recommended that the following words be added to the end of this clause for the purpose of clarification: '*in accordance with a Section 94 Contributions Plan*'.

Clause 75 – Temporary Use of Public Land

This clause allows certain uses to be undertaken on public land without development consent, but applies only to public land within the Special Uses or Recreation zones. It is considered appropriate that this provision should apply to all public lands regardless of the zoning (eg. road reserves) and therefore it is recommended that the clause be moved to Part 2 – General Provisions of the LEP.

Schedule 3 – Development with Restricted Access to Roads in Rural and Environment Protection Zones

Schedule 3 lists development referred to under clause 25(2) for which direct access to a main road is restricted. The schedule includes ‘junkyards’ although these are not defined in the LEP. The LEP adopts its own definition of ‘material recycling yards’ for such uses and these are already listed in Schedule 3. The inclusion of junkyards is therefore superfluous and it is recommended that junkyards be deleted from the Schedule.

Schedule 7 – Definitions

1. ‘Agriculture’ – The current definition from the Model Provisions refers to a definition contained in the now repealed Local Government Act 1919. It is recommended that a new definition of agriculture be included in Schedule 7 based upon the definition adopted in DCP 39 – Exempt Development as follows:

“Agriculture means horticulture, the cultivation of land including crop raising, stock raising and the use of the land for any purpose of animal husbandry, including the keeping or breeding of livestock, poultry, or bees, and the growing of fruit, vegetables and the like, but does not include animal establishments”.

2. ‘Animal establishment’ – The current definition of animal establishment in the LEP is: *“an establishment in which large numbers of animals are housed, fed or slaughtered and includes an abattoir, a cattle feed lot, an intensive piggery, a chicken farm, and an intensive aquaculture farm”.* For the purposes of clarification it is recommended that the word *‘intensively’* be inserted into the definition before the word *‘housed’*.
3. ‘Animal Saleyard’ - Schedule 7 contains a definition of animal saleyard but the LEP also adopts the Model Provisions definition of *‘stock and sale yard’*. The definitions are virtually identical and it is recommended that the definition of animal saleyard be deleted and all reference to animal saleyards in the LEP be changed to stock and sale yard.
4. ‘Car Repair Station’ - The LEP adopts the definition of car repair station contained in the Model Provisions, being a place for the repair of motor vehicles but excluding body building, panel beating which involves dismantling, or spray painting other than of a touching-up character. The exclusion of panel beating and spray painting from the uses that may be carried out in a car repair station seems unnecessarily prohibitive given that they could be considered activities that would form a normal part of the operation of most car repair stations. Car repair stations are not permissible in residential zones (other than in the 2(v) Village zone). The use is generally confined to the industrial and commercial zones and all spray-painting activities are required to be undertaken in a spray-painting booth. Consequentially potential conflicts with adjoining land uses are unlikely to be an issue. It is therefore recommended that the definition be broadened to include all forms of panel beating and spray-painting.
5. ‘Demolition’ - Demolition is defined in Schedule 7 of the LEP but it means the demolition of heritage items only. Demolition in its broader sense falls within the definition of ‘development’ under Section 4 of the EP&A Act. Consequently demolition of a building or work would require development consent unless specifically excluded from consent in the zone table. A problem arises in zones where the zone table is worded in such a manner that prohibited development includes all those uses that are not listed as permissible either with or without consent. In

these cases demolition of a building or work could be construed as being prohibited. This occurs in Zones 1(d), 1(f), 6(a), 6(b), 7(a) and 7(b). It is recommended that a notwithstanding clause be inserted in Part 1 of the LEP stating that:

Despite any other provision of the plan, the demolition of any work or building may be carried out only with development consent.

6. 'Flood standard' - The Schedule 7 definition of flood standard refers to the '1-in-100 year flood'. This should more correctly be referred to as the '1% AEP (Annual Exceedance Probability)'.
7. 'Materials recycling yard' - The definition of materials recycling yard is a building or place used for collecting, dismantling, storing, abandoning or recycling second hand scrap materials for the purpose of resale. The impacts of such development would be similar whether materials are being collected and stored for the purpose of resale or whether they are being collected and stored for another purpose. It is recommended that the wording be changed in the definition so that a materials recycling yard include all of the listed uses whether or not resale of the items is involved.
8. 'Recreation facility' –The Model Provisions definition of recreation facility means: “*a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly*”.

The LEP does not adopt the Model Provisions definition, nor does it contain a similar definition to cover such uses. It is recommended that the LEP adopt the Model Provisions definition of recreation facility but excluding 'fun parlour' which is already covered by the LEP definition of 'amusement parlour'. It is also recommended that the use be listed as a permissible use in zones 1(a), 1(d), 2(f), 2(v), 3(a), 3(b), 3(f), 4(a), 5, 5(b), and 6(b).

9. 'Restaurant' – The LEP has its own definition of restaurant that is considered to be too narrow compared to the Model Provisions definition of 'refreshment room' that covers a broader range of eating establishments such as cafes and tea rooms. Another problem is that the definition of 'tourist facilities' includes 'refreshment rooms' although this is not currently defined. It is therefore recommended that the definition of restaurant be deleted from Schedule 7 and the definition of refreshment room from the Model Provisions be adopted.

Manager - Finance & Administration Comments

Not required

Public Consultations

Public consultation will be undertaken after the draft amendment has been prepared and exhibition certificate has been issued.

Other Group Comments

Group Manager – City Works

Clause 32 Model Provisions - Extractive Industry, Transport Terminals

Whilst it is acknowledged that there is an anomaly in the plan and agree that this should be corrected it is questionable whether the original intent of the restriction is appropriate in all instances.

Extractive industries and transport terminals are both heavy traffic generating land uses. As such it is far preferable that this traffic is routed on to the main road system as directly as possible. Therefore on main roads with lower traffic volumes it may be appropriate to allow these land uses provided adequate turning treatments are constructed in conjunction with the development. Therefore it would be recommended that the wording be changed to exclude these land uses from State Highway 16 (Bruxner Highway) and Main Road 65 (Bangalow Road) only.

Clause 19 Development of Land near Adjoining Zones

In regard to main roads and water courses the RTA and CALM are the vested owners of the land therefore any such application would require their consent as owners.

Clause 36 - Subdivision and Development in Rural Zones

The existing clause generally leads to a higher density of lots due to the averaging effect of the residue allotment in new subdivisions. It is agreed that an unsewered block of 0.2ha is usually too small to accommodate a dwelling and effluent disposal area. Therefore a minimum lot area of 0.5ha would be appropriate in unsewered areas. However if the 1(C) zoned land was sewered it maybe appropriate to reduce this minimum lot size to capitalise on infrastructure.

Clause 47 - Temporary Use of Land in Private Ownership

It is agreed that changing the temporary use of lands to complying development is acceptable provided appropriate standard conditions are imposed.

Clause 75 - Temporary Use of Public Land

This is considered appropriate provided the existing requirements are maintained.

Conclusion

The recommended changes to the LEP as outlined in this report can be incorporated into a single LEP amendment. Should Council proceed with preparation of the amendment, Council must consult with such public authorities as it considers may be affected by the draft Plan. Following the consultation with public authorities, a further report will be furnished to Council prior to the draft amendment being placed on public exhibition. This period would also allow an opportunity for consultation with the development industry in Lismore to identify any further anomalies that have not been listed in this report.

Recommendation (PLA 33)

1. That pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, Council resolve to prepare a draft LEP Amendment to rectify anomalies in LEP 2000 as outlined in this report.
2. That Council inform the Director-General of Urban Affairs and Planning of its decision to prepare a Local Environmental Plan.
3. That Council consult with relevant public authorities and the development industry prior to finalising the draft amendment.

Subject/File No: CLUNES WASTEWATER COMMITTEE – STRATEGIC PLANNING
(AA:CD:S288)

Prepared By: Anu Atukorala – Manager Lismore Water

Reason: To adopt resolution recommended by the Clunes Wastewater Committee

Objective: To dispose of wastewater in an environmentally sustainable manner

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

Background:

At the last Clunes Wastewater Committee meeting held on August 31, 2000 the Committee discussed the planning implications of sewerage the village, including village amenity, housing density and expansion of the village. Council's Strategic Planner, Mr Bruce Blackford also gave a talk and answered questions raised by the Committee.

The Committee was of the view that the development of Clunes was at present constrained due to the requirements of on-site wastewater disposal and, if a sewerage scheme is implemented, there is a likelihood of over development (i.e. Clunes losing its village character).

It was also apparent that, in order to size any wastewater disposal system, it was important to determine the ultimate size of the village.

Given the above, the Committee resolved as follows:

"In light of the Committee's interest in retaining the village amenity and identifying population density and threshold, the Committee recommends that Council review the Development Control Plan (DCP) for Clunes".

Note: The Minutes of this meeting will be included in the next Bulletin.

Comments by Manager – Lismore Water

I concur with the Committee's recommendations. Review of the DCP is necessary to size any wastewater treatment facility.

Comments by Strategic Planner

It is agreed that a review of lot sizes in the DCP will be necessary to determine the overall lot yield and ultimate population of the village. Review of the Clunes DCP is currently not included in the strategic planning program, as planning resources would have to be allocated towards this task.

Conclusion

The DCP needs to be revised in anticipation of sewerage Clunes.

Recommendation (ENT32)

The Committee's recommendation be adopted and that Council review the DCP for the village of Clunes.

LISMORE CITY COUNCIL - Meeting held September 19, 2000

Subject/File No: COUNCILLOR REPRESENTATION ON RICHMOND VALLEY COMMITTEE – NORTHERN RIVERS REGIONAL STRATEGY (S586)

Prepared By: Manager Planning Services – Helen Manning

Reason: To nominate a Councillor to participate in the Richmond Valley Committee

Objective: To ensure Lismore City Council representation in the Northern Rivers Regional Strategy process

Management Plan Activity: Strategic Planning

Background:

The Northern Rivers Regional Strategy (NRRS) is a joint strategic planning exercise involving the Department of Urban Affairs and Planning (DUAP), the Northern Rivers Regional Economic Development Organisation (NOREDO), and the Northern Rivers Regional Organisation of Councils (NOROC). The aim of the NRRS is to manage future growth and development with the environment and infrastructure provision to maintain the natural advantages and lifestyle of the Northern Rivers region.

The Strategy is based upon the principles of ecologically sustainable development and has required consultation, education, research and planning to further the adoption of these principles by all organisations, agencies and groups in the region. The Strategy has also received several Royal Australian Planning Institute awards for excellence in community planning.

Work on the NRRS commenced in August, 1995 with a community workshop to identify desired future trends and directions for the region. It has been recognised, that the Strategy must reflect community concerns, desires and support to be successful, so a range of consultative processes have been undertaken since then.

An important component in the consultative process has been the establishment of "Valley Committees" in the Clarence, Richmond and Tweed/Brunswick River catchment areas. These Committees meet every two months and provide regular review about proposed approaches towards the major issues facing the Northern Rivers region.

The NRRS Secretariat has requested the nomination of a delegate from Council to participate in the Richmond Valley Committee. The usual practice is that the Mayor, or another elected representative of Council, is a member of the Committee, with a member of staff (generally from the land use planning section) involved to provide guidance about specific planning matters.

A copy of the letter of request and of the 'Direction Paper 2000' is provided in the Attachments for background information.

The first meeting of the newly appointed Committee is scheduled for Tuesday, September 27, from 9.30 am to 12.30 pm at Byron Shire Council in Mullumbimby. The Committee will meet every two months.

Manager - Finance & Administration Comments

Not required

Public Consultations

Not required

Other Group Comments

Not required

Conclusion

Nomination of a representative will ensure the continued participation of Lismore City Council in the preparation of the Northern Rivers Regional Strategy.

Recommendation (PLA 34)

That Council:

- (1) nominate Cr.to become a member of the Richmond Valley Committee and participate in the Northern Rivers Regional Strategy process; and
- (2) nominate Cr. as an alternate delegate should the above Councillor be unavailable for particular meetings.

Subject/File No: PRIVACY MANAGEMENT PLAN – PRIVACY & PERSONAL INFORMATION PROTECTION ACT, 1998 (PPIPA).
(S 38)

Prepared By: Group Manager- Corporate & Community Services

Reason: Legislative requirement

Objective: Adoption of a Privacy Management Plan as required by Section 33 of PPIPA.

Management Plan Activity: Administrative Services

Background:

Council at its meeting of July 18, 2000 considered a report outlining details of the Privacy & Personal Information Protection Act 1998 (PPIPA) and the need to adopt a Privacy Management Plan in accordance with Section 33 of the Act. The report recommended the adoption of a Model Plan that had been prepared by a consultant in conjunction with a working party comprising local government representatives and Privacy NSW.

At the meeting, concern was raised that the Model Plan appeared to be overly bureaucratic and that councillors had insufficient detail about the Act to make an informed decision. Consequently it was resolved that a workshop be held prior to adoption of a Plan, as well as expressing concern regarding the introduction of the legislation and last minute receipt of the Model Plan.

On August 28, 2000 a consultant presented three workshop/training sessions on the Act to staff from North Coast Councils, which Councillors were invited to attend. Three Councillors attended one of the workshops. To date, a reply has not been received addressing Council's concerns as outlined in the resolution.

Prior to the workshops, I took the opportunity to obtain copies of Privacy Plans from a number of other Council's that had **not** adopted the Model Plan. It would appear that the South Sydney Plan has been adopted/modified by a substantial number of Councils and has been approved by Privacy NSW.

The Privacy Plan proposed for adoption is based on the South Sydney Plan with a number of improvements included, as well as incorporating the modifications provided within the Privacy Code of Practice. It is my belief that the proposed Plan is more user friendly, simpler to understand, less bureaucratic and a vast improvement on the Model Plan.

Manager - Finance & Administration Comments

Not required.

Public Consultations

Not required.

Other Group Comments

Not required.

Conclusion

Council must adopt a Privacy Plan, which will then be forwarded to Privacy NSW for approval. The proposed Plan is vastly different to the Model Plan previously submitted and will be of assistance to staff and Councillors in complying with this new legislation.

Recommendation Cor42

That:

1. The Administrative Services Manager, Mr Graeme Wilson be appointed as Council's Privacy Contact Officer.
2. Council adopt the Privacy Management Plan (attached) in accordance with Section 33 of the Privacy and Personal Information Protection Act 1998.
3. A review of the Plan be carried out within the next 12 months.

Subject/File No: EMPLOYMENT OF SENIOR OFFICERS (GROUP MANAGERS)
[S386]

Prepared By: General Manager

Reason: Compliance with Council resolution and to satisfy the provisions of Section 339 of the Local Government Act 1993.

Objective: To establish the basis of employment for Council's senior officers.

Management Plan Activity: General Manager's Office

Background:

When considering a report concerning an impending review of the Council's organisation structure, the Council, at a meeting held on 28th February, 2000 resolved as follows:

"That in the course of the proposed review of the Council's organisation structure the General Manager be requested to:

..... Examine and report on options which will facilitate the retention of the incumbent senior officers without the need to advertise their positions;

..... Examine and report on alternative options for the employment of senior officers including alternatives to contract employment; "

At a meeting of Council held on 29th August, 2000 the Council determined that the existing organisation structure would remain for the life of this Council, ie that Council's organisation structure would continue to include four Group Manager positions for the following Groups:

- Corporate and Community Services
- City Works
- Planning and Development
- Business and Enterprise

Current Employment Arrangements:

When the Council adopted the present organisation structure at meetings held on 13th February, 1996 and 6th August, 1996, it determined ***"That the Group Manager positions outlined in the new organisation structure be established on the basis of 35 year performance-based renewable contracts to be negotiated by the General Manager"***.

Council further decided to offer incumbent Divisional Managers under the former organisation structure, namely Messrs. Moorhouse (Engineering Services) and Cooper (Corporate Services) the positions of Group Manager-City Works and Group Manager-Corporate and Community Services respectively without advertising the positions. This was done under the provisions of Section 350(b) of the Local Government Act 1993 that provides for appointment by ***lateral transfer***. Lateral transfer being the transfer of staff from one position to another with a similar level of responsibility and a similar level of remuneration.

All of the current Group Managers are employed as ***senior staff*** positions as defined in Section 332(2) of the Local Government Act 1993. This Section states that senior staff positions must comply with the following criteria:

Employment of Senior Officers

“ the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award; and the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3A of the Statutory and Other Offices Remuneration Act 1975) payable with respect to senior executive office holders whose positions are graded Level 1 (General Management).”

The current level of remuneration package referred to in Section 332(2)(b) is \$104,985 pa. The Group Managers are currently remunerated at or above \$103,945 pa, ie at the level applicable as at the last performance review date for the Group Managers and consequent salary review (1/7/99).

What are some alternative means for the employment of Group Managers ?

There are a number of alternative means for the employment of staff including the Group Managers. These include:

- Limited tenure performance-based contracts
- Limited tenure renewable performance-based contracts *
- Open tenure performance-based contracts
- Permanent performance-based award employment

* *This is the existing basis for the employment of Group Managers.*

Associated with these alternative forms of employment is the issue as to whether the Group Manager positions are to be designated as **senior staff** positions pursuant to Section 332 of the LGA. If the positions are to continue to be so designated then Council must, pursuant to Section 338 of the LGA, employ the Group Managers **“under contracts that are performance-based”**.

Under the LGA the General Manager is the only position that is, pursuant to Section 334, automatically designated as a **senior staff** position.

Pursuant to Section 332 of the LGA it is the responsibility of the Council to determine which positions in the organisation structure (other than the GM) are to be designated as **senior staff** positions.

The Council has previously determined that the Group Manager positions within the existing organisation structure are designated as **“senior staff”** positions.

Why is the designation of the Group Manager positions as “senior staff” preferred ?

Section 340 of the LGA deals with the employment of **senior staff** and clearly spells out what is the most significant advantage for Councils in choosing to designate in this manner.

Section 340:

(2) “The employment of the general manager or another senior staff member, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the Industrial Relations Act 1996.

(4) No award, agreement, contract determination or order made or taken to have been made or continued in force under the Industrial Relations Act 1996, whether made before or after the commencement of this section, has effect in relation to the employment of senior staff members.

Employment of Senior Officers

(5) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of the appointment of or failure to appoint a person to the position of general manager or to another senior staff position, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment.”

The clear advantage to the Council (employer) in choosing to designate Group Manager positions as **senior staff** is therefore the ability to contract these important staff members outside the terms of the Local Government Award with all dispute/mediation processes and other terms of employment written into the contract by agreement between the parties without recourse to the vagaries of the industrial relations system as prescribed in the Industrial Relations Act.

What is the current tenure of employment for the incumbent Group Managers ?

The Group Managers are employed under 4 year renewable performance-based contracts. The expiry dates for each of the contracts is as follows:

- **Group Manager-City Works** – 30th June, 2000 **
- **Group Manager-Corporate and Community Services** – 30th June, 2000 **
- **Group Manager-Business and Enterprise** – 10th May, 2002
- **Group Manager-Planning and Development** - Vacant

** *Although these contract terms ended on 30/6/2000, contract employment is continuing pursuant to Clause 3.6 of the Contract of Employment pending determination as to an offer/mode of future employment.*

Why is contract employment preferred for these positions ?

There are a number of very strong advantages in choosing contract employment as the basis of employment for these senior positions. These include:

- Fixed term with the ability to extend/renew
- Ability for Council/GM to review continuing employment options on expiry of contract term
- Renewal consideration based on performance without having to comply with onerous Award requirements
- Contracts contain incentive bonus provisions
- Equitable and fair performance management guidelines included in contract
- Greater flexibility to negotiate terms of employment to competitive industry standards
- All terms of employment are contained within the Contract of Employment
- Contracts are industry standard as endorsed by the LGSA

What are the implications of alternative means of employment ?

As previously stated, designation of the Group Manager positions as **senior staff** entitles them to be remunerated at a level which equates with senior executive officer levels (level 1 – General Management) in the state public service, ie currently \$104,985 pa TRP. Should the basis of employment change and the positions no longer be designated as senior staff, this level of remuneration could no longer be justified and salaries would revert to those within Council’s current salary structure, ie an upper salary range within Grade 24 which is \$63,214 to \$72,696 pa, i.e. salary component only, plus Council’s 8% superannuation contribution.

Employment of Senior Officers

Whilst on the surface this looks like an attractive cost saving exercise for Council, it is unlikely to be particularly palatable for the Group Managers whose present contracts provide that their level of remuneration may not be reduced. Thus if Council is obligated to continue to remunerate the Group Managers at their current levels why would you seriously entertain alternative employment terms which weaken Council's position and provide the incumbents with access to the NSW Industrial Relations minefield ?

Manager - Finance & Administration Comments

Not required.

Public Consultations

Not applicable.

Conclusion

Pursuant to the provisions of Sections 335(2) and 337 of the Local Government Act 1993, the authority for the appointment and dismissal of staff, including senior staff, vests in the General Manager. In relation to the appointment of senior staff the General Manager is required to consult with the Council prior to such appointment or dismissal. This report fulfils this obligation.

My clear preference is to offer re-appointment to the relevant Group Manager positions to the incumbents based upon 3 – 5 year performance-based contracts. This is the common basis for employment of senior officers in NSW local government (and other states) other than some smaller rural shires where such options are not justified because of smaller budgets and less responsibility.

Recommendation (GM29)

That the Council support the re-appointment of Group Managers as proposed by the General Manager.

Subject/File No: **LISMORE DISTRICT SPORTS ASSOCIATION -
CITIZEN MEMBERSHIP**
(JB:KB375)

Prepared By: Recreation Officer

Reason: Requested by Committee 9th August, 2000

Objective: Sanction a new citizen member

Background:

Current LDSA Membership is as follows:

- Councillors x 3 Cr Baxter, Cr Chant and Cr Gallen
- Southern Cross University x 1 Dave Graham
- Outdoor sports x 5 T Crollick, G Mortimer, R Whitney, M Lemon and B Davidson
- Indoor sports x 1 vacant
- Business community x 1 vacant
- Sports Council for Disabled x 1 vacant

Members have recently discussed the three vacancies and the fact that local sports identity Mr Tom Barnsley is keen to sit on the Committee.

Information:

The criteria relevant to Committee nomination was also given some thought, consensus being that the parameters for selection are fine, the only problem being that several positions are unfilled.

Members felt that, as Mr Barnsley has documented his interest (LDSA resolution 9th August), and he has a long association with local sports (particularly touch football and basketball), he should be accepted despite the fact that he hasn't been nominated by the "vacant" community sectors. Further to this, the Committee hopes to pursue further nominations with a view to elevating its membership to fill all vacant positions. All recommendations regarding additional members will be reported to Council. Should Mr Barnsley or any other person be added to the Committee, they are to be advised that all citizen positions became vacant in September 2001 (as per Council's resolution September 1999).

Conclusion:

The LDSA Committee is of the opinion that Mr Barnsley should be endorsed by Council as a citizen member of the Association.

Recommendation (COR39)

- 1 That the LDSA Management Plan be amended to allow for six members from outdoor sporting groups.
 - 2 Mr Tom Barnsley be appointed to the LDSA Committee as a citizen member.
 - 3 Council advertise and actively pursue nominations for the three vacant positions on the Committee.
-

Subject/File No: RTA AUDIT – ALLOCATIONS FOR ROADWORKS
RS:S341

Prepared By: Manager – Finance & Administration – Rino Santin

Reason: Specifically requested by the RTA that Council consider the Audit Report

Objective: To adopt the Audit Report findings and recommendations

Management Plan Activity: Financial Services & RTA Works

Background:

Auditors from the NSW Roads & Traffic Authority (RTA) undertook an audit of Council's administration of funds allocated for roadworks in March 2000. A copy of the Audit Report is attached and the RTA has specifically requested that Council formally consider the Report.

Audit Outcomes:

Generally speaking, the RTA is satisfied with our management of RTA funds. It is stated in the Report that funds allocated for roadworks have been "properly accounted for" and "internal controls relating to job costing systems are operating in a satisfactory manner".

Also, in relation to operational control processes and contracting procedures, they were "satisfied that works are delivered in a timely and cost effective manner".

Audit Findings Requiring Council Management Attention

There were two items, which required management attention. They both relate to the Quality Control System and are seen to be potential weaknesses. They were,

- a) There was no procedure to record any non-conforming occurrences during design or construction and the corrective action undertaken.
- b) Contractors were required to submit Project Quality Plans that list all quality control requirements for the executed works. It would appear that not all documents are being received from contractors to verify the quality control requirements.

Resolution

Since this audit was completed, Council has 'pre-qualified' to undertake certain contracted works for the RTA. To comply with pre-qualification requirements, a quality control system must be implemented and maintained. The reporting for this system includes both items listed above so appropriate action has been undertaken to rectify these weaknesses. To ensure ongoing compliance, relevant staff have been trained and checklists developed to monitor performance with requirements.

Other Departments Comments:

Group Manager – City Works

This report refers to an inspection carried out during March of this year. Since that time Council has upgraded its system to prequalify for RTA tendering Category 'M'.

The first item referred to the need to record actions taken to rectify unplanned works, *ie, record and document works associated with the draining of a wet shoulder*. It is no longer sufficient to just solve the problem – we now also need to document the way in which we solve the problem.

RTA Audit – Allocations for Roadworks

The second item referred to the need to actually collect documentation from contractors who have themselves collected information to meet their own quality systems. Logic suggests that this action is not necessary as it is a duplication. However, from a system's point of view, it ensures the necessary documentation is carried out.

Both of the above requirements have been incorporated into the RTA Pre-Qualification System.

Public Consultations

Not Required

Conclusion

All issues raised by the RTA in the Audit Report have been addressed. These issues are seen by Management to be minor in nature.

Recommendation (COR43)

The RTA Audit Report be received and noted.

LISMORE CITY COUNCIL - Meeting held September 19, 2000

Subject/File No: INVESTMENTS HELD BY COUNCIL AS AT AUGUST 31, 2000
(GB/LM: S170)

Prepared By: Financial Accountant, Graeme Blanch

Reason: To comply with Section 625 of the Local Government Act.

Objective: To invest Council's surplus funds to best advantage to comply with Council's investment policies.

Management Plan Activity: General Purposes Revenues

Information:

The attached list of investments held by Council with various financial institutions has been made in accordance with Section 625 of the Act and in accordance with Council's investment policies.

Council's total investment for August amounted to \$25,062,719.62 with an average interest return of 6.34%. Average interest rate at the same time last year was 4.93%. On current trends it would appear that interest rates will remain at their current levels.

Manager-Finance & Administration Comments:

Included in the body of the report.

Public Consultations:

Not required.

Other Group Comments:

Not requested.

Recommendation (COR44)

That the report be received and noted.

DOCUMENTS FOR SIGNING AND SEALING

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

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

Recommendation:

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

Restrictions on Use – 2 Sarah Court, Goonellabah

Variation of a Restrictive Covenant
(00-13735: P24378)

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE
HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, AUGUST 29, 2000 AT
6.05PM.**

Present: His Worship the Mayor, Councillor Gates; Councillors Baxter, Chant, Crowther, Gallen, Hampton, Irwin, King, Roberts, Suffolk, Swientek and Tomlinson, together with the General Manager; Group Managers - Corporate & Community Services, City Works, Business & Enterprise; Acting Group Manager- Planning & Development, Manager-Client Services, Manager-Community Services, Recreation Planner, Manager-Planning Services and Administrative Services Manager.

218/00 **Apologies/
Leave of
Absence:** Leave of absence was granted to Councillor Tomlinson for two weeks from September 9 and to Councillor Gallen for all September and maybe October.
(Councillors Swientek/Baxter)

219/00 **Minutes:** The Minutes of the Ordinary Meeting held on August 8, 2000, were confirmed.
(Councillors Baxter/Irwin)

PUBLIC ACCESS SESSION:

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

Ms Kathryn O'Hara re Rescission Motion

(See Minute No. 221/00)

Ms O'Hara requested Council carry out feasibility studies into alternative sites for a pool. She stressed the current proposal did not meet the identified needs of the community.
(00-12158: P6768)

Mrs M Fullerton re Notice of Motion

Mrs Fullerton briefly outlined the history of this issue and advised that the agreement was signed under extreme stress.
(00-12534,12528: Z8098)

Mrs R Sinnett re Notice of Motion

Mrs Sinnett advised their only complaint was about flies from fresh manure. She requested time to meet with all Councillors and requested that the agreement not be abandoned.
(00-12534,12528: Z8098, P17483)

Mr Graham Meineke re Report – DA99/93 – Rural Landsharing

(See Minute No. 224/00)

Mr Meineke expressed surprise at the late notice of refusal, referred to a meeting with staff to explain options and sought deferral of any decision to allow these options to be pursued.
(D99/93)

Mr Ross Mackey re Report – Kadina Park Draft Plan of Management

(See Minute No. 225/00)

Mr Mackey spoke on behalf of the Goonellabah Progress Association against the siting of the Kadina Park Facility at Kadina Park, as it was female unfriendly, located a skate ramp in a residential area, would reduce quality of life for locals and would be expensive to maintain.

(P517)

Ms Alex Maine– Report – Kadina Park Draft Plan of Management

(See Minute No. 225/00)

Alex advised she was a student of Kadina High. She advised a park was needed that catered for a variety of users, that the Kadina Street site was acceptable to the youth of Goonellabah and that as it was designed by youth it would meet their needs.

(P517)

Mr Joe Friend re Report – The Channon Walkway/Channon Road

(See Minute No. 230/00)

Mr Friend spoke in support of a bridge over Deadman Gully, advising it would enhance the current facility which was well received by the community and visitors.

(P13126)

DISCLOSURE OF INTEREST:

S459

Councillor Suffolk declared an interest in Report – DA99/93 – Rural Landsharing Community, Hensen Road, Nimbin.

Councillor Chant declared an interest in Report – Supply of Truck-Mounted Road Pavement Repair Unit.

RESCISSION MOTION:

Lismore Memorial Baths Redevelopment

(Copy attached)

Formal notice having been given by Councillors Irwin, Roberts and Tomlinson it was MOVED that Council's decision in regard to the Memorial Baths be rescinded to enable Councillors to have the benefit of the workshop on the Memorial Baths set down for August 15.

(Councillors Irwin/Tomlinson)

Procedural Motion

A motion was MOVED that standing orders be suspended for 20 minutes to allow discussion of alternative options for the pool redevelopment.

(Councillors Tomlinson/Swientek)

On submission to the meeting the MOTION was DEFEATED.

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

Motion be Put

220/00

RESOLVED that the motion be put.

(Councillor Hampton)

Voting Against: Councillors Irwin, Roberts, Tomlinson, Swientek, Gallen and Crowther. The voting being tied the Mayor declared the motion APPROVED on his casting vote.

On submission to the meeting the MOTION was DEFEATED.

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

The voting being tied the Mayor declared the motion DEFEATED on his casting vote.

Dissenting Vote:

Councillor Crowther.

221/00 **RESOLVED** that, subject to agreement with the RSL on the land matters and following the expression of interest process, Council authorise the General Manager to short list five registrants, proceed to selective tender for the design of the Memorial Baths Redevelopment and report recommendations for tender selection to Council.

(Councillors Hampton/Suffolk)

Voting Against: Councillors Irwin, Roberts, Tomlinson, Gallen, Swientek and Crowther.

The voting being tied the Mayor declared the motion APPROVED on his casting vote.

Dissenting Vote:

Councillor Irwin. (00-12158: P6768)

NOTICE OF MOTIONS:

Lismore Memorial Baths Redevelopment

(Copy attached)

Formal notice was given by Councillor Swientek that following pool Rescission Motion, if successful, Council examine the cost advantages of developing the new pool proposal on the Goonellabah Town Centre site utilising Section 94 developer contributions already collected and developing on a green field site. This may include negotiating with Consolidated Properties for preferred sites if necessary.

As the Rescission Motion was unsuccessful, the motion was WITHDRAWN.

(00-12528: P6768,S736)

Compressed Natural Gas

(Copy attached)

222/00 Formal notice having been given by Councillor Crowther it was **RESOLVED** that Council evaluate the use of Compressed Natural Gas (CNG) in its fleet of vehicles and assess the feasibility of establishing a distribution system which would be accessible to the wider community.

(Councillors Crowther/Suffolk) (00-12439: S360)

Agreement – Council & Fullerton

(Copy attached)

Formal notice having been given by Councillor Baxter it was MOVED that the agreement between the Council and the Fullertons regarding compost be rescinded.

(Councillors Baxter/Swientek)

On submission to the meeting the MOTION was DEFEATED.

Voting Against: Councillors Irwin, Roberts, King, Tomlinson, Gallen, Chant, Hampton, Gates.

A FORESHADOWED MOTION WAS MOVED that the agreement be retained but legal proceedings not be instituted without referral to Council. Mr and Mrs Fullerton continue to be encouraged to only remove composted material from the Lismore Racecourse.

(Councillor Gates/Hampton)

On submission to the meeting the FORESHADOWED MOTION was DEFEATED.
Voting Against: Councillors Irwin, Roberts, Tomlinson, Swientek, Baxter, Suffolk and Crowther.
(00-12534: Z8098)

Rescission of Agreement – Council & Fullerton

(Copy attached)

Formal notice having been given by Councillor Swientek it was MOVED that Council rescind the agreement with the Fullertons dated December 22, 1998.
The Mayor ruled the Notice of Motion out of order.

Motion of Dissent

(Councillors Swientek/Baxter)

On submission to the meeting the MOTION was DEFEATED.

Voting Against: Councillors Irwin, Roberts, King, Tomlinson, Gallen, Chant, Hampton, Gates and Crowther.
(00-12528: Z8098, P17483)

Artwork on Roundabouts

(Copy attached)

223/00

Formal notice having been given by Councillor Tomlinson it was **RESOLVED** that to improve the look of the city, to provide employment for local artists and to cut down on high annual maintenance costs, a report be brought to Council on ways in which sculptures commissioned from local artists might be erected on new, and where appropriate, existing roundabouts instead of the current preoccupation with fountains and gardens. Artists and sculptures to be selected by the Council's Public Art Selection Board in accordance with Council's Public Art Policy.

Voting Against: Councillors Swientek, Baxter, Hampton, Suffolk and Gates.
(Councillors Tomlinson/Irwin) (00-12517: S661)

REPORTS:

DA99/93 – Rural Landsharing Community, Hensen Road, Nimbin

(Copy attached)

DISCLOSURE OF INTEREST:

S459

Councillor Suffolk declared an interest in this matter as he had helped prepare the development application and left the Chamber during discussion and voting thereon. A MOTION WAS MOVED that the report be received and Council refuse the development application for the following specified reason:

- 1 There is inadequate road infrastructure to service the development (S79C (1) (a).
(Councillors Crowther/Chant)

On submission to the meeting the MOTION was DEFEATED.

Voting Against: Councillors Irwin, Roberts, Tomlinson, Gallen, Chant, Hampton and Gates.

A FORESHADOWED MOTION WAS MOVED that the matter be deferred for consideration at a future meeting.
(Councillors Roberts/Irwin)

224/00

RESOLVED that the matter be deferred for consideration at a future meeting.
(Councillors Roberts/Irwin)
Voting Against: Councillors Baxter and Crowther.

(D99/93)

Kadina Park Draft Plan of Management

(Copy attached)

A MOTION WAS MOVED that Council defer this matter for six months and await the changing focus and interest in the development of the newly emerging Goonellabah Town Centre site and further, Council plan to relocate the skate park and BMX track to the Goonellabah Town Centre site for consideration at a future time by Council.

(Councillors Swientek/Gallen)

On submission to the meeting the MOTION was DEFEATED.

Voting Against: Councillors Irwin, Roberts, King, Tomlinson, Chant, Hampton, Suffolk, Gates and Crowther.

A FORESHADOWED MOTION WAS MOVED that the report be received and -

- 1 Council give in-principle endorsement of the Draft Plan of Management for Kadina Park.
- 2 The Draft plan be placed on exhibition and public submissions be invited in accordance with provisions of the Local Government Act 1993.
- 3 Council give in-principle endorsement of the Kadina Park Operational Management Strategy.
- 4 A report be brought back to Council in conjunction with the consideration of the Plan of Management on traffic calming methods for Kadina Street.

(Councillors Roberts/Irwin)

225/00 **RESOLVED** that the report be received and -

- 1 Council give in-principle endorsement of the Draft Plan of Management for Kadina Park.
- 2 The Draft plan be placed on exhibition and public submissions be invited in accordance with provisions of the Local Government Act 1993.
- 3 Council give in-principle endorsement of the Kadina Park Operational Management Strategy.
- 4 A report be brought back to Council in conjunction with the consideration of the Plan of Management on traffic calming methods for Kadina Street.

(Councillors Roberts/Irwin)

Voting Against: Councillors Swientek and Gallen.

(P517)

ADJOURNMENT:

The meeting adjourned at 9.34pm and resumed at 9.46pm.

Policy on Determination of Development Applications

(Copy attached)

226/00 **RESOLVED** that the report be received and –

- 1 That the Draft Application Determination Policy be placed on public exhibition for a period of 28 days.
- 2 That following the exhibition period a further report be presented to Council for determination of the Policy.

(Councillors Gallen/Chant)

Voting Against: Councillor Roberts.

(S9)

Formation of a General Heritage Committee

(Copy attached)

A MOTION WAS MOVED that the report be received and Council bring together interested members of the former Heritage Steering Committee to produce terms of reference for a General Heritage Committee, such terms of reference to be referred to Council for consideration and are to require minimal resourcing by staff.

(Councillors Roberts/Irwin)

On submission to the meeting the MOTION was DEFEATED.

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

A FORESHADOWED MOTION WAS MOVED that the report be received and –

1 That Council not form a General Heritage Committee.

2 That Council initiate a Heritage Advisory Working Party when required by Council.

(Councillors Hampton/Suffolk)

227/00 **RESOLVED** that the report be received and –

1 That Council not form a General Heritage Committee.

2 That Council initiate a Heritage Advisory Working Party when required by Council.

(Councillors Hampton/Suffolk)

Voting Against: Councillors Irwin, Roberts, Tomlinson and Gallen. (S36)

DCP No. 43 – Crime Prevention Through Environmental Design

(Copy attached)

228/00 **RESOLVED** that the report be received and Council prepare the draft Development Control Plan No. 13 on Crime Prevention Through Environmental Design and place it on exhibition for 28 days.

(Councillors Irwin/Gallen) (S717)

Wayiganna Aboriginal Advisory Committee – Plan of Management and Strategic Plan

(Copy attached)

229/00 **RESOLVED** that the report be received and that Council adopt the Plan of Management and the Strategic Plan for the Wayiganna Aboriginal Advisory Committee.

(Councillors Irwin/Tomlinson) (S675)

The Channon Walkway/Channon Road

(Copy attached)

A MOTION WAS MOVED that the report be received and -

1 That Council provide assistance to the Organising Committee of The Channon Hall Trust in the following form -

- provision of design plans, survey pegs and technical advice for provision of the pedestrian bridge and walkway path
- provision and placement of existing precast concrete modular units to span the creek with handrail (foundations by other party to specification)
- provision of proforma and application fee (\$200) to the NSW Fisheries Department
- provision of inspections to ensure conformance of works with the relevant plans and specifications.

2 That funding in the amount of \$2,000 per year be allocated from Council to maintain The Channon Hall Trust path, plus a one-off allocation of \$3,500 from the working fund surplus to complete the bridge.

- 3 Council advise that commitment to the path extension is subject to replacement/ resurfacing of the deteriorated/slippy sections of the path by The Channon Hall Trust.

(Councillors Tomlinson/Irwin)

AN AMENDMENT WAS MOVED that the report be received and –

- 1 That Council provide assistance to the organising Committee of The Channon Hall Trust in the following form -
- provision of design plans, survey pegs and technical advice for provision of the pedestrian bridge and walkway path
 - provision and placement of existing precast concrete modular units to span the creek with handrail (foundations by other party to specification)
 - provision of proforma and application fee (\$200) to the NSW Fisheries Department
 - provision of inspections to ensure conformance of works with the relevant plans and specifications.
- 2 a) That in order to minimise Council's liability, a commitment be sought from The Channon Hall Committee to provide regular maintenance of the path;
- b) a one-off allocation of \$3,500 from the working fund surplus to complete the bridge.
- 3 Council advise that commitment to the path extension is subject to replacement/ resurfacing of the deteriorated/slippy sections of the path by The Channon Hall Trust.

(Councillors Hampton/Suffolk)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting Against: Councillors Tomlinson and Gallen.

230/00

RESOLVED that the report be received and –

- 1 That Council provide assistance to the organising Committee of The Channon Hall Trust in the following form -
- provision of design plans, survey pegs and technical advice for provision of the pedestrian bridge and walkway path
 - provision and placement of existing precast concrete modular units to span the creek with handrail (foundations by other party to specification)
 - provision of proforma and application fee (\$200) to the NSW Fisheries Department
 - provision of inspections to ensure conformance of works with the relevant plans and specifications.
- 2 a) That in order to minimise Council's liability, a commitment be sought from The Channon Hall Committee to provide regular maintenance of the path;
- b) a one-off allocation of \$3,500 from the working fund surplus to complete the bridge.
- 3 Council advise that commitment to the path extension is subject to replacement/ resurfacing of the deteriorated/slippy sections of the path by The Channon Hall Trust.

(Councillors Hampton/Suffolk) (P13126)

Civic Design Panel

(Copy attached)

A MOTION WAS MOVED that the report be received and –

- 1 That Council approve the change in title of the Civic Design Advisory Panel to the "Civic Pride Advisory Panel".

- 2 That Council endorse the Panel's Strategic Plan and it be included in the Plan of Management.
- 3 That M/s Vanessa Ekins be appointed as a citizen member of the Panel.
- 4 An additional Performance Objective be included as follows:
"2.9 To organise and be involved in Tidy Towns matters."
(Councillors Gallen/Irwin)

AN AMENDMENT WAS MOVED that the report be received and –

- 1 That Council approve the change in title of the Civic Design Advisory Panel to the "Civic Pride Advisory Panel".
- 2 That Council endorse the Panel's Strategic Plan and it be included in the Plan of Management, subject to the amendment of Performance Objective 2.3 to read "To develop a strategy to establish new appropriate tree plantings in the Lismore area."
- 3 Any vacant citizen member position be advertised and applications referred to the Panel for subsequent recommendation back to Council.
- 4 An additional Performance Objective be included as follows:
"2.9 To organise and be involved in Tidy Towns matters."
(Councillors Suffolk/Crowther)

On submission to the meeting the AMENDMENT was APPROVED and became the MOTION.

Voting Against: Councillors Irwin, Roberts, Tomlinson, Swientek and Gallen.

231/00

RESOLVED that the report be received and –

- 1 That Council approve the change in title of the Civic Design Advisory Panel to the "Civic Pride Advisory Panel".
- 2 That Council endorse the Panel's Strategic Plan and it be included in the Plan of Management, subject to the amendment of Performance Objective 2.3 to read "To develop a strategy to establish new appropriate tree plantings in the Lismore area."
- 3 Any vacant citizen member position be advertised and applications referred to the Panel for subsequent recommendation back to Council.
- 4 An additional Performance Objective be included as follows:
"2.9 To organise and be involved in Tidy Towns matters."

(Councillors Suffolk/Crowther)

Voting Against: Councillors Roberts and Gallen.

(S273)

CONTINUATION:

232/00

The time being 10.30pm it was **RESOLVED** that the meeting continue to the end of the business paper.

(Councillors Crowther/Suffolk)

Nimbin Water Supply

(Copy attached)

233/00

RESOLVED that the report be received and that Council –

- 1 Appoint the following:

*Loretta Gardiman
Alva Sandor
Kevin Soward
Ian Smith
Shirley Campton
Murray Ryan*

*Robyn Francis
Danny Wort
Dick Hopkins
Wayne Franklin (Rous Water)
Winifred Mitchell*

as community representatives to the Nimbin Water Supply Consultation Committee.

- 2 Utilise the remaining \$5,000 from the current estimate to commence the community consultation process.
(Councillors Roberts/Swientek) (S304)

Organisation Structure Review

(Copy attached)

234/00 **RESOLVED** that the report be received and –

- 1 Council retain the current organisation structure for the balance of this Council term.
- 2 With respect to the operation of the Blakebrook Quarry, the Business & Enterprise Group shall consult the Manager-Roads & Infrastructure regarding the determination of product quality and type extracted from the Blakebrook Quarry for use in the maintenance and construction of roads.
- 3 That Council recognises the need to review Council's strategic plan in an effort to make it a more practical document that more effectively targets Council's priorities.
- 4 That the General Manager report back to the Council on proposals for a cost-effective review of the Plan including timing, financial and resource implications.
- 5 That the General Manager review position descriptions for Group Managers with a view to providing a strong strategic focus and embracing the proviso outlined in (2) above.

(Councillors Roberts/Irwin) (S4)

Delegations

(Copy attached)

235/00 **RESOLVED** that the report be received and –

- 1 That debts greater than the sum of \$5,000 be written off only by resolution of the Council.
- 2 Pursuant to section 377 of the Local Government Act 1993, Council revokes all delegations of functions from the Council to the General Manager whenever made and delegates to the General Manager all of the functions of the Council under any Act or law that may be lawfully so delegated subject to the following conditions and limitations:
 - a) The delegate may not exercise a function under delegated authority if:
 - i) the exercise of the function involves the adoption or amendment of a policy of the Council, or would be inconsistent with the aims and objectives of any existing Council policy;
 - ii) in the case of a function (other than to bring, defend, appear in or settle proceedings), the matter to which the function relates is the subject of actual, threatened or apprehended proceedings in a court or other tribunal or is the subject of a public inquiry under any Act; or
 - iii) Council by resolution, direct that a particular matter be referred to Council for decision, in which event this delegation shall not apply to such particular matter unless and until such direction or resolution is revoked by further direction or resolution.
 - b) Only debts of \$5,000 or less may be written off by the General Manager.

- c) The delegate must ensure that the conditions and limitations in paragraphs (a) and (b) apply to functions sub-delegated to Council staff by the General Manager where appropriate.
 - 3 a) Council delegates its functions as a Local Control Authority for noxious weeds under the Weed Act 1993 to the Far North Coast County Council for the term of this Council.
 - b) This delegation shall continue for one year after that term, or until such times as it is revoked or re-delegated.
- (Councillors Irwin/Roberts) (S6)

Supply of Truck-Mounted Road Pavement Repair Unit

(Copy attached)

DISCLOSURE OF INTEREST:

S459

Councillor Chant declared an interest in this matter as he was a potential supplier and left the Chamber during discussion and voting thereon.

- 236/00 **RESOLVED** that the report be received and –
- 1 Council accept the tender from John Chant Isuzu, Lismore, for the supply of one (1) only Isuzu FVZ 1400 truck fitted with automatic transmission and equipped with a Paveliner Autopatch cabin-operated pavement repair unit, at a total cost of \$229,349 (*less GST of \$20,850*), representing a net cost to Council of \$208,499.
 - 2 Staff report back 3 months after delivery on its effectiveness.
- (Councillors Gallen/Crowther) (T20022)

Tenders for Sprayed Bituminous Surfacing Works

(Copy attached)

- 237/00 **RESOLVED** that the report be received and Council adopt the following order of priority for the engagement of bitumen sealing contractors for major and minor works:
- 1 Boral Asphalt
 - 2 Pioneer Road Services
 - 3 CSR
 - 4 Roads & Traffic Authority, NSW
- (Councillors Roberts/Chant) (T20025)

Investments held by Council as at July 31, 2000

(Copy attached)

- 238/00 **RESOLVED** that the report be received and noted.
- (Councillors Irwin/Baxter) (S170)

COMMITTEE RECOMMENDATIONS:

Traffic Advisory Committee 16/8/00

(Copy attached)

- 239/00 **RESOLVED** that the minutes be received and the recommendations contained therein be adopted, excluding Clauses 4, 5 and 8.
- (Councillors Roberts/King)

**Clauses 4 & 5 (TAC108/00-109/00) – Ms P Dwyer & St. Vincent's Hospital
Occupational Health & Safety Committee**

- 240/00 **RESOLVED** that –
- 1 A survey of residents be carried out within the area outlined above, and the results and a recommendation be presented to the Committee for further consideration.

- 2 Council establish dialogue with St. Vincent's Hospital in an attempt to provide more internal parking.
(Councillors Crowther/Hampton) (00-11381,11533:S346,R7426) (00-11908:P2759)

Clause 8 (TAC113/00) – Seventh Day Adventist Church

- 241/00 **RESOLVED** that pedestrian facilities at the Uralba/Brewster Streets roundabout, as outlined above, be upgraded at the earliest opportunity.
(Councillors Crowther/Baxter) (00-12102:S342)
(S352)

At this juncture (11.01pm) Councillor Irwin left the meeting.

CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE:

- 242/00 **RESOLVED** that Council now exclude the press and public and meet in Committee of the Whole to consider the following matter:-

Item 1: Lismore Regional Airport Terminal

(Tabled) (Copy attached)
(Councillors Hampton/King) (P9733)

RESUMPTION OF OPEN COUNCIL:

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

AND IT NOW RECOMMENDED

Item 1:

That the report be received and -

- 1 The General Manager be authorised to sign documents in accordance with the contract between Lismore City Council and McMaster Pty Ltd to achieve the outcome as described in the report.
- 2 Reserve funds are allocated in accordance with the report.
- 3 A further report be brought back to Council.

- 243/00 **RESOLVED** that the General Manager's report of Council meeting in Committee of the Whole be received and adopted.
(Councillors Crowther/Hampton)
Voting Against: Councillor Swientek.

NOTICE OF RESCISSION MOTION:

The Group Manager-Corporate & Community Services advised Council that he had been handed a Notice of Rescission Motion signed by Councillors Irwin, Roberts and Gallen with respect to the resolution Lismore Memorial Baths Redevelopment (Min. No. 221/00).

The Group Manager-Corporate & Community Services advised Council that this Rescission Motion would be considered at the next ordinary meeting of Council and that in the interim the Council resolution referred to in the rescission motion could not be carried into effect until the rescission motion had been dealt with.
(00-13270: P6768)

This concluded the business and the meeting terminated at 11.41 pm.

CONFIRMED this 19TH day of SEPTEMBER, 2000 at which meeting the signature herein was subscribed.

MAYOR

