



Ordinary Meeting

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on **JUNE 14, 2005** and members of Council are requested to attend.

At 5.30pm (during supper) a presentation will be given by the RTA consultants on the Woodburn/Ballina Highway upgrade options.

Paul G. O'Sullivan
General Manager

June 3, 2005



Agenda

Opening of Meeting and Prayer (Mayor)

Apologies and Leave of Absence

Confirmation of Minutes

Ordinary meeting May 10, 2005

Public Access Session

Public Question Time

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Altering Order of Business

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

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Strategic Plan Summary

Lismore regional city

STRATEGIC PRIORITY	AIMS	INITIATIVES
Economic Development	Build Lismore's reputation as a regional city for residents, businesses, education providers, health services and government.	<ul style="list-style-type: none"> ▶ Champion education ▶ Promote health facilities ▶ Support regional agriculture ▶ Promote cultural life ▶ Promote Lismore as a legal centre ▶ Support for sport
	Increase regional economic development, tourism and job creating investments.	<ul style="list-style-type: none"> ▶ Promote regional development ▶ Develop tourism ▶ Support businesses ▶ Pursue CBD revitalisation ▶ Assist in job creation ▶ Assist in creating new income opportunities
Quality of Life	Make Lismore a safe, healthy and caring community in which to live.	<ul style="list-style-type: none"> ▶ Increase social cohesion ▶ Support villages ▶ Provide community services ▶ Encourage sustainable development ▶ Promote recreation and leisure
Leadership by Innovation	Lead the region by demonstrating innovative practices in governance, customer service, communication, consultation, virtual amalgamation and financial management.	<ul style="list-style-type: none"> ▶ Lead the region ▶ Increase revenue from grants ▶ Improve customer service ▶ Consult the community ▶ Update technology ▶ Provide user pays services ▶ Privatise selected services ▶ Share assets and resources
Natural Environment	Preserve and rehabilitate Lismore's natural environment.	<ul style="list-style-type: none"> ▶ Provide sustainable land use planning ▶ Improve catchment management ▶ Conserve and repair the environment
Infrastructure	Further enhance Lismore's transportation, parking and pedestrian networks.	<ul style="list-style-type: none"> ▶ Improve transport systems ▶ Improve roads, cycleways and footpaths ▶ Assist with public transport ▶ Assist airport operations ▶ Support fleet operations
Water and Waste Cycle	Educate our community and lead the state in water and waste-cycle management.	<ul style="list-style-type: none"> ▶ Manage stormwater drainage systems ▶ Manage water and sewage ▶ Manage the waste stream and reduce waste

Rescission Motion

Councillors Meineke, Chant and Hampton move:

That Council rescind its resolution 88/05 of its meeting of May 10, 2005, i.e.

Amendment to Lismore City Local Environmental Plan to allow building works within the Floodway

RESOLVED that the report be received and in accordance with section 54 of the Environmental Planning and Assessment Act 1979 Council prepare an amending Local Environmental Plan to:

Allow building works to occur on existing buildings in the floodway subject to:

- No expansion of the building footprint; and
 - All work to be internal or above the 1 in 100 ARI flood level; and
 - Any new materials below the 1 in 100 ARI flood level shall be compatible with immersion; and
 - A certificate from a suitably qualified engineer that states that the building (including foundations) when modified will be able to withstand the impacts of the floodwaters and debris in the floodway for floods up to the 1 in 500 ARI flood event; and
 - No residential use is allowed for the modified building (other than existing dwelling houses or dwelling houses used in conjunction with an industrial use) subject to the above dot points.
-

(05-5529: S918,D04-1048)

Notice of Motion

Councillor Meineke moves:

Amendment to Lismore City Local Environmental Plan to allow building works within the Floodway

That in accordance with section 54 of the Environmental Planning and Assessment Act 1979 Council prepare an amending Local Environmental Plan to:

Allow building works to occur on existing buildings in the floodway subject to:

- No expansion of the building footprint; and
 - All work to be internal or above the 1 in 100 ARI flood level; and
 - Any new materials below the 1 in 100 ARI flood level shall be compatible with immersion; and
 - A certificate from a suitably qualified engineer that states that the building (including foundations) when modified will be able to withstand the impacts of the floodwaters and debris in the floodway for floods up to the 1 in 500 ARI flood event; and
 - No residential use is allowed for the modified building (other than existing dwelling houses or **dwelling**s used in conjunction with an industrial **or commercial** use) subject to the above dot points.
-

Staff Comment

Group Manager-Planning & Development

As the terms “dwelling” and “dwelling house” have separate meanings in the Lismore LEP, the change of wording proposed will clarify Council’s intent that the dot points apply to both terms.

(05-5532: S918,D04/1048)

Notice of Motion

Councillor Irwin moves:

That this Council express its deep concern to the Prime Minister about the proposed changes to the Industrial Relations framework and to universities, and the implications of those changes for both the welfare of our residents and the economy of Lismore.

(05-5732: S631)

Notice of Motion

Councillor Tomlinson moves:

A That the following three membership criteria be added to the Public Transport Policy Advisory Group:

- 1 Public Transport Development Project (PTDP) Co-ordinator.
- 2 Aboriginal Transport.
- 3 Northern Rivers Regional Transport Co-ordinator - Ministry of Transport.

B That Leonie Watson be appointed to the Public Transport Policy Advisory Group as the Aboriginal Transport representative.

Reason:

One of the important roles of the Public Transport PAG is to bring together all the organisations and people involved in public transport in this area. Representatives from the three groups mentioned above have been attending the Committee meetings regularly and make valuable contributions to the Committee. These positions were inadvertently left off when the PAGs were determined at the last Council meeting. This motion will correct that error.

Staff Comment

Manager-Community Services

The inclusion of 3 key transport workers is strongly supported by Community Services. Their inclusion will allow a greater depth of input into public transport issues impacting on Lismore.

(05-5450: S135)

Report

Subject	Application to erect a dwelling on a "Woodlot" allotment, at No. 58 Satinwood Drive, McLeans Ridges (Lot 3 DP 876846) (SEPP 1 Application)
File No	DA05/107
Prepared by	Projects Assessment Planner
Reason	Application requires both DIPNR and Council approval.
Objective	Council's determination of the application.
Strategic Plan Link	Natural Environment
Management Plan Activity	Development Assessment

Overview of Report

Application to erect a dwelling on an allotment created for 'woodlot' purposes, and without the benefit of a dwelling entitlement.

Background

The allotment in question is part of a rural residential subdivision approved in 1995. Although appreciable changes have been made to the original subdivision since then, the allotment subject of this application was for a specific purpose and does not have the benefit of a dwelling entitlement.

Proposal:

To gain approval to erect a dwelling on the land (and to obtain a variation to the building alignment).

Applicant:

Shirlee Whalley

Location:

Lot 3 DP 876846, being No. 58 Satinwood Drive, McLeans Ridges.

Zoning:

Rural 1(a) – General Rural

Key Issues:

Whether or not it is appropriate to allow the erection of a dwelling on this allotment.

1. SITE/SITE HISTORY

This site has an extensive history since approval in 1995, which has been fully scheduled in the attached consultant's report.

2. SURROUNDING PROPERTIES & ENVIRONS

With the exception of the land adjoining to the west, all lots in this rural residential estate have dwellings erected on them. (Sec 2 of Consultant's Report).

3. PROPOSAL

To obtain Council approval to erect a dwelling on the land; also to seek a variation to the building alignment to Satinwood Drive from 15m to 7m.

4. PUBLIC NOTIFICATION

Ten adjacent land owners were notified, and four objections have been received. These are fully discussed in the attached Consultant's Report (Sec 517).

5. ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT -

5.1 **Any Environmental Planning Instruments**

5.1.1 **State Environmental Planning Policies (SEPPS)**

This is a SEPP 1 application. Following referral to DIPNR, concurrence to the application was received, "as the surrounding land is developed for rural residential use, and there is, therefore, little public benefit in maintaining the standard" (ie the minimum 40ha standard for dwelling construction).

5.1.2 **Regional Environmental Plan (REP)**

See Consultant's Report

5.1.3 **Lismore Local Environmental Plan (LEP)**

See Consultant's Report

5.2 **Any Draft EPI that is or has been placed on Exhibition**

None

5.3 **Any Development Control Plan**

DCP's 14, 16 and 27 – See Consultant's Report

5.4 **Any Matters Prescribed By The Regulations**

Not applicable

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

Fully discussed in Sec 515 of the Consultant's Report.

5.6 **The Suitability of the Site for the Development**

Sec 5.6 Consultant's report.

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

Four (4) private submissions plus concurrence to approval from DIPNR.

5.8 **The Public Interest**

Refer to Consultant's Report.

6. REFERRAL COMMENTS

6.1 **Internal**

6.1.1 **Manager Finance & Administration Comments**

Not required.

6.2 **External**

DIPNR have concurred with an approval to the application.

7. COMMENTS AND CONCLUSIONS

Consultant's Report

It would appear that the current situation is the result of certain errors that have been made – to create the problem in the first place, to allow 'shift of the woodlot location', in not registering the parcel in community title. It is clear that the original intent of the lot (as a lot for 'regeneration with rainforest and cabinet timbers') will not eventuate, and the created lot will only remain as a future problem for the owner(s) and Council.

In the words of DIPNR "there is little public benefit in maintaining the (no dwelling) standard".

The application has been assessed by an independent planner. I concur with the Consultant's recommendation, with particular emphasis on the following:-

- This is a rural-residential subdivision, the subject lot fits well within that pattern, and would have been approved as a building lot if the identical situation were able to be applied for today;
- The dwelling house intent was previously initially supported by Council in the rezoning application, and also by DIPNR under current SEPP 1 referral;
- The property has a much better chance of being looked after if it has a resident owner;
- The reason a problem exists is because of earlier mistakes in not ensuring the Community Title as was originally intended.
- It is an isolated case, and no precedent will be set; and
- If no dwelling can be placed on the land, it is believed that pressure for same will continue, and the matter will remain a continued problem for Council.

The applicant also wrote to Council during the notification period with a further letter in support of her application, a copy of which is appended.

I am of the opinion that having gone this far, and now having a concurrence from DIPNR, the most appropriate course of action is to support the application, and the building line variation sought.

With respect to the procedural and legal issues raised by the Consultant in Recommendation A of his report, it is advised that the concerns raised are not relevant – Section 80A of the EP & A Act provide that a condition of development consent may be imposed "if it requires modification....of a consent granted under this Act.....".

This removes the requirement for a Section 96 application to amend the original consent, and case law already exists to support this position.

Recommendation

- A That Council, as the consent authority, approve Development Application 2005/107 for the erection of a dwelling house on Lot 3 DP 876846, 58 Satinwood Drive, McLeans Ridges and the building line variation sought, subject to the conditions contained in the Consultant Planner's report attached.
- B That Council grant delegated authority to the General Manager to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application, except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.

Consultant's Report

Background

Malcolm Scott MPIA, Consultant Town Planner, has been requested by Council's Manager of Planning Services to prepare a planning assessment of Development Application No. 05/107.

Malcolm Scott has prepared this report. The report is formatted generally the same as Council reports.

In the preparation of this report Malcolm Scott has:

- inspected the site on 16 May 2005
- reviewed Council's files DA1995/120 (parts 1, 2 & 3), DA1997/338, DA 2001/243, S871 & property file and
- reviewed the Development Application (DA) Statement of Environmental Effects (SEE).

Malcolm Scott has had no previous involvement in the land or proposal.

Proposal:

The DA seeks consent for the erection of a dwelling-house on rural land. The Application also seeks Council's support to vary the minimum building setback to Satinwood Dr from 15m to 7m.

Because the site has an area less than the minimum lot area (40ha) for a dwelling in the zone the DA is supported by a submission made under State Environmental Planning Policy No. 1 – Development Standards (SEE No. 1) making in the circumstances of the site and proposal an objection to the minimum lot standard to enable the erection of a dwelling on the site.

Given the extent of the departure from the minimum lot standard and Council's delegations the DA and SEPP No. 1 were forwarded (4 March 2005) to the Regional Office of the Department of Infrastructure Planning and Natural Resources (DIPNR) for comment.

DIPNR responded on 5 April 2005 and advised Council that it concurred with the request to vary the 40ha minimum lot size for a dwelling. The concurrence of DIPNR was granted in the instance because the surrounding land is developed for rural residential purposes and that there was little public benefit in maintaining the standard. DIPNR requested that Council ensure that any buffer or setback between the dwelling and adjoining macadamia operations be 'effective'.

Applicant:

Ms Shirlee Whalley
1316 Boonah Rd
PEAK CROSSING QLD 4306

Location:

Lot 3 DP 876846
58 Satinwood Drive
McLeans Ridges LISMORE

Zoning:

Rural 1(a)(General).

Key Issues:

Resident objections and previous determinations of Council.

Recommendation:

Seek legal advice then if no legal impediment the issue of a deferred commencement conditional approval of the Application.

1. SITE/SITE HISTORY

The site

The subject site is located at the intersection of Satinwood Dr. and Carabeen Pl. McLeans Ridges.

The subject site has an area of 1.5ha, is vacant (i.e. contains no built development) and has a northwestern aspect.

A natural drainage system (intermittent gully) is located in the western section of the site. A large farm dam has been constructed in the gully. The site of the proposed dwelling is approximately 50-60m upslope from the intermittent gully. The site of the proposed dwelling is approximately 300m upslope from the dam.

The majority of the site is steeply sloped at approximately 30+%. That part of the site adjoining the intersection of Satinwood Dr. and Carabeen Pl. on which the dwelling is proposed has a slope of approximately 13-16%.

Earthworks have 'benched' or 'terraced' parts of the site adjoining that part of the site on which the dwelling is proposed. Similar earthworks have occurred on land to the west.

The steep footslopes of the site adjoining the gully appear to have been planted with various rainforest species as part of the requirements of the initial subdivision application and approval. The site of the proposed dwelling remains grassed. The 'benched' or 'terraced' parts of the site adjoining the proposed dwelling are grassed with some isolated rainforest trees.

The majority of the site contains the usual North Coast mix and infestations of exotic grasses, weeds, shrubs and trees.

The site history

The subject site has a considerable land use planning history. The Planning Report (File No. S871) to Council's Ordinary Meeting of 14 December 2004 also outlines the history of the land and is attached to this report (Attachment One).

The following is a summary description of the land use history from the review of the files identified above:

DA 1995/120 (parts 1, 2 & 3)

The DA initially submitted to Council sought the creation of 19 residential lots. The original Application was received on 6 April 1995. On 8 May 1995 the Application was amended. Council considered the Application at its meeting of 14 July 1995. The report to Council recommended refusal of the Application. Council resolved to defer consideration of the Application pending the submission of an amended plan which reduced the number of lots and which was designed to suit the topography.

An amended Application was submitted on 11 July 1995, with additional minor amendments made following a site inspection with Council officers and the proponents.

The Application was approved by Council at its meeting of 14 August 1995 and a 'deferred commencement' consent issued 18 August 1995.

The Applicants at the time the DA was being considered by Council provided a written undertaking indicating that subject to approval commitment would be made in respect of the following matters:

- regeneration with rainforest and cabinet timber will be planted prior to release of linen plan
- covenants will be established over each title to guarantee the on-going management of the regeneration areas and buffers
- suitable covenants to minimise extent of cut and fill for new buildings and
- suitable covenants to ensure that effluent disposal will be way of aerated treatment systems.

The development that was approved was for a rural residential subdivision comprising; 14 residential lots (5,075m² – 1.77ha), a severed 9.2ha common lot for rainforest regeneration (this lot included the subject site) and 7ha residue rural lot (with existing dwelling).

The development was approved having regard to Cl.15 of the Lismore LEP 1992, which enabled rural residential development in the 1(a) zone. The 1992 provisions were later repealed and have not been provided for in the Lismore LEP 2000.

The consent issued for the original subdivision development was issued as a 'deferred commencement' approval. The 'deferred' matters that had to be satisfied were that the consent did not become operative until 1 Jan 1996 and for certain road widening works be undertaken in Cowlong Rd.

The 'deferred commencement' consent was for 'a 14 rural residential lots ranging in size from 5075m² to 1.77ha, a lot of 9.2ha in common ownership for the purposes of rainforest regeneration and a residue farm lot of 7.04ha'.

On 13 July 1995 Solicitors acting for the Applicants advised Council on behalf of the Applicants that due to market resistance to Community Titled ownership the Applicants wish to subdivide the property under normal Real; Property Act title. The writer of the letter indicates a recommendation to the Applicants at the time of selling the allotments in the subdivision that each purchaser would also be given a share in the utility allotment 16 (which formed part of the subject land). Lot 16 would then be owned by all the owners in the subdivision as Tenants in Common and be subject of a management agreement / covenant to cover the use of the dams water supply recreation areas and the proposed woodlot.

DA 95/120 was then subject to a number of modifications made under Section 102 (now Section 96) & Section 96. In brief these modifications comprised:

Section 102 submitted 1 Feb 1996

The Application sought to modify the development and stage it in 2 stages. Stage 1 comprising Lots 2, 8, 9, 10, 11, 12, 13, 14 & 15 and Stage 2 comprising Lots 3, 4, 5, 6, & 7.

The Application was approved under delegated authority 11 December 1995.

Section 102 submitted 1 Feb 1996

The Application sought to modify the consent by deletion of:

- Condition 2c requiring the reconstruction by widening and strengthening Cowlong Rd and
- Condition 19 requiring the dedication of public road reserves.

Council responded in writing to the requested modification and appears as the Application was not legally made and no further action was taken in respect of the request.

Section 102 submitted 29 April 1996

The Application sought to modify:

- the location of a right of way through Lot 9 to western boundary of Lot 8 and
- variation to the internal road layout to minimise cut and fill.

The Application was approved under delegated authority 30 May 1996.

Section 102 submitted 9 September 1996

The Application was withdrawn (10/10/96) and re-submitted as part of the 8 Oct. 1996 Application.

Section 102 submitted 8 Oct 1996

The Application sought to modify:

- Condition No. 1 to change the areas of Lots 9, 10 & 12
- Condition No. 13 to reduce the buffer areas within Lots 2 & 3 to 30m (from 50m)

- Condition No. 21 to transfer the requirement for provision of detail regarding on-site wastewater disposal areas to the Building Application/s & Consent/s and
- Condition No. 28 to transfer the requirement for landscaping required on Lots 10, 11 & 12 to the Building Application/s & Consent/s.

The Application was in part approved under delegated authority 21 January 1997. Only the requested amendments to Conditions No. 1 & No. 21 were approved.

Section 102 submitted 13 May 1997

The Application sought to modify the location of the building envelope of Lot 10.

The Application was approved under delegated authority 15 May 1997.

Approved landscape plans

Council approves (9/1/96) the landscape plan required by Condition No. 13. The approved landscape plan shows the subject site as '2A rainforest and cabinet species'.

Release of Stage 1

Council released the Stage 1 final subdivision plans 21 February 1997. The Stage 1 lands comprised Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16. Lot 16 is the severed residual lot, which included the Stage 2 land and the subject site. The DP identifier number for these lots is DP 867052.

Item 4(c) of the instrument setting out restrictions on use intended to be created pursuant to Section 88B of the Conveyancing Act, 1919 states:

'Residential dwellings shall only be located within the building envelope shown on the plan. Buildings may only be located outside these envelopes with the consent of Ian Craig and Lynette June Woolley.'

No building envelope was shown on Lot 16.

The Section 88B instrument did not provide any legal obligation rights / entitlements, benefits or conditions for common ownership of Lot 16 in DP 867052 which now in part comprises Lot 3 (the site) in DP 876846.

Section 102 submitted 14 Jan 1998

The Application sought to modify DA 95/120 by deleting Condition No. 22 to permit the boundary adjustment of land known as Lot 13 DP 867052 (1.5ha –dwelling entitlement) and Lot 16 DP 867052 (15.6ha – comprising the site, part of the severed 9.2ha common lot for rainforest regeneration and land proposed as Stage 2) to create 2 new allotments of 21.3ha and 4.8ha.

The Application in effect sought to incorporate the severed part of Lot 16 (3.3ha) containing the remnant rainforest into Lot 13 (1.5ha).

The Application stated that the landowner no longer wished to proceed with and relinquished Stage 2 of the proposed overall subdivision.

For reasons not disclosed on the file the Application was amended 14 Jan 1998 to create 3 new allotments of 10.8ha (part of Lot 16), 1.5ha (the site) and 4.8ha (Lot 13 and the severed part of Lot 16 (3.3ha) containing the remnant rainforest).

The Application was approved under delegated authority on 13 January 1998 and consent issued modified to reflect the deletion of Stage 2.

The consent indicates approval for a rural residential subdivision comprising; 10 rural residential lots, 1 residue parcel and 1 common tenancy bush regeneration lot.

The common tenancy bush regeneration lot being Lot 3 (the site).

The following conditions of the modified consent relate to the site:

Condition No. 12 of the modified consent states:

'Submission of a detailed landscape plan (in triplicate), indicating the location and name of shrub and tree species to be planted. The landscape plan is to provide details concerning the number, spacing and method of mulching of cabinet timber species and other indigenous rainforest trees (as listed in the Preliminary Floral and Fauna Report prepared by James Warren) for Lots 1 and 3'.

Condition No. 13 of the modified consent states:

'The site being landscaped (including the proposed buffers and the rainforest plantings on Lot 1 & 3) in accordance with the approved landscape plan prior to release of the Final Plan of Survey and maintained at all times to the satisfaction of the Council.'

Condition No. 21 of the modified consent states:

'Lot 3 is to be used for the purposes of rainforest and cabinet timber regeneration only and does not have entitlement for a dwelling house or future subdivision'.

The approved plan of subdivision:

- shows the dwelling envelopes on Lots 1 & 2 (no dwelling envelopes are shown on Lot 3 [the site]) and
- by hatching those areas within Lots 1 & 3 that where development was to be restricted to rainforest and cabinet timber regeneration using a Section 88B instrument.

The hatched area within Lot 1 comprised the severed part of Lot 16 (3.3ha) containing the remnant rainforest.

The hatched area within Lot 3 (the site) comprised the whole of the site.

Release of modified DA (Lots 1, 2 & 3)

Council released the final subdivision plans for the DA modified to create 3 lots from land formally known as Lot 13 DP 867052 and Lot 16 DP 867052 on 18 April, 1998. The DP identifier number for these lots is DP 876846.

Item 1(a) of the instrument setting out restrictions on use intended to be created pursuant to Section 88B of the Conveyancing Act, 1919 states:

'Residential dwellings shall only be located within the building envelope shown on the plan. Buildings may only be located outside these envelopes with the consent of Lismore City Council'.

The Deposited Plan signed by Council shows that there were dwelling envelopes on Lots 1 & 2 and no dwelling envelope on Lot 3 (the site).

The Section 88B instrument does not provide any legal obligation rights / entitlements, benefits or conditions for common ownership of Lot 3 for Lots 1 & 2 in DP 876846.

Section 96 submitted 18 Nov 2002

The Application sought the deletion of Condition No. 21, which stated:

'Lot 3 is to be used for the purposes of rainforest and cabinet timber regeneration only and does not have entitlement for a dwelling house or future subdivision'.

The Application was determined under delegated authority by refusal. The reasons for the refusal of the Application were as follows:

1. *The mechanism to create rural residential lots (Cl. 15 of Lismore LEP 1992) has been repealed and Council does not have the power to amend the consent*
2. *The development is prohibited due to non-compliance with the development standard specified in Cl. 36(1) of LEP 2000 and*
3. *The application is contrary to the intent of Cl. 36(4) of LEP 2000 (cf Cl. 11(4) of LEP 1992) that created the lot.*

DA 1997/338 – refer also above

The DA was for a subdivision boundary adjustment between Lot 13 DP 867052 (1.5ha –dwelling entitlement) and Lot 16 DP 867052 (15.6ha – comprised the site, part of the severed 9.2ha common lot for rainforest regeneration and land proposed as Stage 2) to create 2 new allotments of 21.3ha and 4.8ha.

Council advised the Applicant that it had the concerns in respect of the proposal. Those concerns related to:

- Lot 16 of DA 95/120 was to be for the purposes of rainforest regeneration and cabinet timbers and owned by all future owners in the subdivision as 'tenants in common'
- Condition No. 22 of DA 95/120 which stated that; Lot 16 is to be used for the purposes of rainforest regeneration and cabinet timber regeneration only and does not have entitlement for a dwelling house or future subdivision
- DA 95/120 and SEPP No. 1 comprised a number of lots (Lots 4, 5, 10, 11 & 12) below the 1ha minimum lot size due to the creation of Lot 16 in 2 parts for the purposes of forest regeneration with rainforest and cabinet timbers.

The DA was withdrawn following Council's advice that the matter could more appropriately be dealt with as a modification to DA 1995/120. Refer above.

DA 2001/243

The DA was for a subdivision boundary adjustment between the site (Lot 3 DP 876846 – 1.5ha – no dwelling entitlement) and adjoining land to the west (Lot 2 DP 876846 – 10.8ha – dwelling entitlement) to create 2 new allotments of 9.6ha (proposed Lot 3) and 2.7ha (proposed Lot 4 – the lot included the subject site). The application proposed that both lots would have a dwelling entitlement.

The DA was supported by an objection made under SEPP No. 1 as both allotments would have an area less than 40ha, which is the minimum land area standard in the zone for a dwelling entitlement.

The DA and SEPP No. 1 was referred to the Dept. of Urban Affairs and Planning (now DIPNR) for concurrence.

The DA was determined under delegated authority by refusal. The reasons for the refusal of the DA were as follows:

1. *the development is prohibited due to non-compliance with the development standard specified in Cl. 36(1) of LEP 2000*
2. *the SEPP 1 objection is rejected for the following reasons:*
 - a. *the application is inconsistent with the underlying objectives of the development standard in Cl 36(1)*
 - b. *the application is totally contrary to the intent of Cl 36(4) of LEP 2000 (of Cl 11(4) of LEP 1992) that created the lot*
 - c. *the proposal if approved would create an unacceptable precedent in the use of SEPP 1 to gain dwelling entitlements to parcels of land specifically created without an entitlement and*
3. *Lot 4 was identified by Council as being unsuitable for development for the purposes of a dwelling in the determination of DA95/120.*

Council subsequently advised the Dept. of Urban Affairs and Planning that concurrence was no longer required as the DA had been refused.

S 871

The current owners made a request to amend Schedule 4 of Lismore LEP (LEP No. 18) to enable a dwelling on the site.

The rezoning submission accompanying the request to amend Schedule 4 notes that by not proceeding with the Stage 2 part of the development this reduced by 4 the number of rural residential allotments created in the subdivision and hat this reduced the density ratio from that originally approved and that

therefore the integrity of original DA No. 95/120 and SEPP No.1 objection to the below standard (1ha) allotments was maintained.

Council initially considered the request at the Ordinary Meeting of 14 October 2003 and resolved to prepare a draft LEP to amend Schedule 4 of the Lismore LEP to make a dwelling house permissible with consent on the site.

Council at the Ordinary Meeting of 14 December 2004 resolved not to proceed with the amendment to the Lismore LEP.

Refer to Attachment One.

Other matters

It appears that the original landowners / Applicants, Mr & Mrs Woolley, no longer have any interest or ownership of land within the subdivision.

Council on 31 July 2002 issued a Planning Certificate (#02/1178) pursuant to Section 149 of the Act indicating that 'yes' there were development standards applying to the land fixing minimum land dimensions for the erection of a dwelling house of the land.

Council in response (23 Feb 2000) to a query from the original landowners / Applicants (25 January 2000) regarding a dwelling entitlement on the lands advised:

The subject allotment was created by the granting of conditional consent to Development Application 95/120. Condition 21 (detailed below) of this development consent states that Lot 3 does not have a dwelling entitlement and is only to be used for the purposes of "rainforest and cabinet timber regeneration".

21 *Lot 3 is to be used for the purposes of rainforest and cabinet timber regeneration only and does not have entitlement for a dwelling house or future subdivision.*

A search of Council's records reveals the above condition was imposed to satisfy the intent of State Environmental Planning Policy No. 1 (SEPP 1) submitted with the original development application. The subject SEPP 1 application was submitted due to Lots 9 – 11 being below the minimum area of one (1) hectare as prescribed by Clause 15 of the Lismore Local Environmental Plan. Council supported the creation of these allotments below the minimum site area provided suitable area was set aside for bush regeneration:

"The applicant is required to provide an area of 1.5 hectares of land in common tenancy for the purpose for bush regeneration to satisfy the original intent of the State Environmental Planning Policy No. 1 objection to the creation of lots below 1 hectare.

Within the original assessment of Development Application 95/120, a SEPP 1 objection was submitted to Council to create Lots 9, 10, 11 and 12 below the minimum 1 hectare standard within Clause 15 of the Lismore Local Environmental Plan 1992 (prior to LEP Amendment No. 34). The SEPP 1 application was supported by Council on the onus that adequate land be held in common tenancy for bush regeneration, thereby not increasing the residential density upon the subject land parcel. The application has maintained a 1.5 hectare common tenancy lot a previously mention, to maintain the integrity of the original Development Consent Notice 95/120."

Given the above it would appear very unlikely that any success would or should accrue from any development application lodged proposing that the land now be used to erect a dwelling.

Conclusion

The proposal and potential implications of the decision whether or not to approve the DA should be considered by Council's legal advisers in the light of the above historic events. The matters to be

considered should at least include whether or not there is a need to revoke or modify the existing development consents of the Application and whether or not Council can approve the DA having regard to the circumstances of the site.

The legal advice should be sought in the first instance and if there is no legal impediment to the determination of the application by way of approval, a conditional 'deferred commencement' approval is recommended.

2. SURROUNDING PROPERTIES & ENVIRONS

The land adjoining the site to the north and to the east adjoining Satinwood Dr. and Carabeen Pl. has been developed for rural residential purposes.

Land in the general locality of the site is used for various agricultural enterprises (horticulture and grazing), 'concessional' allotment and 'estate' rural residential purposes.

Dwellings are located on land adjoining and in the locality of the site at the following approximately distances:

Lot 12 DP 867052	55m
Lot 11 DP 867052	87m
Lot 10 DP 867052	145m
Lot 9 DP 867052	200m
Lot 8 DP 867052	270m
Lot 7 DP 867052	82m
Lot 6 DP 867052	350m
Lot 1 DP 876846	200m

The attached cadastral plan shows the pattern of land subdivision and development within 1km of the site. (Attachment Two)

3. PROPOSAL

The application shows a building envelope of approximately 352m² near the southeast corner of the land, with an adjoining on-site wastewater management disposal area of 1,120m².

The proposed development is for a dwelling-house. The dwelling-house comprises; open plan living /dining / kitchen room, 3 bedrooms (1 with ensuite & 1 guestroom), retreat room, bathroom and laundry. The dwelling and decks will have a floor area of approximately 254m². The structure is single storey and elevated (built on piers). It is proposed to be clad with colourbond metal and fibro cement sheeting and the 10⁰ pitched roof will be colourbond metal.

The northwest floor level of the proposed dwelling (deck adjoining meals area) will be approximately 3m above existing ground level and the distance from existing ground level to the 'top plate' of the building approximately 6.8m.

The proposed dwelling achieves at least a 3.5 star energy rating requirement.

Water supply is proposed to be a 45,000 litre rain water tank.

The proposed system of on-site wastewater management comprises a 3,000 litre septic tank with biological filter and subsurface irrigation via 352m² evapotranspiration / absorption beds in a disposal area of 1,120m². The operational or managements requirements proposed include conditioning the soil at time of construction use of AAA water saving fixtures in the dwelling, use of only biodegradable detergents and cleaning fluids and regular maintenance of the vegetation in the disposal field.

Existing residential development in the immediate locality are provided with electrical, postal and garbage services.

The building is proposed to be setback 7m from Satinwood Dr. and 15m from Carrabeen Pl.

4. PUBLIC NOTIFICATION

The Application was publicly notified for 2 weeks by Council writing on 1 March 2005, to the 10 landowners both adjoining and in the immediately locality of the site that it has received the Development Application and that submissions would be received in the period 1 March 2005 to 15 March 2005.

At the close of the period of exhibition Council had received 4 submissions of objection from the public (refer below).

5. ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT -

5.1 Any Environmental Planning Instruments

5.1.1 State Environmental Planning Policies (SEPPS)

The Application is supported by an objection made under SEPP No. 1. DIPNR have concurred with the objection.

The Application is not of a type or scale that 'triggers' any other SEPP.

5.1.2 Regional Environmental Plan (REP)

Clause 12 of the North Coast REP applies, in that Council should not consent to an application for development on rural land unless it has first considered the likely impact of the development on the use or adjoining or adjacent agricultural land or whether or not the development will cause the loss of prime crop or pasture land.

Adjoining land to the north, east and west is used for rural residential purposes. The small allotment to the west is used for the growing of macadamias. Land in the locality is used for grazing and horticultural enterprises, mainly growing of macadamias.

The proposed dwelling is approximately 100+m from the small allotment to the west used for the growing of macadamias. Likely impacts from either the occupation of the dwelling on the growing of macadamias or growing of macadamias on occupation of the dwelling would be no greater than that experienced to existing development, neither has ceased used.

The site is not prime crop or pasture land.

5.1.3 Lismore Local Environmental Plan (LEP)

The Application is subject to the following provisions of the Lismore LEP:

Clause 37

The development and use of the site is consistent with the clause by having:

- a site for a dwelling that is easily accessed to a public road
- containing land with a shape and size suitable for the on-site disposal of effluent
- is not flood prone
- minimise conflict with adjoining use and
- is not subject to erosion or landslip.

Council cannot consent to the application for a dwelling as the area of the allotment is less than the specified minimum area of 40ha [Cl. 37(4)(a)] and the allotment is not an allotment consented to for residential purposes in accordance with the provisions of Lismore LEP 1992 unless the consent is in accordance with an application made using SEPP No.1.

The DA is supported by an objection to the standard under SEPP No.1. Refer to the Introduction Section. The SEPP No.1 was referred to DIPNR who have concurred with the request.

The matter at the time of the recent rezoning has previously been referred to Dept. Primary Industries (NSW Agriculture) who raised no objection, in the circumstances.

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

No draft environmental planning instruments apply to the site or the proposal.

5.3 Any Development Control Plan

The following Development Control Plans (DCP's) apply to the site and proposed development:

DCP No. 14 – Residential development

The development is consistent with the DCP by:

- having a satisfactory external appearance
- not exceeding Council maximum height from existing ground level to the building 'top plate' of 7.2m
- satisfactorily meeting setback requirements – refer to DCP No. 16.
- achieving the minimum rating for energy efficiency
- providing sufficient open space
- providing sufficient area for landscaping (more detail should be provided)
- providing sufficient area for parking and driveways
- minimising extent of cut and fill below Council's preferred maximum and
- provision of a satisfactory on-site sewage management system / strategy (more detail should be provided).

DCP No. 16 – Building line setbacks

The development is not consistent with the minimum 15m building line setback to Satinwood Dr and seeks a variation to 7m. The development is consistent with the minimum 15m building line setback to Carrabeen PI.

Variation to the standard is supported because

- the shape and slope of the land and that the land has 2 road frontages
- reduction of the building line does not comprise the scenic and landscape qualities of the locality – other dwellings and buildings in the estate appear closer than 15m to Satinwood Dr and Carrabeen PI
- no traffic hazard is created as sufficient area is available on the site for the parking and manoeuvring of cars and
- sufficient area is available for suitable landscaping.

DCP No. 27 – Buffer areas

The development is not a minimum 150m from the adjoining macadamia orchard and is therefore within Council's preferred buffer area, where no planted buffer exists. The development is greater than 80m buffer distance required when a 'biological buffer' exists or can be planted.

Having regard to adjoining development and the size of the macadamia orchard, the horizontal and vertical distance separation and the existing vegetation between the orchard and dwelling site the distance is sufficient.

5.4 Any Matters Prescribed By The Regulations

Not applicable to the Application.

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

Potential for impacts on natural environment

The site is not in a natural state. The proposal will require the removal of a small number of existing trees planted as part of the rainforest regeneration requirements for the rural residential estate originally approved. In general these trees are in poor condition. The slope and area of the site on which the rainforest planting has occurred is too steep not sufficient to sustain future logging or harvest.

The site is surrounded by land used for agriculture or rural residential development. The planted rainforest area provides some habitat value though more of an opportunistic value.

The rainforest regeneration area is currently overgrown with exotic plant species. The proposed use of the land would facilitate better management of the land for amenity and bushfire protection purposes.

Having regard to the history of the site, should Council support the DA, it would appropriate:

- to require the removal of all exotic vegetation in the rainforest regeneration area
 - the preparation of an on-going plan of management for the rainforest regeneration area by an appropriately qualified ecologist and
 - the addition on Title of a Section 88B instrument requiring the on-going management of the land in accordance with plan of management for the rainforest regeneration area
- prior to the dwelling being erected on the land.

Potential for impacts on built environment

The erection of a dwelling on the site will change the existing landscape and scenic qualities of the site and locality, particularly for the occupants of the dwelling 'above' the site.

The DA does not show any landscaping of the site which might mitigate the visual impacts generated by the erection of the dwelling, particularly as the DA seeks the variation of the 15m to 7m building line setback to Satinwood Dr.

Should Council support the DA, it would appropriate to require a detailed landscaping plan to minimise the potential visual effects created by the erection of a dwelling, prior to the dwelling being erected on the land.

Potential for impacts on the social environment

Refer to Sections 1 & 5.7.

The development of the estate and various proposals seeking a dwelling entitlement on the site has created a considerable number of public submissions. It is not likely that the erection of an additional dwelling and its occupation in a developed existing rural residential estate will have an adverse environmental impact on the social environment.

It is acknowledged that the development of the site for a dwelling does not satisfy a number of expectations of a number of residents of the estate. However the Title of the other lands in DP 867052 or DP 876846 and in the estate do not provide for any legal obligation rights / entitlements, benefits or conditions for common ownership over the site.

There will be an unavoidable social effect for either the Residents of the estate who made submissions or the Applicant as a consequence of Council's decision.

Potential for impacts on the economic environment

Refer to Sections 1 & 5.7.

The value of the site will increase should the application for a dwelling be successful. There is some cost and restriction on land Title should the land to be in developed.

It is not likely that the erection of an additional dwelling and its occupation in a developed existing rural residential estate will have an adverse economic impact.

5.6 The Suitability of the Site for the Development

The site appears to share similar physical characteristics (slope, soil type and vegetation) as a number of other allotments within the estate on which dwelling-houses have been erected.

Whilst the majority of the site is steeply sloped (>30%) the land on which the dwelling is proposed has an average slope of approximately 13%. The 'pole' type method of construction minimises the extent of earthworks.

Should Council support the DA, it would appropriate to require a geotechnical assessment of the site should be undertaken to ensure the site is stable and can support a dwelling, prior to the dwelling being erected on the land.

The location of the dwelling and effluent disposal area on the site does not contain any vegetation of significance.

There are no site or physical environmental conditions, which appear to constrain the development as proposed.

5.7 Any Submissions made in Accordance with this Act or the Regulations

Submissions of objection were received from:

- A & S Coloquhoun – submission forwarded to Councillors by email 13 March 05
- M & M Baker – submission forwarded to Councillors by email 9 March 05
- I M Gailer & J A Ross – a copy of submission from I M Gailer & J A Ross objecting to Lismore LEP Amendment No. 18 was attached and
- G Luker – submission forwarded to Councillors by email 3 March 05

The following in summary identifies and provides a commentary on the key issues, which often relate to each other, raised in the submissions:

Issue #1

Previous / current Council position and application

- Council at the meeting of 14 Dec. 2004 voted to reject Amendment No. 18 to the Lismore LEP 2000 to enable a dwelling on the land – nothing has changed to require any further consideration of a DA for a dwelling on the land.
- Previous advises by Council and staff regarding no buildings permitted on the land. – queries are Council staff representing (protecting) ratepayers rights they set out by Council when land purchased.
- Realises long term land management difficulties not appropriate to correct administrative difficulty by giving in.
- Obligation to keep designated green space for environment and resident enjoyment.
- Use of SEPP No. 1 creates precedent potential destruction corridors in many such corridors in area.

Comment

- There is no bar under the EP&A Act in the Applicant making a DA for a dwelling on the land provided that the Application was supported by a submission under SEPP No. 1 as the area of the land is below the minimum size to have a dwelling entitlement under the Lismore LEP (Cl. 37).
- A lawful DA supported by a SEPP No. 1 objection has been made. DIPNR has concurred with the SEPP No. 1 objection.
- Section 1 outlines the Council's previous position in relation to the land.
- The site is not designated as green or community space on Title, though planning applications in respect of the land infer such use by continual reference to the use of the land for purposes of forest regeneration with rainforest and cabinet timbers.
- A SEPP No. 1 application is unique to the circumstances of the particular application, so no precedent should be established.

Issue #2

Use

- The originally dedicated use as a planted and cabinet timbers and no dwelling one of the key reasons for buying land, building and living in estate
- The land was originally dedicated as a community woodlot – permitting a dwelling on the land will have a negative impact on the woodlot and re-establishment of wildlife and plants and the local community would lose the benefit of the natural area.
- Land does not have a dwelling entitlement – current owner bought the land knowing that.
- Financial equity of present owner changing dwelling entitlement (value) when entitlement twice (x2) times refused to original developer (cost).

Comment

- The original subdivision of the land from which the lot was created was proposed utilising Community Title and this was subsequently changed to Torrens Title.
- The 2 Section 88B instruments do not provide any legal obligation rights / entitlements, benefits or conditions for common ownership of Lot 3 for Lots 1 & 2 in DP 876846 or Lots 6, 7, 8, 9, 10, 11, 12, 14 & 15 in DP 867052. These lots comprise the 10 residential, residual and woodlot created in the rural residential estate.
- The land does not have a dwelling entitlement though the erection of a dwelling on the land would assist create the circumstances for improved management of the land.
- Such financial considerations are not a planning consideration, though the value of the site would increase should the application for a dwelling be successful.

Issue #3

Wastewater disposal

- Existing dam at bottom of lot, which feeds into the Wilson's River – will be adversely affected by the effluent.

Comment

- The proposed effluent disposal field is approximately 300+m upslope of the dam and some distance from the Wilson's River. The Application is supported by a specialist assessment of the capability of the land to receive treated effluent from a wastewater system that comprises a 3,000 litre septic tank with biological filter and subsurface irrigation via 352m² evapotranspiration / absorption beds in a disposal area of 1,120m².
- Council's Environmental Health Section do not support the system of on-site wastewater management proposed in the DA having regard constraints of the land, however have indicated that they believe an alternative disposal system will work.

Issue #4

Community

- None of the 11 residents of Satinwood Estate spoke to want the development approved.
- Self and neighbours feel that they would be greatly disadvantaged, financially and aesthetically.
- Previous neglect by existing landowner to land management demonstrates they not interested in being part of the community.
- Have young children purchased home to enable them to be brought up with open spaces and appreciation of the environment.
- Why give up land allocated for the purposes of the community for the benefit of developers.

Comment

- The people who made submissions feel very strongly about the proposal and historic events to-date.
- The use of the lot for habitable purposes by the erection of the dwelling will not exceed the overall rural residential dwelling density of the original land area that was the subject of the original development proposal (34ha ÷ 14 residential lots = 2.4ha per lot). The rural residential dwelling density should a dwelling be approved on the site is, 34ha ÷ 11 residential lots = 3.0ha per lot.
- The existing estate is in a rural location and with the 4 allotments below the minimum 1ha size the average allotment size is approximately 2.6ha.
- The original landowner / developer has never dedicated a legal interest in the lot to the community and this is shown on the land titles of all lots in the estate.

Issue #5

Flora

- Number of trees to be removed for dwelling envelope and effluent disposal area (in previously regenerated vegetation area).
- Habitat corridor has increased in size.
- Area going wild largest area not been touched for 10 years perimeter areas maintained by adjoining landowners – domestic animals kept under control and land teeming with wildlife.

Comment

- The DA states that no vegetation has been identified as being required to be removed for the construction of the dwelling and associate wastewater disposal fields.
- A number of recently planted trees will need to be removed to erect the dwelling and utilise the area nominated for effluent disposal. Having regard to the extent of existing vegetation on the site and condition of the trees to be removed the impact is inconsequential.
- The dwelling and effluent disposal fields are not going to significantly impact on the existing recently planted habitat area.
- The habitat area can be regenerated (cleaned up) and protected by the preparation of a plan of management and restriction placed on Title to protect the area.
- Occupation of the land will potentially provide an opportunity for better management of the land.

Issue #6

Fauna

- The development will have significant effect on return of native fauna (particularly Wallabies) – sure that habitat is the regenerated vegetation area.

Comment

- The proposed dwelling is located on a grassed area above the regenerated vegetation area. Five (5) other dwellings are within 200m of the regenerated vegetation area. Another dwelling in the estate is not anticipated to have a significant effect on native fauna that currently use the site and land in the locality.

Issue #7

Slope

- The land too steep for machinery to get in and clear weeds - steepness one of the reasons for it only being suitable for growing trees in the first place.

Comment

- The majority of the site is steeply sloped and unsuitable for residential use. That part of the site on which the dwelling is proposed is not as constrained by slope. However, a variation to the building line setbacks is required to enable the dwelling on the location proposed and too avoid steep slopes.
- The type of dwelling proposed minimise site disturbance.
- A detail geotechnical assessment should be undertaken for the site of the proposed dwelling and effluent disposal area that demonstrates to Council that the site geology and soils are capable of providing for the dwelling and infrastructure.

Issue #8

Traffic

- Purchased land and built dwelling knowing how many dwellings would be in area – have young children and concerned about traffic from adjacent dwelling.

Comment

- Numerous forms of application have been made to Council seeking a dwelling on the land. The additional dwelling will not exceed the overall number of dwellings originally approved in the 2 stage development. Though the second stage was subsequently relinquished.
- Council's engineering department raised no issues in respect of the application subject to the imposition of a number of conditions of development consent and payment of contributions (\$4,525) to rural roads.

The submissions raised a number of salient issues in respect of the proposal. Refer to Section 1 – site history.

5.8 The Public Interest

The public interest aspects of the proposal are described in Sections 1 and 5.7, which in summary describe the site and its development or land use planning history and submissions made in objection to the proposal.

6. REFERRAL COMMENTS

6.1 Internal

6.1.1 Engineering

The application was referred to Council's Engineering Department for comment. No objection or issues were raised and support of the application recommended subject to the imposition of a number of conditions of development consent and payment of contributions to rural roads.

6.1.2 Building

The application was referred to Council's Building and Regulation Section for comment. No objection or issues were raised and the application recommended subject to the imposition of a number of conditions of development consent.

6.1.3 Environmental health

The application was referred to Council's Environmental Health Section for comment.

The Environmental Health Section do not support the proposed means of treated wastewater disposal because of the depth of surface rock and have required the utilisation of either sub-surface or surface spray irrigation. No other objections or issues were raised and the application recommended subject to the imposition of a number of conditions of development consent.

Should Council support the DA, it would appropriate to require an amended wastewater disposal assessment be undertaken utilising either sub-surface or surface spray irrigation, prior to the dwelling being erected on the land.

6.1.4 Water and sewer

The application was referred to Council's Water and Sewer Section for comment. The Water and Sewer Section made no requirements

6.2 External

Council referred the Application to DIPNR (refer above) and the NSW Rural Fire Service.

The NSW Rural Fire Service (15 March 2005) recommended that should the proposal be supported by Council that the approval include conditions requiring:

- the provision of a 31m inner protection area (IPA) around the dwelling in accordance with Section 4.2.2 of the guidelines 'Planning for Bushfire Protection 2001' (PBP 2001)
- access to comply with Section 4.2.2 of PBP 2001
- the provision of a 5,000 litre dedicated water supply tanks, accessible from the road with a 38mm storz fitting and ball or gate valve and
- all fencing materials in the IPA to be constructed of non-combustible materials.

The matter at the time of rezoning has previously been referred to Dept. Primary Industries (NSW Agriculture) who raised no objection, in the circumstances.

7. CONCLUSIONS

The following concluding comments are made.

The original landowner / developer of the rural residential estate no longer has an interest in the lands within the estate.

Both the original and current landowners / applicants have been consistently advised by Council in writing, by the refusal of various proposed modifications to the original Development Consent for DA No. 95/120 and other Development Applications that the site did not have a dwelling entitlement.

The historic events show previous and current landowner and Council's decisions in respect of the site.

The construction and occupation of the dwelling-house on the site can be undertaken with negligible impact of the environment of the site and locality. The area of the site does not meet the minimum land area for a dwelling entitlement in the zone. Development in the immediate locality of the site is an existing rural residential estate. Seven (7) of the 10 residential allotments in the estate are below the area of the site (1.5ha).

DIPNR have supported a SEPP 1 objection seek variation of the minimum allotment size in the zone to enable a dwelling on the land.

A conditional 'deferred commencement' approval of the Application is recommended subject to the following matters being satisfactorily resolved.

The approval of the DA may potentially conflict with a number of conditions of consent for DA No. 95/120, refusal of a number of modifications to DA No. 95/120 and DA No. 2001/243 and the terms and of the Section 88B instrument for DP's 867052 and 876846 that permit a dwelling on land showing only a dwelling envelope.

It is strongly recommended that prior to Council determining the DA that Council seek legal opinion:

- to determine whether or not the conditions of DA No. 95/120 are required to be modified or revoked by Council prior to issuing any form of approval and
- to investigate the potential for legal implications that might be likely to arise given the circumstances generally described in Sections 1 & 5.7, particularly the refusal of a number of modifications to DA No. 95/120 and DA No. 2001/243 and the terms and of the Section 88B instrument for DP's 867052 and 876846.

The dwelling-house should be confined to a building envelope on the Deposited Plan, as are others in the estate, only that area shown on Attachment 1 of the report by BCA Check titled '*On-Site Wastewater Management Report for Proposed Dwelling at Lot 3 DP 876846, 58 Satinwood Dr McLeans Ridges, June 2003*'. The matter should be addressed as a conditional 'deferred commencement' requirement.

A large part of the site has been planted as a rainforest and cabinet time vegetation regeneration area as part of the approval and consent for the original rural residential subdivision. The Section 88B instruments do not provide any legal obligation rights / entitlements, benefits or conditions for common ownership of Lot 3.

The lot has been and is now in private ownership and no submissions have indicated that the lands should be somehow purchased or acquired to be used as a common lot.

However, the expectation by landowners in the estate that the lot was in some way reserved as a common rainforest and cabinet timber lot is not at all unreasonable. It is highly likely that landowners in the estate have through purchase of their land made a payment / investment in the common rainforest and cabinet timber lot.

Having regard to the circumstances it is reasonable that the land within the lot on which the rainforest

and cabinet timber trees have been planted and survive be cleaned up under expert supervision, that plan of management prepared be prepared by a suitably qualified person to show how the land should be appropriately managed in the future and that the plan of management be appropriately included on a Section 88B instrument on the land title together with the building envelope shown on the Deposited Plan. The matter should be addressed as a conditional 'deferred commencement' requirement.

The slope of the site is steep and it is appropriate site geology and soils characteristics be further assessed to ensure that the dwelling footings foundations etc are designed to meet construction requirements, a design solution exists. The matter should be addressed as a conditional 'deferred commencement' requirement.

The proposed means of wastewater disposal for the site does satisfy Council Environmental Health requirements, though Council is satisfied that a design solution exists. The means of wastewater treatment and disposal has to be re-evaluated and approved by Council. The matter should be addressed as a conditional 'deferred commencement' requirement.

The Council can either refuse or approve the application.

The refusal of the application would be consistent with Council's previous determinations, though this does not resolve the fact that the land is privately owned and can be traded. Without some form of tangible commitment to the land i.e. a dwelling erected on it, the existing low level of land care and management is likely to remain and possible become non-existent. It is also likely if the dwelling entitlement status of the land is not resolved the issue will 'keep coming back' to Council in the future.

The Applicant is entitled, within 12 months of the date of consent, to lodge an appeal to the NSW Land and Environment Court should the Application is refused or she is not satisfied with the terms / conditions of the approval.

Having regard to the circumstances described in this report and to achieve a planning outcome that achieves the objectives of the Environmental Planning and Assessment Act seeking proper management development and conservation of resources and orderly and economic use of land, the conditional support of the application is recommended.

Recommendation

A That in the first instance and prior to determination of the DA Council seeks legal opinion to determine in the event that it supports the Development Application:

- whether or not the conditions of DA No. 95/120 relating to the site are required to be modified or revoked by Council prior to issuing any form of approval and
- to investigate potential legal implications given the circumstances of the site relating to the refusal of a number of modifications to DA No. 95/120 and DA No. 2001/243 and the terms and of the Section 88B instrument for DP's 867052 and 876846.

B If the advice is in the affirmative and no barrier to the approval of a DA for a dwelling is presented that Council grant delegated authority to the General Manager - subject to the concurrence of the Development Assessment Panel, to approve Development Application No. 2005/107 for the erection of a dwelling-house subject to the following requirements and variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.

1 DEFERRED COMMENCEMENT REQUIREMENTS

- 1 A building envelope for the dwelling-house be created on the Deposited Plan in the located shown on Attachment 1 of the report by BCA Check titled '*On-Site Wastewater Management Report for Proposed Dwelling at Lot 3 DP 876846, 58 Satinwood Dr McLeans Ridges, June 2003*'.

Reason: *To properly define the building area within the allotment consistent with DP's 867052*

and 876846. (EPA Act Sec 79C)

- 2 The land within the lot on which the rainforest and cabinet timber trees have been planted and majority survive be:
 - o be cleaned up under expert supervision – such works to include the removal of weeds and exotic plants,
 - o that a plan of management be prepared by a suitably qualified person to show how the land and in particular the regeneration area should be appropriately managed in the future and
 - o that the plan of management be appropriately included on a Section 88B instrument on the land Title.

Reason: *To ensure the on-going integrity and maintenance of the land planted with rainforest and cabinet timbers and protect the environment of the land. (EPA Act Sec 79C)*

- 3 A site report from an approved Geotechnical Engineer must be submitted certifying that the proposed dwelling may satisfactorily be erected on the site.

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

- 4 The future dwelling house development shall have installed an aerated waste water treatment system or other approved system designed to treat and disinfect all domestic waste waters and to dispose of all treated waste waters from such treatment facilities within the confines of the allotment to approved sub-surface drip irrigation or spray irrigation standards.
Please note that the disposal of wastewaters through evapotranspiration beds is not considered acceptable due to the depth of bedrock (limiting factor) identified within the report 'On-site Wastewater Management Report for Proposed Dwelling at Lot 3 DP 876846 Satinwood Drive McLeans Ridges' prepared by BCA Check June 2003.

Reason: *To protect the environment and ensure provision for adequate human waste disposal. (EPA Act Sec 79C(b))*

- 5 A detailed landscaping plan is to be provided that shows landscaping in the building line areas to minimise the potential visual effects of a dwelling being erected on the land.

Reason: *To ensure the development is adequately landscaped and to protect the existing or likely future scenic and landscape qualities of the locality. (EPA Act Sec 79C(b))*

2 STANDARD CONDITIONS

PLANNING

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

and be substantially in accordance with the stamped approved plan(s) No. SJW-10-05 and SJW-01-04 Sheets 1, 2, 3 and 4, dated 1/12/04 and/or supporting documents submitted with the application. A copy/copies of the approved plan is/are attached to this consent.

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

- 2 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Construction Certificate**. The rates and amounts applying at the date of this notice, totalling **\$4,660**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds

etc. shall be paid prior to the **Construction Certificate being granted.**

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

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

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

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

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation. **SL1**

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

BUILDING

ACTIVITIES APPROVED UNDER THE LOCAL GOVERNMENT ACT 1993, IN CONJUNCTION WITH THIS APPLICATION:

- (a) Carry out water supply work.
 - (b) Carry out stormwater drainage work.
- 3 The following building works are to be **inspected and certified** by Council or by an Accredited Certifier in the form of a Compliance Certificate.
- (a) **Commencement of Building Work.**
 - (b) **Footings** - the foundation trenches are open and the steel reinforcement is in position, prior to concrete being placed (ie, after excavation for and prior to placement of any footings).
 - (c) **Slab** - the slab reinforcement is in position, prior to concrete being placed.
 - (d) **Framework** - the framework is completed, wet area flashing in place, external brickwork erected (where applicable) and the roof covering in position, prior to fixing the internal linings (ie, prior to covering of the framework for any floor, wall, roof or
 - (e) **Occupation** - the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

In the event that Council is the Principal Certifying Authority, you are required to notify Council at least 24 hours prior to the inspection. **Hi1a**

Reason: To assess compliance with this approval.

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

- 4 A certificate of Builders' Indemnity Insurance registered with an approved insurer under the Home Building Act 1997, is required to be submitted and approved by the Principal Certifying Authority prior to the commencement of work. **Hg3a**

Reason: To ensure the requirements of the Home Building Act 1997 have been satisfied.

- 5 Temporary toilet facilities must be provided on the site, prior to commencement of building work and must be maintained until permanent facilities are provided. Pit or pan toilets are not permitted without the prior consent of Council. **Hg5**

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

- 6 The carport is not to be enclosed, either wholly or in part, without prior approval. **Hg8**
Reason: Any such work requires approval.
- 7 Glazing to doors, windows, shower screens and bath enclosures must comply with AS 1288-1994 "Glass in Buildings". For external glazing the design wind speed must be provided to the glazier. **Hg24**
Reason: To ensure compliance with glazing and wind loading standards.
- 8 Where the design wind speed for the building is W41N or greater, the glazier must provide a certificate to Council prior to occupation of the building, that the glazing complies with AS 1288-1994 "Glass in Buildings". **Hg26**
Reason: To ensure compliance with glazing and wind loading standards and this approval.
- 9 The building must be clad in low-reflective material. **Hg29**
Reason: To minimise the reflectivity of the building and to ensure its compatibility with the landscape.
- 10 The roofing must have a non reflective finish. **Hg30a**
Reason: To minimise the reflectivity of the building and to ensure its compatibility with the landscape.
- 11 Council approval is required for all retaining wall structures (including rockwalls, sleepers, crib walls and the like) to be erected on the land. A Construction Certificate Application and details of the wall are to be submitted for approval, prior to any work commencing on the wall. **Hg34**
Reason: To advise that approval is required.
- 12 Retaining wall structures 1200 mm (1.2 m) or more in height must be of a design certified by a Practising Structural Engineer. **Hg37**
Reason: To ensure the structural integrity of the retaining wall.
- 13 All cut and fill on the property must be battered at an angle not greater than 45 degrees within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain at the base. **Hs1**
Reason: To ensure stability of the site.
- 14 The excavated and filled areas are to be graded, drained and retained to the satisfaction of the Principal Certifying Authority. **Hs2**
Reason: To ensure stability of the site.
- 15 Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site into natural or constructed drainage lines or watercourses. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.
Note: Inspections of the structural work will not be carried out and work may not proceed, until the sedimentation controls are in place. **Hs9**
Reason: To prevent erosion of materials from the site.
- 16 The vehicle access to the land, including the grade across the footpath, must be in accordance with Council's 'Vehicle Access Policy'. **Hs16**
Reason: To ensure the provision of adequate vehicular access to the site and building.
- 17 A longitudinal section, including the level at the footpath and at the garage floor and plan view of the driveway, must be submitted for approval, prior to commencement of work. Note that the vehicular access, including the grade across the footpath area must be in accordance with the attached 'Vehicle Access Policy'. **Hs17**
Reason: To ensure the provision of adequate vehicular access to the site and building.
- 18 The door to the sanitary compartment is to open outwards, slide or be readily removable from the

outside unless there is a clear space of 1.2 metres between the closet pan and the nearest part of the doorway. **Hc21**

Reason: *To ensure compliance with Clause 3.8.3.3 of the Building Code of Australia Housing Provisions.*

- 19 A certificate shall be submitted to the Principal Certifying Authority (PCA) prior to any occupation of the dwelling, certifying "R2.5 insulation" has been placed in ceiling roof space. **Hc22**

Reason: *To satisfy the energy efficiency requirements of Development Control Plan No. 14.*

- 20 Structural Engineering details for the footings and slab must be submitted and approved by the Principal Certifying Authority prior to commencement of the work. **Hst2**

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

- 21 All excavations and backfilling are to be executed safely and in accordance with appropriate professional standards and to be properly guarded and protected to preserve life and property. **Hst13**

Reason: *Required by Clause 32 Local Government (Approvals) Regulation.*

- 22 The design wind load classification for the site is W41 N m/s. All building materials, tie downs and bracing systems must meet the requirements for this wind speed. **Hst15**

Reason: *To provide information on the design wind speed assessed for the site.*

- 23 Full details of the tie-down and bracing requirements for a wind classification of N3 being submitted to the Principal Certifying Authority prior to commencement of construction. Such details being in accordance with AS 1684-1999 "Residential Timber Framed Construction". **Hst16**

Reason: *To ensure the structural adequacy of the building.*

- 24 The primary building elements must be protected against attack by subterranean termites by physical barriers in accordance with AS 3660.1-2000 "Protection of Buildings from Subterranean Termites". **Hf1**

Reason: *Required by Clause 3.1.3.0 of the Building Code of Australia Housing Provisions.*

- 25 The primary building elements must be protected against attack by subterranean termites. This can be achieved by:

- i) soil treatment in accordance with AS 3660.1-1995 of the subsoil area beneath all on ground concrete slabs forming part of the building, including attached garages, patios and the like. Including, on completion of the building, an external barrier, consisting of at least a 300mm wide horizontal barrier around the perimeter circumferencing all pipes and service facilities, and adjoining a minimum 150mm wide vertical barrier, to the depth of the underslab barrier; or
- ii) other chemical or physical measures which meet the objective of protecting primary building elements against subterranean termite attack. If this option is chosen, full details are required to be submitted for Council's consideration. Examples of current initiatives in this area are, stainless steel mesh, accredited crushed granite barrier, permanent underslab irrigation systems, CCA treated framing and steel framing. **Hf2**

NOTE 1: The approved chemical for underslab spraying does not provide protection against termites over the economic life of the building.

NOTE 2: Depending on the slab construction a vertical 150 mm wide chemical barrier may be required to the external perimeter of the slab.

NOTE 3: Landscaping and Gardens - Most termite barriers require the area immediately adjoining an external wall to be kept clear of any landscaping or gardens. This is necessary either to prevent the bridging of the termite barrier or to ensure the area is visible for inspection.

Reason: Required by Clause 3.1.3.0 of the Building Code of Australia Housing Provisions.

- 26 Provide a durable sign, detailing the type of termite protection provided to the building and the measures necessary to maintain the protection. In the case of an elevated floor the sign must be affixed adjacent the crawl space opening and in all other cases, in the meter box. **Hf2a**

Reason: Required by Clause 3.1.3.2 of the Building Code of Australia Housing Provisions.

- 27 On completion of the termite treatment, other than ant-capping, a certificate from a qualified operator, must be supplied to Council. **Hf2b**

Reason: Required by Clause 3.1.3.0 of the Building Code of Australia Housing Provisions.

- 28 All "Wet area" floors must be flashed to walls with approved material, so as to provide effective damp-proofing. A certificate from the installer being submitted to the Principle Certifying Authority verifying compliance with AS3740. **hf3**

Reason: Required by Clause 3.8.1.0 of the Building Code of Australia Housing Provisions.

- 29 Downpipes must be connected to an approved stormwater drainage system as soon as the roof is sheeted and guttering fixed. **Hw1**

Reason: To reduce site erosion.

- 30 Provide 6/3 litre dual flush toilet suites to all water closets. **Hp3**

Reason: To conserve water.

- 31 Provide vacuum breaker devices to all external taps. **Hp4**

Reason: To prevent the contamination of the water supply by cross connection.

- 32 A tempering valve shall be installed so as to deliver hot water at the outlet of all sanitary fixtures, such as baths, basins and showers, at a temperature not exceeding 50°C. **hp12**

Reason: Required by Cl. NSW 1.10.2 of the NSW Code of Practice Plumbing and Drainage.

- 33 Plumbing and drainage must be in accordance with the NSW Code of Practice "Plumbing and Drainage" and the work must be carried out by a licensed plumber or drainer. **He3**

Reason: Required by Local Government (Water, Sewerage and Drainage) Regulations.

- 34 A separate On-site Effluent Disposal System Application must be submitted to Council, and approved, prior to any work commencing in respect of this application. **He1**

Reason: To ensure provision for adequate human waste disposal.

- 35 Provide interconnected, automatic smoke alarms wired into the electrical mains and having a stand-by battery power supply, in accordance with Clause 3.7.2.2 of the Building Code of Australia. **Hfp22**

Reason: To comply with Clause 3.7.2.2 of the Building Code of Australia Housing Provisions.

- 36 A certificate from a licensed electrician must be provided upon completion of the installation of the smoke alarms, certifying that the smoke alarm installation complies with AS 3786 "Smoke Alarms". **Hfp23**

Reason: To ensure compliance with this building approval.

- 37 The stairs must comply with the design criteria of Clause 3.9.1.2 of the Building Code of Australia Housing Provisions in respect of stair width, landing design and tread and riser design. **He5**

Reason: Required by Clause 3.9.1.2 of the Building Code of Australia Housing Provisions.

- 38 The maximum gap between stair treads must be 125 mm. **E3**

Reason: Required by Clause D2.13 of the Building Code of Australia.

- 39 Provide a continuous balustrade a minimum of 865 mm high to stairs and a minimum of 1 metre high to decks or landings. The maximum permissible balustrade opening is 125 mm. **He20**

Reason: Required by Clause 3.9.2.3 of the Building Code of Australia Housing Provisions.

ENVIRONMENTAL HEALTH

- 40 Measures shall be put in place to control storm water runoff. These control measures shall be in place prior to the commencement of works and shall prevent soil erosion and the transport of sediment from the development site into either:

- adjoining land
- natural drainage courses
- constructed drainage systems, or
- waterways.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. Appropriate signage shall be erected on-site identifying the requirement for the maintenance of these measures. **DG3**

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

- 41 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM6**

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

- 42 An application under Section 68 of the Local Government Act for the installation of on-site wastewater management system shall be submitted to Council for approval prior to the release of the Construction Certificate.

Reason: To protect the environment and ensure provision for adequate human waste disposal. (EPA Act Sec 79C(b))

- 43 Provide a water storage tank of a minimum capacity of 45,000 litres.

Reason: To ensure an adequate water supply.

- 44 A first flush device shall be installed as part of the potable water storage system so as to prevent the first portion of roof run-off from being conveyed to the water storage tank.

Reason: To protect the quality of potable waters.

ENGINEERING

- 45 All stormwater from the site shall be disposed of without causing nuisance to adjoining properties. **DG13**

Reason: To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b)).

- 46 Prior to the release of the Construction Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that any lot fill material has been placed in accordance with Australian Standard 3798 "Guidelines on earthworks for commercial and residential developments". **EW8**

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

- 47 Vehicular access from the road pavement to the development shall be provided by the construction of a crossing, in accordance with the Council's Design and Construction Specification for Vehicular Access. **VA4**

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

- 48 The proponent shall place road number identification in accordance with Lismore Council's Rural Road Numbering System on a post at the vehicular entry point at the front boundary of the proposed lots, prior to release of the Construction Certificate. **SUB1A**

Reason: *To provide visual identification of the land and dwelling (EPA Act Sec 79C(e)).*

- 49 Prior to approval of the Construction Certificate, the proponent shall ensure the provision of telephone services is provided to the allotment. A Certificate of compliance from the relevant utility provider shall be required confirming that the respective utilities requirements have been met. **PU5**

Reason: *To ensure adequate provision of utility services (EPA Act Sec 79C(b))*

- 50 Prior to approval of the Construction Certificate, a certificate of compliance from Country Energy shall be required confirming that Country Energy has provided electrical power to the dwelling. **PU6**

Reason: *To ensure adequate provision of utility services (EPA Act Sec 79C(b))*

RURAL FIRE SERVICE

- 51 That a 31m inner protection area (IPA) around the dwelling be provided in accordance with Section 4.2.2 of the guidelines 'Planning for Bushfire Protection 2001' (PBP 2001)

Reason: *To comply with the requirements of the NSW Rural Fire Service and protection of the development (EPA Act Sec 79C(c))*

- 52 That access to the dwelling comply with Section 4.2.2 of PBP 2001.

Reason: *To comply with the requirements of the NSW Rural Fire Service and protection of the development (EPA Act Sec 79C(c))*

- 53 That a 5,000 litre dedicated water supply tank be provided, accessible from the road with a 38mm storz fitting and ball or gate valve.

Reason: *To comply with the requirements of the NSW Rural Fire Service and ensure adequate provision of utility services (EPA Act Sec 79C(b))*

- 54 That all fencing materials in the IPA be constructed of non-combustible materials.

Reason: *To comply with the requirements of the NSW Rural Fire Service.*

LISMORE CITY COUNCIL

DEVELOPMENT CONSENT NO: 2005/170
 ADDRESS: 58 Satinwood Drive, McLeans Ridges

IMPORTANT TO NOTE

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

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 2, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

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

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

Levy Area	Account No.	No. of ET's/m ²	Cost Per ET/m ²	Amount Payable
Rural Roads				
Satinwood Drive	9046 >	1	\$269	\$269
Cowlong Road	90450101	1	\$2,416	\$2,416
State Highway 16	90001630	1	\$170	\$170
Urban Roads				
Residential	1655.1	1	\$1,670	\$1,670
SES				
All areas	1695.1	1	55	\$55
Rural Fire Service Plan				
All areas	1690.1	1	80	\$80
Total				\$4,660

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

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

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

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT DATE: RECEIPT NO: CASHIER:

COUNCIL USE ONLY

Cashier to Note:

This section must be completed by the Manager-Finance and Administration, the Principal Accountant or the Financial Accountant prior to receipt.

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

- a) the number of ET's is in accordance with the development application;
- b) the cost per ET is in accordance with the relevant Lismore Contributions Plan and/or Section 64 Plan applicable, as at the date of development application approval;
- c) the Consumer Price Index has been applied to the schedule of Section 94 fees and Section 64 fees, where the period between the date of consent and the date of payment is in excess of twelve (12) months.

...../...../.....
DATE

.....
FINANCIAL SERVICES OFFICER

Report

Subject	Alterations to Development Control Plans 14 - Residential Development, and 26 Industrial Development
File No	S461; S545
Prepared by	Manager, Planning Services
Reason	DCP 14: to comply with imminent legislative change DCP 26: to protect occupants and adjoining properties from excessive noise
Objective	To ensure that Council's guidelines do not conflict with legislation and that best practice is followed in industrial development.
Strategic Plan Link	Quality of Life
Management Plan Activity	Development Integration: Monitor and review current planning controls

Overview of Report

DCP 14 Residential Development currently contains requirements for energy efficiency which are to be superseded by the introduction of BASIX on 1 July, 2005. Outdated energy efficiency guidelines are to be deleted and reference to BASIX included.

DCP 26 Industrial Development contains provisions relating to industrial development to the east of the airport; however requirements for buildings to address aircraft noise and potential industrial noise were omitted and are now to be inserted.

Background

DCP 14 Residential Development applies to the construction of all types of housing in Lismore. It currently contains detailed provisions relating to energy efficiency and an appendix comprising a certificate to be used to demonstrate compliance with Council's 'Energy Smart Homes Policy'.

These provisions have been superseded by the State Government's introduction across the State of its BASIX program. BASIX (the Building Sustainability Index) is a web based planning tool, which measures the potential performance of new dwellings against sustainability indices. BASIX ensures that each dwelling design meets the NSW Government targets of:

- 40% reduction in water consumption and
- 25% reduction in greenhouse gas emissions, compared with the average home.

This system has been in place in the Sydney metropolitan area since July 2004.

The building applicant (eg architect, builder, owner builder) is responsible for completing the assessment, ensuring the BASIX commitments are clearly marked on the plans, and submitting the BASIX Certificate with the development application.

Building Certifiers, ie Council Building Surveyors and Private Certifiers have the responsibility of ensuring the BASIX commitments, indicated on the Certificate and building design, are implemented in

the construction of the dwelling.

From July 1, 2005 each development application for a residential dwelling, including single dwellings and multi-units (eg villas, townhouses and low-rise, mid-rise and high-rise developments) in New South Wales must be submitted to Council with a BASIX Certificate.

From October 2005, BASIX will also apply to all residential alterations and additions throughout NSW.

Currently, DCP 14 - Residential Development, addresses energy efficiency and the need for all residential developments to achieve a minimum scorecard star rating of 3.5, under Section 2.3 Energy Efficiency and Appendix 3 - Attachment for Energy Efficiency Compliance and Exemptions.

These Sections of DCP 14 will be superseded by BASIX from July 1, 2005 and should be rescinded and replaced with advice pertaining to the application and submission to Council of a BASIX Certificate with the development application.

DCP 26 Industrial Development was recently amended in order to provide guidelines for development of the industrial area on the western side of the Bruxner Highway between the Airport Terminal and Krauss Avenue. However during the recent assessment of a development application for subdivision of the site it became clear that noise attenuation measures would need to be incorporated into any quiet areas of the buildings, such as office areas, in order to minimise aircraft noise. Similarly, as a motel and caravan park are located near the industrial estate, measures may need to be taken to reduce the impact of possible industrial noise on occupants of these facilities.

The following wording is proposed to be inserted into Appendix 2 of DCP 26:

As the lots are adjacent to an existing airport, internal noise attenuation is to be incorporated into any quiet uses such as offices of the buildings. This is the responsibility of each individual building owner.

Activities associated with uses on each lot must not create offensive noise as defined in the EPA (DEC) Industrial Noise Policy. The design of buildings to achieve appropriate noise attenuation is the responsibility of each individual owner.

Means of reducing the potential for noise impact inside buildings and beyond the site may include, but is not limited to:

- *Masonry wall construction with no windows or doors on the Bruxner Highway frontage*
- *Special roofing and ceiling design with inclusion of batts*
- *Need for specific layout/orientation of the building including location of offices*
- *Operation of certain activities, including truck loading/unloading, with doors and windows closed*
- *Erection of a 2.4m high acoustic barrier*
- *Business operations being limited to between the hours of 7.00 am to 6.00 pm*
- *Locate mechanical plant as far away as possible from the motel and caravan park.*

Amendment of Development Control Plans

In accordance with the Environmental Planning & Assessment Act, amendments to DCPs are to be carried out by preparation and adoption of amending DCPs. Accordingly, Council's agreement is sought to the preparation and exhibition of draft Amendment No. 6 to DCP 14 - Residential Development and draft Amendment No. 8 to DCP 26 - Industrial Development. Copies of these amending plans are contained in the Attachment to this Business Paper.

Comments

Financial Services

Not required.

Other staff comments

Amendments to both DCPs have been requested by the Environmental Health & Building Services Section. Information relating to BASIX has been provided by that Section.

Public consultation

The DCP amendments will be exhibited for 28 days, in accordance with the Environmental Planning & Assessment Regulations.

Conclusion

The alteration to DCP 14 Residential Development is required to remove information which would conflict with State government requirements.

The alteration to DCP 26 is required to ensure that occupants of an industrial estate are not unduly affected by aircraft noise, and that residents of a motel and caravan park near the estate are not unduly affected by industrial noise.

Recommendation (PLA3)

That Council endorse the preparation and public exhibition of

- draft Amendment No. 6 to DCP 14 Residential Development and
- draft Amendment No. 8 to DCP 26 Industrial Development.

Report

Subject	Lismore Square Shopping Centre Section 96(2) – Modification to a condition of consent
File No	DA02/399
Prepared by	Projects Assessment Planner
Reason	Application, being a Modification to original consent, requires Council approval.
Objective	To obtain delegated authority for the General Manager to determine the application due to urgency of construction timing.
Strategic Plan Link	Economic Development
Management Plan Activity	Development Assessment

Overview of Report

To seek Council's approval to allow the General Manager to determine the Modification of a condition of consent.

Background

The major extension to Lismore Square Shopping Centre was approved in December 2002, with over 120 conditions of consent. As construction is now well underway, certain changes are now required due to changed circumstances, including the current application.

Proposal:

To alter the condition requiring construction of a roundabout at this intersection, to a traffic light controlled intersection.

Applicant:

Lismore Shoppingworld Pty Ltd, Brisbane

Location:

Location of modification sought: Intersection Diadem and Ballina Streets.

Zoning:

Main Road.

Key Issues:

1. Altered circumstances since original approval
2. Urgency of timing – adjacent roadworks now underway.

1. SITE/SITE HISTORY

Since 1996 when the original Lismore Square extension (DA96/8) was approved, this intersection was planned to have a roundabout.

2. SURROUNDING PROPERTIES & ENVIRONS

Residential on southern side of Ballina Street.

Commercial premises on north eastern corner, Lismore Park on north western corner.

3. PROPOSAL

As stated above.

4. PUBLIC NOTIFICATION

Landowners in the immediate vicinity of the intersection have been notified of the proposal to change from roundabout to traffic lights, and notification has been placed in the press. This application cannot be determined until after the expiry of the notification period.

5. ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT -

5.1 Any Environmental Planning Instruments

5.1.1 State Environmental Planning Policies (SEPPS)

No issues.

5.1.2 Regional Environmental Plan (REP)

No issues.

5.1.3 Lismore Local Environmental Plan (LEP)

Site is not zoned, but classified as "Main Road". The erection of traffic control devices is a normal procedure where required on Main Roads.

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

None affects the proposal.

5.3 Any Development Control Plan

None affects the proposal.

5.4 Any Matters Prescribed By The Regulations

None

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

The intersection of Diadem and Ballina Streets requires a proper traffic control installation, which has been required (as a roundabout) since the original 1996 approval. The change to traffic lights has been a more recent consideration, particularly in the light of change of opinion on funding from RTA.

Whilst traffic movements may be somewhat different between a roundabout and lights, impacts will be similar. Lights will require less intersection space than a roundabout, thus traffic will not be as close to residences at the junction.

In either case, traffic is increasing on the main road, and both traffic controls and traffic impacts will always be a continuing and unavoidable situation.

5.6 The Suitability of the Site for the Development

The site is directly relevant to the proposal.

5.7 Any Submissions made in Accordance with this Act or the Regulations

Roads and Traffic Authority advise that traffic lights "the best option at this location in terms of overall traffic efficiency".

5.8 The Public Interest

The Public Interest is maintained with the proper management of traffic flows, control and safety at this intersection.

6. REFERRAL COMMENTS**6.1 Internal****6.1.1 Manager Finance & Administration Comments**

Council's contribution to either a roundabout or traffic lights is estimated/fixed at approximately \$200,000. It is understood that residual cost for traffic lights will be funded by the developer with the RTA making no contribution.

6.2 External

Previous correspondence between RTA and Council in this matter. The most recent advice from RTA is a support for traffic lights (only) at this intersection.

7. CONCLUSIONS

Given the circumstances of the situation, it is most appropriate that determination be permitted to proceed as quickly as possible. It would also be prudent to extend delegation to the General Manager to determine any other "minor or inconsequential" Section 96 Modification application that may be lodged for the Lismore Square Development Application No. 2002/399 during these final stages of construction works.

Recommendation

- A The Council grant delegated authority to the General Manager to determine this Section 96(2) Modification Application, and also in respect of any additional minor Section 96 Modification applications under Development Application No. 2002/399 that may be lodged during the remaining term of construction of this project.

Report

Subject	Amendment No. 27 to Lismore Local Environmental Plan – Lot 3 DP 747275, 96 Breckenridge Street, Wyrallah
File No	S919
Prepared by	Strategic Planner
Reason	Receipt of rezoning submission
Objective	To seek Council's endorsement for preparation of a draft amending LEP
Strategic Plan Link	Quality of Life – Encourage sustainable development
Management Plan Activity	Development Integration: Implement Adopted Land Use Strategies

Overview of Report

Council is in receipt of a submission that seeks rezoning of Lot 3 DP 747275, 96 Breckenridge Street, Wyrallah so as to enable the lodgement of a Development Application to create 12 rural residential lots. The submission is lodged in accordance with the provisions of the Lismore Rural Housing Strategy.

Background

Subject land:	Lot 3 DP 747275 96 Breckenridge Street, Wyrallah
Applicant:	Newton Denny Chapelle
Owner:	RT Wilson and SI Wilson
Proposal:	To amend the Lismore Local Environmental Plan 2000 to enable rural residential subdivision to occur on the subject land

Council has received a submission relating to Lot 3 DP 747275, 96 Breckenridge Street, Wyrallah seeking alteration of the Lismore LEP to permit rural residential development in accordance with the Rural Housing Strategy. This report recommends that Council prepare an amendment to the LEP.

Description of Proposal

The Breckenridge Street site has an area of 11.68ha and is located close to the village of Wyrallah. The proposal is for 12 rural residential lots ranging from 6,200m² to 1.66ha. Access will be gained via Breckenridge Road, Skyline Road (south) and Campbell Street. Skyline Road (South) will be upgraded to a 6 metre sealed width on an 8 metre formation to provide access for lots 4, 5 and 12. A plan of the proposed subdivision is included as an Attachment.

Consistency with the Rural Housing Strategy

The site is identified in the Rural Housing Strategy (RHS) as having potential for closer rural settlement. The 'Locality Development Guidelines' (section 3.6) submitted with the application addresses the protection of the flora and fauna located at the site. The rezoning submission for 96 Breckenridge Street was lodged in accordance with the provisions of the Lismore Rural Housing Strategy (RHS).

The RHS provides that all land approved for rural residential subdivision in accordance with the strategy will be included in a schedule to the LEP. The Schedule is to include a three year "sunset clause" together with such conditions to ensure that any future development application for subdivision is consistent with the adopted Master Plan.

Master Plan

The RHS requires the preparation of a 'Locality Development Guideline' for closer rural settlement areas to ensure coordination between properties in relation to road layout, infrastructure provisions and flora and fauna protection and repair.

It is intended that the Locality Development Guideline be exhibited and adopted as a Master Plan in accordance with the provision of the Environmental Planning and Assessment Regulation 2000. The Master Plan contains details of the subdivision design and is a means of ensuring that future development proposals are consistent with the design concept submitted with the rezoning submission. The Master Plan will be exhibited concurrently with the LEP Amendment and comes into effect when adopted by Council.

Consultation with Government Agencies

Following Council's resolution to prepare the Plan, the proposal will be referred to relevant Government agencies in accordance with the requirements of s62 of the *EP&A Act*.

Comments

Financial Services

On the basis that all the road upgrading works will be funded by the developer, the recommendations are supported.

Other staff comments

The proposal has been assessed by Council's City Works, Environmental Health and Building Services Section and Lismore Water. City Works has advised that the upgrading of Skyline Road and Wybelena Road to a 6 metre wide seal on an 8 metre formation will be required in order to comply with the requirements of the Rural Housing Strategy. These works should be feasible within the existing road reserve and should be a condition of finalising the amendment to the LEP.

Soil sampling was undertaken by consultant BCA Check to determine if the land has been contaminated from former land uses including dairying activities and other agricultural uses on the site.

Results from the samples revealed all parameters met the threshold levels outlined in the Environment Protection Authority (Dept. Environment and Conservation) guidelines with the exception of manganese (Mn).

Council's Environmental Health Unit held discussions with Southern Cross University laboratory manager Graham Lancaster in relation to elevated manganese concentrations. He stated that soils in this region often exhibit high background levels of manganese and that it is common for soils to have Mn concentrations above the EPA threshold. He stated that basaltic soils have high levels of Mn and that testing indicates there is a relationship between iron in soil and manganese. Mr Lancaster also stated that the soils have a high cation exchange and therefore it is likely manganese binds strongly with soil particles reducing risks of it leaching.

The Environmental Health Unit undertook sampling at six sites throughout the Wyrallah village including two at the proposed rezoning site. Results revealed that two samples, taken on properties in the village were well in excess of the EPA threshold of 1500mg/kg, another two samples were below the threshold level but still exhibited Mn concentrations and the two samples taken on the site of the proposed rezoning were above the EPA guideline having concentrations of approximately 2200mg/kg.

As stated above evidence suggests that natural background levels of manganese in this region are high. The Australian and New Zealand Guidelines for the assessment and management of contaminated sites (1992) states that; "In Australasian soils, background levels of manganese range from 4 – 12600 mg/kg. The levels of manganese on the subject site are likely to be the result of naturally occurring background levels found in soils throughout this region and as such are not the result of the former land use and application of chemicals or disposal of manganese waste on the site. According to the Southern Cross University laboratory manager, the levels obtained on the subject land are very common throughout our region and typical of levels in basaltic soils including those around Alstonville, Dunoon and Wyrallah.

The Environmental Health Unit does not recommend any further investigation or response in relation to this.

Environmental Health and Building Services advise that the lot sizes have sufficient area to ensure onsite wastewater system can be engineered to comply with Council's strategy. A detailed wastewater assessment will be required when the subdivision is lodged with Council.

Public consultation

Opportunity for public consultation is provided during the public exhibition period for the draft LEP Amendments. The statutory minimum exhibition period is twenty eight (28) days.

Conclusion

The proposal complies with the requirements of the Lismore Rural Housing Strategy and can progress to the exhibition stage.

Recommendation (PLA2)

That Council:

1. Prepare an amendment to Lismore Local Environmental Plan 2000 to include Lot 3 DP 747275, 96 Breckenridge Street, Wyrallah in Schedule 4 pursuant to section 54 of the EP&A Act 1979.
2. Advise the Department of Infrastructure, Planning and Natural Resources that Council intends to use its s65 and s69 delegations and that it considers that the preparation of a Local Environmental Study is not necessary.
3. Consult with relevant Government agencies pursuant to s62 of the EP&A Act, 1979.
4. Advertise the draft LEP amendment for a period of twenty eight days following consultation with Government agencies.
5. Exhibit the proposal also as a Master Plan for adoption by Council prior to gazettal of the LEP amendment.

Report

Subject	Replacement of the Development Control Plan 17: Vegetation Management Order with the Draft Development Control Plan – 17 Tree Preservation Order.
File No	S453
Prepared by	Strategic Planner
Reason	Update to comply with legislation
Objective	Council's endorsement of Development Control Plan 17 – Tree Preservation Order 2005 for public exhibition
Strategic Plan Link	Natural Environment
Management Plan Activity	Development Integration: Monitor and Review Planning Controls

Overview of Report

Development Control Plan No. 17 – Vegetation Management Order has been in effect since 2002 and since this date there has been significant amendments to State Legislation, including the introduction of the new *Native Vegetation Act, 2003*. The existing Development Control Plan (DCP) No. 17 does not comply with these changes. It is recommended that Council replace the existing DCP with the Draft Development Control Plan No. 17 – Tree Preservation Order in attachments to this Business Paper.

Background

Development Control Plan No. 17 Vegetation Management Order has been in effect since 2002, and has not been updated. There have been several amendments to State Legislation and the introduction of the new *Native Vegetation Act, 2003*. As a result the current Development Control Plan (DCP) 17 is outdated.

DCP 17 has been evaluated against the current environmental legislation and advice from Council's Parks and Recreation and Environmental Health Building Services Sections. The changes required to comply with the current legislation and advice from Council's staff resulted in the development of a replacement DCP. It is recommended that Council replace the existing DCP 17 with the draft Development Control Plan No. 17 – Tree Preservation Order. The improved contents and layout and new application form will improve customer service to applicants for tree removal and the quality of lodged applications (and therefore assessment times) is also expected to improve.

Contents of Draft Development Control Plan 17 – Tree Preservation Order

The draft DCP clearly specifies that applications for Council's consent for tree removal or pruning are required only in urban, commercial, business, village and rural residential zones. Outside these zones the consent Authority for tree removal or pruning under the *Native Vegetation Act, 2003* is the Northern Rivers Catchment Management Authority.

Draft DCP 17 provides information on which tree(s) require consent and those that are exempt. It also provides contacts for up to date information on noxious and environmental weeds in the Lismore area.

The application process and the required criteria for tree removal or pruning is clearly outlined in draft DCP 17.

Comments

Financial Services

Not required

Other staff comments

Environmental Health and Parks and Recreations Sections have had extensive input to the Tree Preservation Order.

Public consultation

Draft amending DCPs are required to be publicly exhibited for twenty eight (28) days.

Conclusion

The proposed replacement DCP 17 provides current advice to applicants and meets all legislative requirements.

Recommendation (PLA1)

That Council prepare the new Development Control Plan No. 17 - Tree Preservation Order and exhibit it for a period of twenty eight days.

Report

Subject	North Woodburn Wastewater Management Study
File No	S292
Prepared by	Acting Manager - Lismore Water
Reason	To report on North Woodburn Wastewater Management Study
Objective	To seek State Government Funding for North Woodburn
Strategic Plan Link	Water and Waste Cycle Leadership by Innovation Quality of Life
Management Plan Activity	Wastewater Services

Overview of Report

This report outlines the investigations undertaken to date on the North Woodburn wastewater management and seeks Council endorsement for:

- (a) to request Stage 1 approval from the Minister for Energy and Utilities for the North Woodburn Sewerage Scheme;
- (b) continue negotiations with Richmond Valley Council to transport and treat North Woodburn's wastewater; and
- (c) continue public consultation.

Background

For many years North Woodburn residents have identified to Council the unsatisfactory nature of their on-site systems, particularly given their proximity to the Richmond River. This is supported by various studies conducted by Council.

Consultants, GeoLink have undertaken two studies into the options for managing household wastewater in North Woodburn. The first study identified and assessed the following:

- Opportunities for upgrading the existing onsite wastewater management systems
- Possible ways of providing a centralized wastewater management system for the area
- Possible Strategies for re-use of reclaimed water
- Estimated capital and operating costs for all options
- Environmental factors and impacts associated with each option; and
- Advantages, disadvantages and economic analysis for each option.

This report concluded that:

- *“Because of the physical constraints of the existing lots, there are concerns about the environmental and public health impacts from the on-site systems.*

Whilst it may be possible to improve the performance of the existing systems, it is not possible for the existing lots within the urban area at North Woodburn to achieve compliance with the NSW Guidelines for on-site wastewater management systems. This is principally because of the close proximity to Richmond River and the small size of the lots.”

- *“Connection to the Evans Head – Woodburn sewerage scheme offers the most economical means of wastewater transportation, treatment and reuse/disposal.”*

On completion of this report, a further report was commissioned by Council to focus on the wastewater collection options for North Woodburn. The options investigated were:

- Modified gravity sewerage collection system
- Common effluent drainage system
- Septic tank effluent pumping station
- Vacuum sewerage system
- Low pressure pumping system.

This report concluded that both the common effluent pumping and septic tank pumping were not viable options. This was due to Richmond Valley Council's concerns regarding the potential septicity of the sewage, detrimental effects on the existing Woodburn sewerage system and increased potential for the ingress of floodwaters over the alternative options. Because of this, these options were not investigated in detail.

Out of the three remaining options, the lowest overall cost was for the modified gravity system followed by the low pressure pumping system.

Full copies of the above reports are available from the Author.

Initial discussions with Richmond Valley Council staff have indicated that they would consider favourably a request to connect North Woodburn to the Evan Head – Woodburn sewerage scheme. However, negotiations will need to be undertaken with Richmond Valley Council for the cost of treatment and transportation. Apart from these on-going maintenance costs which are borne by the ratepayer, Lismore City Council will be required to pay for headworks charges, which is a fee for the purchase of part of the Richmond Valley's sewerage infrastructure to support these residents.

All of these matters will require consultation with the affected community.

To undertake this scheme at the lowest possible cost to Council ratepayers, Council should seek funding from the Country Towns Water Supply and Sewerage programme, which is administered by the Department of Energy, Utilities and Sustainability (DEUS). Council will initially seek Stage 1 approval for the North Woodburn Sewerage Scheme.

On receipt of Council's request, DEUS will determine if the scheme is eligible for financial assistance. On receipt of Stage 1 approval, Council can then proceed to complete all documentation for calling of tenders. On completion of this documentation, Council will then seek Stage 2 approval.

After calling and reviewing tenders, the Minister will then approve a fixed dollar grant (Stage 3) for the contract on the basis of percentage assistance indicated in Stage 2. Financial assistance for

Stages 1 and 2 will be paid on award of the first construction contract. The maximum available State Government assistance is 20%. The North Woodburn sewerage scheme is currently estimated to cost \$1.3 million (this is Lismore City Council's construction costs only and does not include any costs for connection to the Evan Head – Woodburn Sewerage Scheme).

Comments

Financial Services

The estimated construction cost for the North Woodburn sewerage system is \$1.3 million. In addition, Council would need to pay the going headworks charges to connect to the Evan Head-Woodburn sewerage system, the same as any other proposed user of the system. This cost has not been estimated at this stage, but is likely to be substantial.

Given the fact that Council will need to provide a sewerage system in North Woodburn, the approach to DEUS for a Stage 1 subsidy is supported as, if successful, it will reduce the overall financial impact on Lismore Sewerage users.

Prior to final determination, a regime of charging for North Woodburn users will need to be considered. This is consistent with the current situation for Clunes sewerage. It is important to note that it is likely that North Woodburn users will not be able to fully fund the capital and operating costs of this system. Therefore, it is likely that these costs will need to be subsidised by all Lismore sewerage users.

Environmental Health

Council's Environmental Health Section has carried out a number of investigations in North Woodburn in regard to the performance of the existing on-site sewage management systems. Investigations have revealed that up to 50% of systems indicate evidence of failure. Failure can largely be attributed to poor soil permeability, small lots and high rainfall.

On-site sewage management systems in North Woodburn cannot be upgraded on a permanent basis, as they do not satisfy Councils On-site Sewage Management Guidelines or NSW Guidelines due to the close proximity to the Richmond River, flood liability of the land and inadequate size of disposal areas on residential lots. It is considered a priority that the unacceptable condition of sewage management in North Woodburn be resolved.

The recommendation of GeoLink to connect to the Evans Head sewerage scheme, which offers the most economical means of wastewater transportation, treatment, reuse and disposal, is supported by Council's Environmental Health Section.

Public consultation

To be undertaken.

Conclusion

From the report undertaken by Geolink, the most economical means of treatment of wastewater is by connecting to the Evans Head – Woodburn sewerage scheme and transportation by either a modified gravity system or low pressure pumping. These options will be the subject of public consultation prior to any works being undertaken.

Negotiations will also need to be undertaken with Richmond Valley Council for both the cost of treatment and transportation. On top of these on-going maintenance costs, Lismore City Council will be required to pay for headworks charges for purchase of part of the infrastructure.

Recommendations (ENT06)

It is recommended that:

1. Council undertake the initial community consultation by informing all residents of North Woodburn of the current status of the scheme via a letter drop.
2. Council seek to connect North Woodburn sewerage to the Evans Head – Woodburn sewerage scheme.
3. Council seek to construct either a modified gravity system or low pressure pumping system as the wastewater collection system for North Woodburn.
4. Council seek Stage 1 approval from the Minister for Energy and Utilities for commencing pre-construction activities on the North Woodburn Sewerage Scheme.
5. Council commence negotiations with Richmond Valley Council for the capital, transport and treatment costs for the North Woodburn sewerage and advise the community of these negotiations.

Report

Subject	Lismore Water - Best Practice Management
File No	S387 / 301
Prepared by	Group Manager-Business and Enterprise & Manager-Lismore Water
Reason	To report on guidelines for best practice
Objective	To link Lismore Water plans to Council's Strategic Plan
Strategic Plan Link	Water and Waste Cycle Leadership by Innovation Quality of Life.
Management Plan Activity	Lismore Water

Overview of Report

This report outlines the integration of the Council Strategic Plan and the more detailed plans of Lismore Water. Coupled with this Lismore Water has assessed its operations against the Best Practice Guidelines (Guidelines) as issued by The Department of Energy, Utilities and Sustainability (DEUS). Council staff have assessed that Lismore Water complies with the Guidelines and this compliance was audited by an independent consultant, John Wilson and Partners.

Background

Council's Strategic Plan

Council adopted a new Strategic Plan in 2004 that included broad statements of direction. Lismore Water has responsibility for the implementation of parts of this Strategic Plan and the adoption of best practice management incorporates a number of strategies aligned to the Council wide strategy. The most direct link to the Strategic Plan is the Water and Waste Cycle. The plans of Lismore Water will expand on the management of water and sewage and they are also aimed at the reduction of waste.

More broadly the plans of Lismore Water are linked with Leadership by Innovation, where there are specific actions for community consultation, technology improvements and the measurement of performance across a number of areas against the industry. Lismore Water aims to be an innovative and responsive part of Lismore City Council.

There is also a link to Quality of Life. Management of water is a fundamental part of living in the Northern Rivers, with the rivers and creeks providing water for consumption, agriculture and recreation. Lismore Water is an intimate part of this process. Lismore Water is also active in support of the villages, with a role in Nimbin and current identified projects in Clunes and North Woodburn. These all add to the quality of life in Lismore.

This report forms a key link between the operational activities of Council and the strategic planning process.

The Guidelines

The Department of Energy, Utilities and Sustainability (DEUS) has issued Guidelines for Best-Practice Management (BPM) of Water Supply and Sewerage (“the Guidelines”).

In principle, Local Water Utilities (LWUs) that comply with these Guidelines have a healthy and sustainable water supply and sewerage businesses and will have demonstrated best-practice management of these businesses, as well as compliance with National Competition Policy.

The Guidelines identify six criteria for best-practice management of water supply and sewerage. There is no ranking of these criteria, although it is reasonable to conclude that some elements are of a greater value than others. The criteria are:

1. Strategic Business Planning
2. Pricing and Developer Charges (including Liquid Trade Waste Approvals)
3. Performance Reporting
4. Demand Management
5. Drought Management
6. Integrated Water Cycle Management.

• Strategic Business Planning

Lismore Water has prepared strategic business plans for each Fund since 1999. The most recent reporting of these plans to Council dates back to April 2002. A key component of this process in the preparation of a 30-year capital works and operations programme, which forms the basis for a financial plan/model. This integrates the financial and operational aspects of the plan and drives the typical household bill calculations.

The financial plan determines the lowest required stable typical residential bill (hereafter called “the Typical Bill”), that is required to fund operational and capital requirements. By considering a long-term perspective (30 years), the possibility of sharp increases in the Typical Bill is minimised. Any dividend proposed has to be added to the Typical Bill to reflect the true financial status.

The Business Plans are summarized into broad Action Plans and reflect the ongoing operating and capital works programmes undertaken by Lismore Water. These plans have actions that relate specifically to Water, specifically to Sewer and then actions that are common to both activities.

Common Actions

- Maintenance Management System. Lismore Water has actively sought to move from a breakdown maintenance approach to a programmed maintenance approach. A manual system has developed over some years to schedule and record maintenance activity. This process is ready to move to the next level with implementation of a computerized maintenance management system. This is due for completion in 2006.
- Telemetry System. Lismore Water maintains and controls a number of pump stations and reservoirs through a telemetry system. The current system was implemented twelve years ago and the system providers no longer adequately support the software or hardware. Council is currently investigating available technology and will then call tenders to replace the telemetry system. This is due for completion in 2006-07.
- Staff development. Lismore Water has an emphasis on staff development and multi- skilling. Evaluation of training and development requirements is an annual process.
- Developer Contributions Plans. It is imperative that Council has a current Developer Contribution Plan that is consistent with DEUS guidelines and commercially realistic (see below).

- Environmental considerations such as the EP&A Act and the POEO Act and Total Catchment Management. This must be factored into the decision-making process.
- Compliance with DEUS Best Practice Guidelines. As part of Lismore Water's aim to improve service delivery, it is important to be measured against industry standards.

Sewer Actions

- Inflow Infiltration. Due to a number of factors including the age of some infrastructure, Lismore has a significant ingress of storm water into the sewer system. This is an ongoing project with key outcomes required to improve this performance. This is also linked to the new telemetry system and mains replacement programme.
- Mains replacement program. As part of the drive to minimize ingress and improve system performance and capacity, Lismore Water has significantly increased the sewer main renewal program over the last four years. This will continue for the foreseeable future.
- Liquid Trade Waste Discharge Policy. It is important that this policy is current and equitable. A report on this matter was brought to the May 2005 Council Meeting and the draft report was adopted by Council (currently on exhibition).
- System extensions such as Clunes and North Woodburn. These projects and other village schemes are significant to improve environmental and human health outcomes. The resource requirements for these projects are included in the plans.
- Continuous improvement of treatment processes. The regulatory framework in which sewerage transport and treatment systems operate are reflecting higher community expectations. Lismore Water must continue to improve to meet and, where possible, exceed these expectations.

Water Actions

- Promotion of wise water use. Rous Water in conjunction with Lismore Water has a key role to inform and educate the community, both in times of plenty and drought, about the value of water as a resource and how to minimize consumption.
 - Nimbin water supply and augmentation. Improvements to the Nimbin water supply scheme are planned and in process. The next stage of this program is expected to be complete by 2005-6.
 - Reservoir audits and replacements. Lismore Water has an ongoing program of reservoir audit and refurbishment or replacement. These are critical infrastructure in the delivery of water quality.
 - Leak detection. All water systems have water losses. Lismore Water will undertake a process to assess the extent of losses and any corrective actions required.
- **Pricing and Developer Charges (including Liquid Trade Waste Approvals)**

Council has regularly reviewed the Developer Contribution Plans and Trade Waste Policy to retain their currency and relevance. The Developer Contribution Plans are also related to the long-term financial model, as this is a significant funding source for public infrastructure.

Trade waste monitoring in the guidelines includes issuing of approvals to all businesses and carrying out annual inspections. This process has commenced and additional resources are requested as part of the 2005/06 budget process.

- **Performance Reporting**

Each year Council provides data to DEUS on performance against a number of benchmarks. This information is then reported back to Council's for assessment. This information was presented in detail at the Councilor workshop. To retain compliance with the Guidelines, this information will be presented to Council annually.

Council was informed in May 2005 that the results of the 2003-04 year were now available. It is pleasing to note that Lismore Water is one of four (4) LWU's in New South Wales to be identified as a top ten performer in both water supply and sewerage. In due course Lismore Water will receive the Director General's Excellence Award for this achievement.

- **Demand Management**

Lismore Water is actively involved in a range of demand management initiatives that are lead by Rous Water as the regional bulk water authority.

This initiative also includes requirements for appropriate metering and pricing.

- **Drought Management**

Lismore Water is a party to the Drought Management Strategy, which was adopted by Rous Water the bulk water supply authority.

With regard to the Nimbin water supply scheme, the Nimbin Water Committee prepared and adopted a Drought Management Plan as part of their activities. This will be implemented by Lismore Water when drought conditions arise.

- **Integrated Water Cycle Management**

All Councils are required to undertake an Integrated Water Cycle Management Study. Lismore Water has commenced this process and this will be completed in the 2005-06 financial year.

DEUS Compliance

Overall it is Council's staff view that there is substantial compliance with the Guidelines as set out by DEUS. This is also evidenced by:

- DEUS requiring compliance with the Guidelines for State Government subsidy (funding) under the Country Towns Water Supply and Sewerage Program. Council has received notification of subsidy under this program for the Clunes wastewater project, and
- The Director General's Excellence Award.

Dividend

In conjunction with the issue of the Guidelines, changes were made to s409 of the Local Government Act 1993, to allow LWU's to pay an annual dividend out of surpluses. These changes were effective for the current financial year and dividend amounts were included in the 2004-05 budget.

The payment of dividends across from these funds to the General Fund is not without the consideration of other relevant issues. There must also be some consideration that the Guidelines are substantial, as the State Government does not wish Water and Sewer funds to be unduly drawn down. To this end, DEUS acknowledges that dividend payments will result in upward pressures on future water supply and sewerage bills. Any dividend needs to be added on top of the Typical Bill and disclosed.

Dividend Components

The dividend payable from water supply and sewerage businesses has two components:

- A dividend calculated for tax-equivalent payments (TEP) must be paid and it is NOT a requirement to comply with the Guidelines to pay this amount, and
- A dividend calculated from the surplus.

Tax-equivalent payment

Under National Competition Policy (NCP), business units above threshold income of \$2,000,000 per annum (which includes Lismore Water) must levy upon themselves a notional tax (including income tax) for competitive neutrality.

The maximum amount LWUs can levy as a tax-equivalent payment (TEP) dividend is \$3 per assessment. The Guidelines specifically exclude the largest taxation handle (income tax) from the TEP dividend. The applicable taxes for this purpose include land tax, payroll tax and stamp duties, which in the case of Lismore Water are negligible. Therefore for the purposes of Lismore Water, the TEP dividends are \$zero.

Dividend from surplus

Surplus = Profits – (Government Grants + TEP dividend + capital payments from other authorities).

As can be seen from the above formula, a “correction” is applied for government grants and capital payments from other authorities. However, no correction is applied to developer contributions or developer provided assets. This is of concern, as these increase the surplus (and thereby the maximum allowable dividend), but do not always refer to cash receipts. In addition they can fluctuate considerably, depending on the level of development.

The dividend from the surplus must not exceed the lesser of 50% of the surplus and the number of assessments multiplied by \$30 for the Sewer Fund and \$15 for the Water Fund, less any dividend for tax-equivalents payments. The lesser amount for the Water fund reflects that it is a reticulator of water and not also the bulk water authority.

Based on approximately 13,000 assessments, the maximum dividend from the Sewer Fund is \$390,000 and the Water Fund is \$195,000.

Sewerage Fund

The guidelines recommend “*LWUs facing major capital expenditure for new or replacement infrastructure should defer paying a significant dividend from their surplus.*” Major capital works include the mains replacement program and the proposed Clunes and North Woodburn sewerage systems.

Water Fund

The surplus of the Water Fund is directly affected by the level of water consumption and the level of bulk water charges.

The Water Fund surplus drops considerably if the demand drops as reflected in the 2002/03 final accounts. This is due to the fact that bulk water pricing is of a “fixed cost” nature.

2004-05 Budget

As stated above, the current year budget includes amounts for the dividends. The Water Fund budget includes a dividend of \$190,000, which is equivalent to the maximum amount and the Sewer Fund budget includes a dividend of \$26,200, which reflects the substantial capital commitments of this fund.

Audit of Substantial Compliance

Following the Council workshop, Council engaged John Wilson and Partners to undertake an independent audit of the compliance of Lismore Water with the Guidelines and the process of

reallocating overheads from the General Fund to the water and Sewer Funds. The report in full is included as Appendix A.

In summary, the audit concurs with the Council staff opinion that Lismore Water substantially complies with the Guidelines and the overhead cost recovery is presented fairly and accurately.

Comments

Financial Services

All local water utilities should be striving for compliance with the best practice management guidelines. Fundamentally, the focus is to improve the economic, social and environmental outcomes for customers and the community in general.

From a financial perspective, Lismore Water's efforts to substantially comply with the guidelines provide additional and potentially significant benefits. Firstly, to access funding under the Country Towns Water Supply and Sewerage Program for future capital infrastructure works such as Clunes, and secondly, if Council determines that it's water supply and sewerage businesses should pay a dividend, Lismore Water must comply with the DEUS guidelines.

In regards to a dividend from Lismore Water, the 2004/05 Budget anticipates \$26,200 and \$189,400 from Sewerage and Water Funds respectively to be received by General Fund. On the basis that the independent audit supports the opinion that Lismore Water substantially complies with the guidelines, Council can now submit the required information to DEUS to confirm payment of a dividend from the surpluses of the Funds for the 2003/04 financial year.

It is important to note that the payment of a dividend is not automatic and reliant on independent audit agreement and formal Council resolution on an annual basis.

Public consultation

Not required.

Conclusion

Council's Strategic Plan requires the best practice management of water and sewage. Lismore Water has revised the existing business plans to reflect these requirements and there is correlation with Council's Strategic Plan. The plans provide the next level of detail for the implementation of the Strategic Plan.

The Guidelines identify six criteria for best-practice management of water supply and sewerage. These include the preparation of business plans and a long-term financial plan. Provided the LWU substantially complies with DEUS Guidelines, the LWU is positioned to apply for State Government funding of water and sewer infrastructure projects. A dividend can also be paid from surpluses to the General Fund.

Based on the preliminary assessment undertaken by staff, Lismore Water is substantially complying with the Guidelines. This is due to Council taking on initiatives over a period of time to implement best practice including the adoption of business plans, developer contributions plans and a trade waste discharge policy. Council has since engaged an independent auditor to evaluate the level of compliance with the Guidelines and the ensuing report concludes that this is the case.

It is recommended that:

Lismore Water has achieved substantial compliance with the six criteria:

1. Strategic Business Planning
2. Pricing and Developer Charges (including Liquid Trade Waste Approvals)
3. Performance Reporting
4. Demand Management
5. Drought Management
6. Integrated Water Cycle Management

as outlined by the Department of Energy, Utilities and Sustainability, Guidelines for Best-Practice Management of Water Supply and Sewerage.

Report

Subject	Memorial Baths Redevelopment
File No	P6768
Prepared by	Manager Special Projects and Properties
Reason	To advise Council in regard to progress and funding in relation to the Memorial Baths Redevelopment project.
Objective	To obtain Council resolution for additional funding
Strategic Plan Link	Quality of Life
Management Plan Activity	Public open space and recreational facilities

Overview of Report

Implications and opportunities for the Memorial Baths Redevelopment project occasioned by the success of a Sustainable Regions grant.

Background

In July 2004 Council responded to the community representations and concerns by approving the relocation of the buildings for the Memorial Baths southerly by 6m to 8m on to Market Street.

Since that time, it has been clear that the facility will not only serve the immediate community of Lismore, but will also be of a standard suitable for regional swimming events. The standard of construction and the features provided at the facility have continued to build on that potential.

In March 2005 Council made a very strong submission to the Sustainable Regions Committee for additional support to further lift the standard of the Memorial Baths to that required for high standard competition events.

Events staff recognised that such a facility would compliment the other high quality sporting venues in Lismore.

Sustainable Regions Submission

The submission had as its base the quality and quantum of the facilities being provided at the Memorial Baths as part of the Councils existing commitment to providing support for first class sporting events.

Staff were able to demonstrate the ongoing Council commitment to attracting state and regional sporting events to Lismore through the events staff and to further show that these events benefited not only Lismore, but the region as a whole.

Throughout the Committee's evaluation process Council was able to demonstrate that the capacity of the Memorial Baths would be greatly enhanced by providing:

- a) Additional grandstand seating
- b) Additional shade structure
- c) Improved lighting towers and lux levels

- d) A state of the art boom
- e) A dry training room for training courses and swimmers briefings
- f) A coaches and judges room.

The conclusion that the committee was able to draw from the inclusion of the above elements in the Memorial Baths was that Sustainable Regions had an opportunity to make a meaningful difference to the facility's capacity to attract regional usage.

The additional elements would;

- Build on Councils \$8.75m commitment to the Memorial Baths in a way that can be integrated during the ongoing construction.
- Assist Lismore to significantly contribute to the regional economy by building on Councils ongoing sporting commitment.

The merit of the submission was recognised and Council received a grant of \$497,100 for additional elements at the Memorial Baths.

In the costings put forward with the submissions, Councils contribution to the additional elements was calculated to be an additional \$329,800.

Completion Date

The additional construction work which Council is to undertake as a result of the successful Sustainable Regions submission will require an adjustment to the anticipated time of completion. Some of the additional work can be run concurrently with the current programme and this was initiated as soon as the grant was announced.

The run of wet weather experienced earlier this year had extended the contract completion date to the middle of June. The additional work will need approximately six (6) further weeks to construct and install.

Barring further wet weather it is anticipated that the Memorial Baths will be completed by the end of August.

Project Costs

From the preceding information, it can be seen Councils acceptance of the Sustainable Regions grant will have a significant impact on the approved budget however, the leverage provided by the grant will markedly enhance the finished project and for that reason must be incorporated.

The submission anticipated that Council would receive \$0.5m from Sustainable Regions and match it with \$0.33m additional Council funds. This would bring the total Memorial Baths redevelopment project to a cost of \$9.6m. This cost would include all of the additional elements contained within the Sustainable Regions submission together with prolongation costs.

This option has been made possible by careful programming of ongoing and additional work to achieve concurrent site work and minimise both time extensions and overall cost.

Alternatively Council could take advantage of Sustainable Regions funding and construct all of the additional elements contained in the submission, but seek cost savings in other areas of the pool project.

Elements which could be deleted from the project and their relevant costs are:

- 1) Market Street mural - \$73,000
A mural has been commissioned and prototyped which is 2m high and approximately 60m long. This mural is a collaborative effort between a nationally recognised muralist and the Richmond River Historical Society. The work was designed to be affixed onto the top of the long block work wall fronting Market Street. If the mural were to be deleted, the block wall would retain a painted finish.
- 2) Pool storage building - \$32,000
Pool side storage is always at a premium and this element is a free standing block work building about 5m x 2m with two roller door entries. The building is to be located at the north eastern corner of the site, adjacent to the Bowls Club fencing. Its deletion would deprive club pool users of storage capacity, separate from that used by management.
- 3) Canteen shade structure - \$17,000
This is a timber battern structure providing shade to the western wall of the canteen and its servery windows. The structure will utilise the same hardwood timbers as a re used in the main facilities buildings. Its deletion would make the canteen a hot place to work from in summer.
- 4) Site landscaping - \$10,000
The pool contractor is required to provide turf and mulched topsoil to the non-hard surfaces. Council had anticipated using its own staff to both design and plant the pool landscaping. To delete the element would deny the site the softening and greening amenity which is provided in landscaping.
- 5) Planter box, seats and bins - \$5,000
These pool side furniture items are to be located near the entry door to the pool and are of a high quality. Their deletion would diminish the amenity of the site and may impact on the function of the entry area.

Total savings from the deletion of all of the above elements would be \$137,000 and would reduce Councils additional funding requirements to \$193,000, however the amenity of the pool would be lessened.

Comments

Financial Services

This is another opportunity to again improve the quality and quantity of facilities at the redeveloped Memorial Baths. To match the \$497,100 offered through Sustainable Regions, an additional \$329,800 will need to be provided by Council.

It is unlikely that these funds will be surplus from within recurrent operations, so the most likely funding source would be from new borrowings. As a guide, based on a 20 year loan, the additional repayment costs would be approximately \$33,300 per annum.

If adopted, an application seeking approval for the additional borrowing will be made to the Minister for Local Government.

Other staff comments

Manager Community Services

Completion of the Memorial Baths has been long-awaited by the Lismore community. The proposed additions made possible by Sustainable Regions funding capitalise on the overall amenity of a quality facility and the benefits attained will be accessible to the entire community over time.

A further commitment of Council funds to ensure maximum potential for this facility over the long term is supported by Community Services.

Economic Development Unit

Staff at EDU & Tourism have welcomed the positive outcome of the Sustainable Regions grant application. In particular, Events staff are looking forward to the completion of the new Pool complex - it will open up a new avenue of events and events based benefits for Lismore. Staff are in the process of identifying key groups and the events they promote and/or host with a view to establishing a programme for the next few years. NSW Swimming, Masters, High and Primary Schools and the Catholic Education system are just some of the relevant organisations identified.

The successful outcomes of bidding efforts for such high profile events will depend upon the quality of the facility and all its components (eg. shade, water quality, crowd facilities, officials' areas) and the professional nature of prepared bids.

The Economic Development Unit's Management Plan has as one of its targets, to "bid for 2 major swimming events" before June 2006.

Public consultation

Nil.

Conclusion

The Memorial Baths will be an exceptional facility capable of being used for first class competition swimming events as well as local recreational activity. The funding provided by Sustainable Regions is a clear recognition of the capability of the facility and this extra funding should be matched by Council.

The Memorial Baths complements the other regional sporting facilities which Lismore so successfully promotes. There is good value in Council contributing an additional \$330,000 to attract \$500,000 of Federal funding.

Recommendation (GM06)

That Council acknowledge the additional costs arising from the acceptance of the Sustainable Regions grant will take the overall project cost to \$9.6m and borrow an additional \$330,000 to match the grant allocation whilst ensuring that all other planned elements of the redevelopment are incorporated.

Report

Subject	Airport Industrial Estate
File No	S865
Prepared by	Manager Special Projects and Properties and Contracts Officer
Reason	To vary the prior resolution to provide greater flexibility in construction schedules
Objective	To obtain Council resolution
Strategic Plan Link	Economic Development
Management Plan Activity	Property

Overview of Report

A variation to a prior resolution is required to provide flexibility in the construction programme for the subdivision.

Background

In the Council meeting of March 8, 2005 (confidential papers) it was resolved that Council allocate funding for stage 1 and 2 of the Airport Industrial Estate from internal reserves. The resolution went on to determine that "Prior to physical works commencing two contracts of sale with buyers are to be exchanged with no conditions specifically relating to buyer finance".

This part of the resolution quoted above is likely to cause some difficulties for Council in regard to the construction timetable and the requirements of one of the purchasers with whom Council is finalising its contract. This particular purchaser has specific site occupancy timing constraints which are dictated by their current leasing arrangements and their construction schedule.

If Council is to provide the lot filling and road construction as required by its purchasers it is necessary to commence work almost immediately and the current resolution does not provide for this.

Accordingly an alternative resolution is proposed as set out in the recommendations contained in this report.

Tendering

The Local Government (Tendering) Regulation 1999 makes provisions for a Council not to call tenders "because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenders, a council decides by resolution (which states the reason(s) for the decision) that a satisfactory result would not be achieved by inviting tenders".

Council has prepared a contract with Metroll Pty Ltd which requires site access and filled lot availability by the first week in August 2005. The expiry of their current lease dictates the August date. The time period for a full tender process (including Council approval), is eight to ten weeks, this would result in a contractor commencing works in the first week in August at the earliest and would cause unreasonable difficulties for Metroll Pty Ltd.

Given the time constraints, it is proposed that Council undertake the management and supervision of the works and that local civil contractors be engaged to complete the works within the time period. This approach has already been approved for the roadworks and other services.

Comments

Financial Services

The development of the Airport Industrial Estate is to be funded from internal reserves with repayment to occur on the sale of lots. The initial recommendation to have two (2) contracts of sale exchanged with no conditions specifically relating to buyer finance was included to minimise the time internal reserve funds would not be available for the purpose they were held. Unfortunately, given the circumstances surrounding the Metroll deal, this could have the effect of stifling the development and is therefore not supported.

The cost to develop this estate is estimated at \$3.6 million with quotations for telecommunications, power, water and sewerage yet to be received. Based on the anticipated sales proceeds, it will generate a profit. In the short term, management will need to balance the progressive development of the estate with the demand for lots to ensure that internal reserves funds are not committed for an extended period.

Other staff comments

Not required.

Public consultation

Not required

Conclusion

Recommendation No. 2 of the report on the Airport Industrial Subdivision in Council's Business Paper of March 8, 2005

2. *Prior to physical works commencing, two (2) contracts of sale with buyers are to be exchanged with no conditions specifically relating to buyer finance.*

be varied to allow flexibility in the construction programme currently being worked up for the site.

Recommendation (GM05)

- 1 That to avoid timing problems in allowing Metroll Pty Ltd access to the site they are contracted to purchase, Council authorise commencement of works such as road building, services and filling without delay.
- 2 The Mayor and General Manager be authorised to sign and affix the Council seal to land transfer, subdivision documents and plans as may be necessary to give effect to this resolution.
- 3 Council not call tenders for civil works associated with the road works and the supply and compaction of lot fill for the Lismore Airport Industrial Subdivision, in that there is insufficient time to complete the normal tender process on the understanding that the Project Manager engages service providers at competitive rates.
- 4 Council staff undertakes the management and supervision of all civil works associated with this development and engage subcontractors as and when required.

Report

Subject	Carriageway and Kerbside Land Use in Lismore CBD - Policy 5.2.24
File No	S9
Prepared by	Manager Special Projects and Properties
Reason	To update Councils Policy
Objective	To obtain Council resolution
Strategic Plan Link	Quality of Life, Economic Development
Management Plan Activity	Roads

Overview of Report

Review of Council Kerbside Dining Policy due to additional interest in kerbside dining following beautification of the CBD.

Background

In 1994 Council recognised the benefit of supporting kerbside dining in the CBD and introduced a policy to facilitate its introduction.

There are currently about ten businesses that have embraced the kerbside dining concept and the city is more colourful and vibrant for it. The new road and beautification work in Keen Street has led to additional interest in kerbside dining in that street. This interest has led to the revision of the old policy and the drafting of a new policy, the subject of this report.

The new policy seeks to provide equity for all businesses that either currently enjoy a kerbside dining area or are considering applying for one. The major variations between the existing and proposed policy are:

- a) a recognition that the construction circumstances which pertain to the current sites varies greatly and the current policy does not address this inequity.
- b) a recognition that subject to normal Development Application requirements regarding traffic and parking, Council should retain discretion to decide whether or not any proposed site is appropriate.
- c) recognition that when businesses utilise carparking spaces in public car parks as a rear access to their premises or the like, they are removing a car space which was paid for with public funds.

Financial Considerations

There currently exists three distinct categories of kerbside dining areas:

1. Those sites which were in the main, constructed by Council at little cost to the land user.
2. Those sites which were completely constructed at the landowner's cost.
3. Those sites which are an amalgam of the previous two categories.

In reviewing the current policy it was determined that the new policy should bring some equity to the abovementioned situations and at the same time ensure that the presentation and standard of these sites remains high. To accommodate this it is proposed that the value of the structures/improvements be taken into account in the licence. The money raised by the licence should then be retained in a separate account to be applied to the maintenance and upgrading of the sites on a routine basis.

This policy recognises that Council has jurisdiction over the footpaths and roadways and is responsible for their appearance and upkeep. The proposed rental structure values the structures and non relocatable elements of the kerbside dining areas and charges a rental accordingly. To bring all existing licence areas within the one system it is proposed that as existing licences fall due, the structures and non relocatable elements of the dining area will be valued so that the licensee can be compensated for the market value of their investment, only, and said value be incorporated into part 10.2 of the policy when determining the annual rental.

It is proposed that the rent derived from licences, under this policy, be retained within a specific financial area and be utilised for the future development, upkeep and maintenance of the dining areas. The \$26,000 currently within kerbside dining funds be used as seed funding to initiate this policy.

To minimise the risk, when Council pays for the development of a kerbside dining area, the licensee will be required to provide security, such as a bank guarantee, equivalent to 50% of Council's investment for a period of five (5) years. If the licensee contributes towards the works, the amount contributed is deducted from the valuation and accordingly, the rental payable is reduced.

Comments

Financial Services

The implementation of this policy will result in Council having greater ownership and control over the structural and non relocatable elements of the City's kerbside dining areas as well as a transparent and equitable approach to the valuation of carriageway and kerbside leases.

In regards to kerbside dining, Council will face a risk when it pays for the upfront development of a site. Based on an estimated cost of \$30,000, the exposure could be as much as \$15,000 in any one instance and this amount reduces to zero over a ten year period. Given the life expectancy of these sites is estimated to be 20 years, it is likely that there will be sufficient returns over this period to generate a positive return.

As for an unencumbered return on kerbside dining, this will be achieved via the site rental for land value and where infrastructure (paving, footpaths, etc) already exists such as in Magellan Street.

Other staff comments

Business and Enterprise

Business and Enterprise supports the changes to the policy. The new policy addresses the importance of kerbside dining and its role in positively enhancing the atmosphere of the CBD while allowing Council control over the standard of the sites and thereby ensuring they complement the new CBD upgrade.

The importance of the structures being maintained and upgraded when deemed necessary will now be able to be funded through rentals being retained for this specific purpose.

Public consultation

Nil.

Conclusion

The proposed policy seeks to build on the success of the current policy and provides uniformity across a broad range of circumstances relating to kerbside land use.

It is proposed that the new policy be implemented as and when current licences are due for renewal and that all new licences be subject to the policy, being the subject of this report.

Recommendation (GM01)

- 1 That Council adopt the proposed amended "Carriageway and Kerbside Land Use in Lismore CBD" policy 5.2.24.
- 2 That as current kerbside licences fall due, new licences are to be issued subject to the new policy. All bonds and securities held under current licences will be returned as the new policy is applied to said licence renewals and rents adjusted to reflect the value of the site infrastructure.
- 3 That money received from the licencing of a carparking space used for private site access be applied to the provision of Council carparking.
- 4 That money received from licensees for kerbside dining be applied to a separate fund to be used for the development, maintenance and upgrading of kerbside dining areas.

Report

Subject	Application for closure of public road – part Weaver Street, Lismore
File No	R6062
Prepared by	Manager-Special Projects & Properties
Reason	Request from North Coast Area Health Service for the closure of part of Weaver Street.
Objective	To obtain Council endorsement and resolution.
Strategic Plan Link	Quality of Life, Economic Development
Management Plan Activity	Special Projects & Property

Overview of Report

Proposal by NCAHS to close the southern part of Weaver Street to allow for the construction of a new 40 bed Adult Mental Health Unit.

Background

North Coast Area Health Service (NCAHS) has funds approved by the State Government for the construction of a new 40 bed Adult Mental Health Unit. This unit is to form part of an overall upgrade of the Lismore Base Hospital facilities.

It has become clear that the NCAHS will be called upon to provide improved parking and to acquire additional properties if it is to be in a position to implement its plans. To this end NCAHS has now purchased all of the properties in the southern part of Weaver Street and has asked Council to close the street and transfer same to the NCAHS.

Comments

Financial Services

On the basis that all costs associated with the road closure and infrastructure relocation are borne by the applicant, the recommendations are supported.

In regards to the land value of the section of Weaver Street being closed, compensation is not being sought from NCAHS. Instead, the preferred position is that it should be acknowledged as part of the Lismore community's contribution towards the upgrade of the Lismore Base Hospital facilities.

Other staff comments

Lismore Water

Lismore Water has no objections to closing of the southern section of Weaver Street. Once this closure takes effect, all water and sewer infrastructure in this closed section of road will need to be operated and maintained by NCAHS until this infrastructure is made redundant.

Group Manager-City Works

The closure of Weaver Street has been planned for some years; the section of street immediately north of the hospital was closed some years ago. Closing this section of Weaver will have no impact on Council and will assist the hospital.

Public consultation

To facilitate this upgrade NCAHS has liaised with Council and the community.

Conclusion

The proposal by NCAHS to close the southern part of Weaver Street will have no impact on the nearby residents and will allow NCAHS to meet its proposed reconstruction schedule.

Recommendation (GM02)

- 1 That an application to close and transfer for nominal consideration to North Coast Area Health Service, the southern part of Weaver Street, as identified in this report be endorsed by Council.
- 2 That all costs associated with the closure of the southern part of Weaver Street be borne by the applicant.
- 3 That costs associated with the relocation of infrastructure from that part of Weaver Street to be closed be borne by the applicant.
- 4 That the General Manager and Mayor be authorised to sign and seal any and all documents necessary to give effect to this recommendation.

Report

Subject	Application to close part of High Street, Lismore Heights
File No	R7117
Prepared by	Manager Special Projects and Properties
Reason	To adjust property boundaries to reflect current land use.
Objective	To obtain Council resolution.
Strategic Plan Link	Quality of Life
Management Plan Activity	Roads

Overview of Report

Proposal to close a small area of High Street to enhance amenity of adjoining resident who has been maintaining area for many years.

Background

Council was recently approached by the land owners of 25 Deloraine Road, Lismore Heights, requesting that they be granted an opportunity to purchase the area of Council land abutting their land in the south western corner.

This land forms part of High Street, Lismore Heights and has an area of approximately 340m². The land is typically steep and in the main, forms part of the embankment supporting the northern side of High Street. The area has been maintained by the landowner for seven years and they would like to undertake further improvements on the land. Before seeking consent for the backyard works proposed, they would like to have permanent tenure over the land.

Following future road network and carparking expansion considerations, Council's Design Services section determined that there was a remote chance that Council may wish to undertake road work on the most westerly part of the area sought by the landowner at some time in the future.

Accordingly the area of road that staff is recommending for closure and transfer is less than that sought, as that part of the road identified as having future potential to Council has been deleted. The amendment will still satisfy both the public and landowner requirements.

Comments

Financial Services

On the basis that all costs associated with the part road closure will be borne by the adjoining resident, and it will be sold at market value. The recommendations are supported.

Other staff comments

Group Manager City Works

City works have examined this proposal and are satisfied that the land proposed to be transferred will not be needed for future roadworks.

Public consultation

Nil.

Conclusion

The area of road to be closed be reduced from that which was sought to that which is shown in the accompanying sketch. This reduced area will allow the landowner capacity to undertake improvements in that part of the land which is in proximity to their dwelling and recognises the previous maintenance of the area which they have carried out.

Recommendation (GM02)

1. That Council endorse an application to close part of High Street which abuts Lot 4 in Deposited Plan 827397, as shown on the sketch plan accompanying this report, and lodge a road closure application with the Crown for gazettal as Council land.
2. Council sell the abovementioned part closed road to the adjoining landowner at market value.
3. All costs associated with the part road closure as set out in this report be borne by the party who will purchase the closed road.
4. That the General Manager and Mayor be authorised to sign and affix Council's seal to land transfer documents and plans of survey as may be necessary to expedite this resolution.

Report

Subject	Proposed 2005/06 Roadworks Programme
File No	S374
Prepared by	Manager – Roads & Parks
Reason	To inform Council of roadwork projects considered by the Roads Management Committee.
Objective	To obtain Council's approval for the 2005/06 Roadworks Programme.
Strategic Plan Link	Infrastructure
Management Plan Activity	Roads

Overview of Report

This report provides a recommended Roadworks programme for the 2005/06 financial year. The recommended program has been developed using Council's objective points system and input from the Roads Management Committee.

The issues of loan funding the sealing of gravel roads, residents contributing to the sealing of gravel roads and funding low priority roads is also discussed in the report.

Background

The Roads Management Committee met on May 25, 2005 to consider projects to be recommended for inclusion in the 2005/06 Roadworks Programme.

Tied Funding

There are several road projects that are tied to specific funding. They are included to provide Council with a more complete picture of the 2005/06 Roadworks Programme.

Tied Funding	(\$)
CBD Lanes – (remainder of CBD Roads Redevelopment - Keen Street)	500,000
Regional Roads REPAIR Programme (RTA: \$460,000 / LCC: \$460,000)	920,000
Spinks Park Carpark	50,000
Traffic Blister – Nimbin	30,000

Please note there are many other line items in the Roads Section of the draft budget. However, they apply to infrastructure other than roads, such as drainage, footpaths, cycleways, bridges, etc.

Remaining Funding Available

The remaining road funding available in the draft budget for road projects is shown below –

General Road Funding	(\$)
Urban Road Construction	511,000
Rural Road Construction	1,021,000
Rural Roads FAG Programme	761,300
Roads to Recovery Programme	783,400
	\$3,076,700

Committee Recommendations

In 2004/05 funds were distributed between urban and rural roads on a 50:50 basis. The committee recommended reverting to the historical distribution of a one-third to urban and two-thirds to rural roads for 2005/06. This is generally proportioned on the length of urban and rural roads.

The committee highlighted the 50:50 distribution was a one-off occurrence to allow a couple of large urban projects to be completed in 2004/05.

The committee recommended the following distribution of funds –

Road Types	Amount (\$)	Proportion
Urban Roads	932,000	30%
Rural Sealed Roads	1,864,700	60%
Sealing of Gravel Roads	200,000	7%
Seal Section of Skyline Road	80,000	3%
	\$3,076,700	

The Roads Management Committee was advised that the sealing of Skyline Road had been strongly supported by Councillors as part of the draft budget process.

The Roads Management Committee considered the projects determined by the adopted points system. The cap of \$250,000 per project and one project per road was adopted as in previous years. This is to help spread funds throughout the Council area.

The committee generally adopted the priorities set by the points system for urban, rural and gravel roads. Some additional factors were considered in recommending the rural sealed roads programme.

Wyrallah Road was not funded in next year's rural programme because a Regional Roads Review is currently underway. The first draft of the review shows Wyrallah Road being upgraded to a Regional Road. Therefore in 2007/08 Wyrallah Road will be eligible for 50% funding from the State Government. The committee agreed it would be more prudent to fund other local rural road projects at this time.

The committee also agreed that a section of Numulgi Road was a slightly higher priority than the Woodlawn Road project. Also, Bridge Street, Wyrallah, is a large project and sufficient funds were not available to deliver a satisfactory job.

In the Urban Programme, New Ballina Road has been carried forward and recommended for funding in the 2005/06 programme. New Ballina Road was originally funded in this year's budget. Additional funding for the rehabilitation of Brewster Street has been required this financial year and it is proposed to fund this work at the expense of New Ballina Road.

Details of the point system listings are attached for information as Appendix 1.

The following programme of works is recommended by the Roads Management Committee –

2005/06 Works Programme	(\$)
Urban Roads	
New Ballina Road (between Renwick and O'Flynn Streets)	420,000
Molesworth Street / Conway Street Roundabout Rehabilitation	80,000
Molesworth Street / Magellan Street Roundabout Rehabilitation	75,000
Wyrallah Road – Ballina Road to Dalley Street (Stage1)	250,000
Unallocated	107,000
	\$ 932,000
Rural Roads	
Richmond Hill Road (0.6km-0.8km north of Bruxner Highway)	100,000
Eltham Road (Bridge to Boatharbour Road – Stage1)	250,000
Broadwater Road (Wyrallah Road to Kilgin Road – Stage 1)	250,000
Duncan Road (Hunters Hill Road – 1.4km south - Stage1)	250,000
James Gibson Road (2.6km–3.6km east of Corndale Road – Stage 1)	250,000
Numulgi Road (Railway Bridge to 0.5km north)	260,000
Pinchin Road (3.7km–5.6km east of Nimbin Road – Stage 1)	250,000
Tregeagle Road (Rous Road – 0.4km south)	192,000
Unallocated	62,700
	\$1,864,700
Sealing of Gravel Roads	
Terania Creek Road	\$100,000
Tunable Creek Road	100,000
	\$ 200,000

The Roads Management Committee has investigated three (3) other important issues for Council's consideration -

1. Review the points system to allow for contributions from residents to seal gravel roads and develop a policy
2. Look at the issue of funding low priority sealed roads
3. The option of borrowing loan funds to accelerate the sealing works on unsealed rural roads and using the current annual \$200,000 allocation to repay the loan.

The above issues were considered at a sub-committee meeting of February 17, 2005 and the Roads Management Committee meeting of March 2, 2005.

Contributions from residents to seal gravel roads

Council at its ordinary meeting held on June 8, 2004 resolved “.....a policy be developed in regard to the funding and sealing of low priority roads when residents are prepared to contribute funds.”

There are two (2) sides to this issue -

1. Council can seal more road length if funds are supplemented by contributions from residents or the other side of the argument
2. Council should spend its limited resources where the need is greatest and not simply help those that can afford to pay.

The Roads Management Committee examined several alternate methods of evaluating resident contributions to the sealing of gravel roads. These included -

1. A minimum 50% contribution is required by the residents before Council will consider funding the sealing of gravel roads.
2. The existing points system can be modified to allocate points depending on the percentage contribution made by residents.
3. The contribution made by residents reduces Council's costs so that the benefit/cost ratio makes the project a priority which can be funded. *(The concept of benefit/cost ratio was examined by the committee. Benefits to road users are expressed in terms of savings in travel time, accident cost and vehicle operating costs. These can be expressed in dollar terms and compared to Council's costs to assess whether sealing the road can be justified in economic terms. The concept of discounting future benefits and cost provides the basis on which the evaluation is made over the full life cycle of the road.)*
4. The existing points system can be modified to allocate points depending on the benefit/cost ratio of the project.
5. A combination of the above systems.

The committee recommended that –

- i) a separate source of funding be determined by Council to fund its share for sealing of gravel roads contributed to by residents
- ii) residents also contribute a minimum of 50% for Council to consider their proposal.

Funding low priority sealed roads

Under the existing points system some lower priority roads (*roads with low traffic counts, no bus usage, no industry usage and no accident history*), will have great difficulty being funded, even though they are in terrible condition.

The committee looked at a change to the points system, which doubled the weighting for condition. This had some impact on the priority of works.

The committee recommended that the status quo remain as generally funds were being allocated to the highest priority works.

Loan funding sealing of gravel roads

The committee discussed this issue at length. The following advantages and disadvantages were noted -

Advantages

- Potential to bring forward works from a 10-year programme to a 1-year programme.
- There are likely to be economies of scale, as set up costs will not be duplicated.
- Significant benefit to the users of those roads sealed.

Disadvantages

- As the cost of maintaining sealed roads is greater than unsealed roads, Council has increased its unfunded liability for road maintenance works.
- Assuming the annual allocation for sealing unsealed roads is maintained at \$200,000, no future roadworks will be completed on any other unsealed roads for a 10-year period unless more funds are provided. If other unsealed roads become busier or priorities change, there will be no funds available.
- Interest on borrowings must be repaid.

The committee recommended (7:5) loan funding the following priority works –

Terania Creek Road	3.0 km	\$ 450,000
Stony Chute Road	2.7 km	405,000
Tunable Creek Road	1.7 km	350,000
Lillian Rock Road	1.2 km	175,000
	8.6 km	\$1,380,000

Comments

Financial Services

Funding to undertake the recommended roadworks programme is included in the 2005/06 Budget.

In regards to a separate source of funding to meet Council's share of sealing gravel roads where contributions are received by residents, and loan funding the sealing of gravel roads, no funding has been provided in the 2005/06 Budget for these purposes.

Other staff comments

Group Manager-City Works

The engineering staff are keen for more roads to be sealed but, **on balance**, do not believe it is wise to use loan funds to seal existing gravel roads. Certainly there would be an initial improvement that principally benefits those who live on the selected roads. However, there would then be little work done to extend the sealed rural roads for the next 10 years. This would place a lot of pressure on staff and future Councillors to find additional funds to seal more roads.

Given that the existing bitumen sealed network is still in a sad state and needs a major injection of funds to raise it to a standard acceptable to the community, it does not appear wise to loan fund the reconstruction and sealing of existing gravel roads.

Public consultation

Input from community members of the Roads Management Committee.

Conclusion

This report has recommended a programme of works to be undertaken during the 2005/06 financial year. The points system and input from the Roads Management Committee has been used to develop the programme.

Issues of loan funding the sealing of gravel roads, resident contributions and funding low priority roads have also been discussed.

Recommendation (wor3)

1. Council approve the proposed 2005/06 Roadworks Programme as set out in the body of the report.
2. A separate source of funding be determined by Council to fund its share for sealing of gravel roads contributed to by residents.
3. Residents also contribute a minimum of 50% for Council to consider their proposal to seal gravel roads.
4. The status quo remain regarding the funding of low priority roads.
5. Council not accept the recommendation from the Roads Management Committee to loan fund the following sealing works: Terania Creek Road, Stony Chute Road, Tuntable Creek Road and Lillian Rock Road, as set out in the body of the report to the amount of \$1,380,000._

Report

Subject	Indigenous Bush Food and Medicine Garden, as part of Wilsons River Redevelopment
File No	S775
Prepared by	Lois Kelly
Reason	Naming of Garden
Objective	To obtain Council Endorsement for naming of Indigenous Garden as part of the Wilsons River Experience Walk.
Strategic Plan Link	Economic Development
Management Plan Activity	Wilsons River Redevelopment

Overview of Report

The Wilsons River Steering Committee (WRSC) has been working closely with Indigenous Elders and consultants to ensure the inclusion of Indigenous history and culture as part of the Experience Walk along the banks of the Wilsons River.

A bush food and medicine garden has been planned in the new riverside park area of Heritage Park. (Map and concept attached) It is the wish of the Indigenous community to name this garden after Indigenous Elder Uncle Lyle Roberts.

This report seeks Councils endorsement to name the garden the "**Lyle Roberts Memorial Garden**" in line with the wishes of the Widjabal Custodian and Elders.

Background

The Council adopted Strategic Plan for the Redevelopment of the Wilsons River identified an indigenous bush food garden as part of the overall development. Consultation with Indigenous people at that time revealed their wish to name the garden after Uncle Lyle Roberts, who is accepted by all indigenous groups as their Elder.

Part of the funding from the Australian Government under its Regional Assistance Program has specifically been awarded for indigenous components of the Wilsons River Redevelopment: namely the construction of an historic pagoda that will feature indigenous stories; research for information on indigenous history; and for a bush food garden. This funding has been matched with funding from the NSW Heritage Office to obtain the necessary expertise to ensure historic features have the "WOW" factor.

A Memorandum of Understanding was signed by LCC and Bundjalung Elders for the development of appropriate themes and stories to be used as part of historic theming of the Riverwalk. (March 2004)

A report was adopted by LCC in November 2004, which identified and accepted the WRSC as the appropriate body to work with specialist historic and artistic groups for the themeing of the riverwalk and for the content of the pagodas.

To date, the following has been achieved:

- Southern Cross University Regional Gateway contracted as project managers for the development of European and Historic content; (MoU signed between both parties)
- Indigenous consultants have been contracted to work with SCU to supply stories and images;

- Historic researcher has been contracted to research Indigenous, European and social history of Lismore, and to provide appropriate wording to interest both locals and visitors;
- Layout and design specialist has been contracted to work with Indigenous consultants and historic group for artistic work;
- Design and Construction of first pagoda – themed “Gathering Place”;
- Completion of four information panels – two more in progress;
- Design of totem (Bingara – the Echidna) for the first pagoda (by indigenous artist Sheldon Harrington);
- Contracting of TAFE ceramics department for the production and installation of in-ground totem;
- Consultation with indigenous consultants for appropriate bush medicines to be used in bush food garden; and
- Contracting of Rob English (Bio-Restore) for the layout and design of bush food garden.

The Widjabal Custodian and Elders have requested that the Bush Food Garden be named “ **Lyle Roberts Memorial Garden.**”

Comments

Financial Services

Not required.

Other staff comments

Not required.

Public consultation

This project has been developed with extensive consultation with the Wilsons River Historic Interest Group, the Richmond River Historic Society, and the Widjabal Custodian and Elders.

Conclusion

The **Lyle Roberts Memorial Garden** will be an integral component of the Experience Walk along the banks of the Wilsons River, and will be marketed as part of a broad river experience. It is in line with funding requirements.

Recommendation (GM04)

That the Bush Food and Medicine Garden at Riverside Park be named “ **Lyle Roberts Memorial Garden**”, and that signage in the shape of the Echidna be placed at the entrance to the garden with the above name on it.

Report

Subject	Policy Advisory Groups – Community Membership
File No	S36
Prepared by	Administrative Services Manager
Reason	Council resolution
Objective	To appoint community members.
Strategic Plan Link	Leadership by Innovation
Management Plan Activity	Councillors

Overview of Report

Nominations for the following Policy Advisory Groups for Council to determine membership:

- Community Services
- Economic Development
- Roads
- Sustainable Environment

Endorsement of Councillor membership.

Section 355 Committees.

Background

Council at its meeting held on May 10, 2005 determined the membership of three of its newly established Policy Advisory Groups (PAG's). This report deals with the membership issues of the following PAG's:

- Roads
- Community Services
- Sustainable Environment
- Economic Development

In a number of cases, Council will need to determine the membership for various sub-categories. Ballot papers have been separately enclosed. Council is, of course, not obliged to accept any nomination.

In addition, the report includes membership for two Section 355 Committees, being:

- Nimbin Peace Park Management Committee
- Dorroughby Glenview Community Hall

SECTION 355 COMMITTEES

Nimbin Peace Park Management Committee

Leane Draper, Michael Balderstone, Diana Roberts, Karlin Bracegirdle, Romany Pike, Lizette Twisleton, Caroline Cowley, Simon Moore and Zac Price.

This committee was established in December 2003, having the following responsibilities:

- To oversee the day to day management of Peace Park which includes but is not limited to:
 - Daily safety inspections (in accordance with Council requirements)
 - Repair and maintenance of improvements, grounds and facilities.
- To develop plans for the enhancement of Peace Park in conjunction with the Nimbin community's expectations.
- To attract external funding for the maintenance and development of Peace Park.
- To manage and co-ordinate Peace Park usage and events.

The land that the committee is responsible for is being purchased by the Nimbin Community Development Association. It is expected that this purchase will be finalised shortly, at which time the committee will be dissolved. In the interim it would be appropriate to re-endorse the existing members and accept the nomination from **Graham Way**.

Dorrroughby Glenview Community Hall Committee

- Mark Dunphy (President)
- Steve Jackson (Secretary)
- Alex Heathwood (Treasurer)

This hall is owned by Council and managed on its behalf by the Dorroughby Glenview Community Hall Committee. This arrangement has been in place since Council acquired the hall in 1989.

POLICY ADVISORY GROUPS

Detailed below is a summary of the responses received for the four PAG's with the full applications separately enclosed with the business paper.

Community Services Policy Advisory Group

Upon review of the initial membership, the Council's Community Services Section would like to recommend some minor amendments to the membership. Membership was initially based on the seven mandatory target groups in addition to the inclusion of key service providers in Lismore. In order to realistically attract nominations for all positions, fill gaps within all target groups, and to better reflect the potential contribution of service providers who work with large client groups on a daily basis, the following membership list is recommended, along with nominations received.

Criteria

1 representative from the following:

- Children and families
- Shared Vision/Aboriginal community
- Multicultural community
- Gay, lesbian, bisexual, transgender and intersex community (GLBTI)

*** Council will need to determine the one representative**

- Lismore Neighbourhood Centre
- North Coast Community Connections
- YWCA
- Villages (2 representatives)

- SCU Centre for children and young people
- Older people/people with a disability
- Business community

Nominations

- Stephanie Hannah
- Lindsay Clarke

No nomination

- Kate Lavender *
- Ronald Davis *

- Maralyn Schofield
- William McManamey
- Frances Trimboli
- Cameron Cross
- Margie Riches

No nomination

- Kate Lavender
- No nomination**

The changes to the original structure are summarised as follows:

- Introduction of a new category “*Children and Families*”.
- Combining Shared Vision and Aboriginal young person.
- Splitting North Coast Community Connections and YWCA into two categories.

Economic Development Policy Advisory Group

Criteria

1 representative from the following:

Finance sector
 Transport industry
 Media
 Higher education
 Health
 Culture
 Property/development
 Business
 Tourism
 Manufacturing industries
 Agricultural industries

Nominations

Margo Sweeney
 Tracey Mills

No nomination

Margaret McNeil
 Vahid Saberi
 Liz Terracini
 Barry Robinson
 John Barnes

No nomination

Murray Richardson

No nomination

Roads Policy Advisory Group

Criteria

1 representative from each of the following Section 94 catchments:

Clunes/Bexhill/Eltham
 Nimbin & District

* Council will need to determine the one representative

The Channon & District
 North east
 North west
 South east
 South west
 Urban catchment (east)
 Urban catchment (west)

* Council will need to determine the one representative

Nominations

No nomination

Col Smith *
 Simon Lamont *

David Yarnall
 Stan Heywood
 Terry McNamara
 Lloyd Moss
 Russell Nowlan
 Barry Garland
 Brian Suffolk *
 Barry Davidson *

Sustainable Environment Policy Advisory Group

Criteria

1 representative from the following:

Agricultural industry representative

*** Council will need to determine the one representative**

Horticultural industry representative

*** Council will need to determine the one representative**

Natural resource manager from CMA (by invitation)

Natural resource from DIPNR (by invitation)

Natural resource manager from DPI (by invitation)

Centre for Ecotechnology (SCU) (by invitation)

Richmond Regional Landcare (by invitation)

Other environmental organisation representative

*** Council will need to determine the one representative**

Development industry

*** Council will need to determine the one representative**

Additional Nomination (which did not meet the advertised criteria)

Wilson's River Landcare Group Inc.

Nominations

John Cade *

Paul Weir *

Andrew Heap

Rob English

Not nominating

Jeremy Black

Rik Whitehead

Dr Leigh Davison

B Jarman

Ruth Harlow *

Joe Friend *

Lorraine Vass *

Damian Chapelle *

Dr Brad Granzin *

Dr Kristin den Exter

COUNCILLOR MEMBERSHIP OF PAG'S

Whilst Council has determined its membership for the PAG's this has not been formally endorsed at a Council meeting and the following has been included for this purpose.

Arts and Culture

Community Services

Economic Development

Public Transport

Roads

Sport and Recreation

Sustainable Environment

Dowell and Irwin

Dowell and King

Henry and Meineke

Meineke and Tomlinson

Graham, Hampton and Tomlinson

Chant, Crimmins and Swientek

Ekins and Graham

Comments

Financial Services

Not required.

Other staff comments

All relevant groups have been consulted in the preparation of this report.

Public consultation

Council has involved the public in all stages of the review process.

Recommendation (COR15)

1 That Council make the following appointments to its Policy Advisory Groups:

Community Services PAG

.....

Economic Development PAG

.....

Roads PAG

.....

Sustainable Environment

.....

2 That Council thank the following unsuccessful candidates for their interest in nominating:

.....

3 That members of the following two Section 355 Committees be re-endorsed and Council accept the nomination from Graham Way for the Nimbin Peace Park Management Committee:

a) *Nimbin Peace Park Management Committee*

Leane Draper, Michael Balderstone, Diana Roberts, Karlin Bracegirdle, Romany Pike, Lizette Twisleton, Caroline Cowley, Simon Moore and Zac Price.

b) *Dorrroughby Glenview Community Hall*

Mark Dunphy (President)
 Steve Jackson (Secretary)
 Alex Heathwood (Treasurer)

4 That councillor membership of the PAG's be as follows:

Arts and Culture	Dowell and Irwin
Community Services	Dowell and King
Economic Development	Henry and Meineke
Public Transport	Meineke and Tomlinson
Roads	Graham, Hampton and Tomlinson
Sport and Recreation	Chant, Crimmins and Swientek
Sustainable Environment	Ekins and Graham

Report

Subject	Annual Remuneration Fee for Mayor and Councillors
File No	(GW/LM: S38)
Prepared by	Administrative Services Manager
Reason	Determination by Local Government Remuneration Tribunal
Objective	Adopt mayoral and councillor fees for 2005/06
Strategic Plan Link	Leadership by Innovation
Management Plan Activity	Councillors

Overview of Report

The Local Government Remuneration Tribunal each year determines the annual fees to be paid to mayors and councillors.

Background

Pursuant to Section 241 of the Local Government Act 1993, the Local Government Remuneration Tribunal has determined the annual fees to be paid to mayors and councillors during the period July 1, 2005 to June 30, 2006. The Tribunal has determined that there will be no increase for all minimum and maximum fees for councils.

Lismore City Council is a category 3 council and should now determine the annual fee to be paid within the minimum and maximum range as determined by the Tribunal. If Council does not fix a fee the amount defaults to the minimum.

Councillor Fee

The councillor fee for category 3 councils is a minimum fee of \$5,875 and a maximum fee of \$12,925.

Mayoral Fee

The mayoral fee for category 3 councils is a minimum fee of \$12,490 and a maximum fee of \$28,215.

Council currently pays the maximum fee for both councillors and the mayor.

Comments

Financial Services

Funding of \$12,925 per councillor and \$28,215 for the mayor has been included in the 2005/06 Management Plan.

Other staff comments

Not required.

Public consultation

Not required.

Conclusion

The recommendation is consistent with previous Council resolutions.

Recommendation (COR12)

That in accordance with Sections 248 and 249 of the Local Government Act 1993, Council fix the 2005/06 annual fee for councillors at \$12,925 and for the mayor at \$28,215.

Report

Subject	2005 Annual Local Government Association Conference
File No	S569
Prepared by	Administrative Services Manager
Reason	Need for Council authorisation.
Objective	To determine delegates/observers.
Strategic Plan Link	Leadership by Innovation
Management Plan Activity	Councillors

Overview of Report

Determination of voting delegates and observers to annual Local Government Association (LGA) conference in Mudgee from October 23-26, 2005.

Background

The 2005 Annual LGA conference will be held in Mudgee from October 23-26, 2005. This is the prime policy making forum of the Association and it is in Council's interest to be represented. Early nomination by Council is desired to confirm tentative accommodation bookings.

Details of the conference have yet to be received and will be distributed to Councillors when it arrives.

Delegates/Observers

Council is entitled to send 3 voting delegates plus observers. The Mayor, in accordance with Council policy, has been one of the delegates.

The Mayor is unable to attend due to a clash with another appointment. In the past the Deputy Mayor has attended as the Mayor's delegate.

Council will also be represented by Councillor Irwin (Association Executive) and possibly delegates from its constituent county councils. Council will need to determine at this meeting its voting delegates and observers.

Motions for the Conference

Details on the motions including the closure date are yet to be determined by the Association. Council will be advised when details are received.

Comments

Financial Services

Not requested.

Other staff comments

Not requested.

Public consultation

Not required.

Recommendation (COR14)

That the Deputy Mayor and Councillors _____ and _____
attend the conference as voting delegates, with Councillor(s) _____
attending as observers. _____

—

Report

Subject	May 2005 – Investments held by Council
File No	S178
Prepared by	Principal Accountant
Reason	Required under Clause 16 Local Government (Financial Management) Regulations 1999, Local Government Act 1993, and Council's Investment policy.
Objective	To report on Council Investments
Strategic Plan Link	N/A
Management Plan Activity	Financial Services

Overview of Report

Council investments as the 30th May 2005 total \$35,045,159 subject to the final values of funds held under Managed Funds being advised shortly.

Interest rates reported over the period of May 2005 are 6.00% in comparison to 5.91% for May 2004.

Background

The Local Government Act 1993, Clause 16 Local Government (Financial Management) Regulations 1999 and Council's Investment policy requires a monthly report be provided to Council on investments. The report is to include the source and amount of funds invested, terms of performance of the investment portfolio over the preceding period and a statement of compliance in relation to the Local Government Act 1993.

Due to timing issues the final value of some investments is not available within the required reporting timeframe, therefore an estimate will be provided based on the investments held at the time of the report. This balance will be confirmed to Council at the following ordinary meeting.

Report on Investments

- *Confirmation of Investments – 30th April 2005* \$34,990,611

The amount is higher than the estimate reported for April 2005 due to additional valuation movements in funds held under Managed Funds and an additional investments being placed.

- *Estimate of Investments – 30th May 2005* \$35,045,159

Some variation is expected on the final balance of Managed Funds. The final valuation of these funds is not made until after the end of the month. The current rate of return on investments for May 2005 was 6.00% compared to 5.91% for the same period last year. Indications are that general rates will remain steady in June 2005.

A summary of Council's investments in graphical form has been included as attachments.

Comments

Financial Services – included in the body of the report

Other staff comments

N/A

Public consultation

N/A

Conclusion

The investments held by Council with various financial institutions, have been made in accordance with the Local Government Act 1993, Local Government (Financial Management) Regulation 1999 and Council's investment policies.

Recommendation

The report be received and noted

MINUTES OF THE STRATEGIC PLAN STEERING COMMITTEE MEETING HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, MAY 17, 2005 AT 6.35 PM.

Present Mayor, Councillor King; Councillors Chant, Crimmins, Dowell, Ekins, Hampton, Henry, Irwin, Meineke and Swientek, together with the General Manager; Group Managers-Corporate & Community Services, City Works, Planning & Development, Business & Enterprise; Manager-Finance & Administration, Principal Accountant and Manager-Communications & Community Relations.

SPS21/05 **Apologies/ Leave of Absence** Apologies for non-attendance on behalf of Councillors Tomlinson and Graham were received and accepted and leave of absence granted. (Councillors Irwin/Henry)

DISCLOSURE OF INTEREST

S459

Councillor Meineke declared an interest in a budget item relating to Aspect North – if it is to be discussed he will declare and absent himself.

SUSPENSION OF STANDING ORDERS

SPS22/05 **RESOLVED** that standing orders be suspended and Council now deal with the undermentioned matters:-

- Executive Summary – 2005/06-2008 Draft Budget (Councillors Irwin/Hampton)

RESUMPTION OF STANDING ORDERS

SPS23//05 **RESOLVED** that standing orders be resumed. (Councillors Dowell/Crimmins)

RECOMMENDED that Council adopt the Draft Management Plan and Budget in its amended form, after taking into account submissions received during the public exhibition period which is planned to conclude on June 20, 2005. (Councillors Dowell/Meineke)

There being no further business the meeting closed at 10.13pm.

CHAIRPERSON

**MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING
HELD ON MAY 18, 2005, AT 10.00 AM.**

	Present	Councillors Merv King (<i>Chairperson</i>), John Hampton, Jenny Dowell, Michael Baldwin (<i>RTA</i>), Snr Const Steve Hilder (<i>Lismore Police</i>), together with Messrs Bill Moorhouse (<i>Group Manager–City Works</i>) and Bill MacDonald (<i>Co-Ordinator-Traffic & Law Enforcement</i>).
	In Attendance	Mr Graeme Moy (Kirklands' new bus service timetable). Mr John Bancroft and Ms Lisa Audus (Herb Festival Fun Run).
TAC39/05	Apologies	Apologies for non-attendance on behalf of Messrs John Daley and Thomas George, MP, and Mrs Wendy Johnson and were received and accepted and leave of absence granted.
TAC40/05	Minutes	The Minutes of the Traffic Advisory Committee meeting held on April 20, 2005, were confirmed by Council on May 10, 2005 excluding Clause TAC30/05 (AJ Mills & Sons Pty Limited).

Disclosure of Interest

Nil

Part 'A' – Committee Recommendations

Correspondence / Reports

Ms M Wood; advising of access difficulties associated with the designated disabled parking space on Conway Street, in front of the Centrelink building, and requesting the zone be relocated or works undertaken to improve access.

As an additional bay was also being requested on Keen Street in the vicinity of On-Focus Inc, it was suggested that the existing bay on Conway Street could be relocated beside the driveway to the internal carpark of Centrelink on Keen Street. This new bay would then service both organisations.

It was also suggested that the existing disabled parking bay on Conway Street should revert back to 2-hour parking.

TAC41/05 **RECOMMENDED** that the disabled parking bay on Conway Street near the corner of Lockett Street, be relocated around the corner on the eastern side of Keen Street, immediately south of the driveway to the internal carpark of Centrelink and further that the existing disabled parking bay on Conway Street be reverted to 2-hour parking.

(05-3714:S146,S353)

On-Focus Inc (support & empowerment for people with disabilities); requesting a disabled parking space be designated in front of its new premises at No. 210 Keen Street.

This item was dealt with in conjunction with the above item. (05-4735:R7313,P5735,S842)

Lismore Taxis Co-Operative Limited; requesting amendments to the taxi ranks located at Keen and Woodlark Streets.

Some alterations were necessary to existing signposting to accommodate both a night-time taxi rank and a night-time bus zone for the late nighter bus.

TAC42/05 **RECOMMENDED** that a bus zone 15m long be introduced on the eastern side of Keen Street, north of Woodlark Street with times of 7.00pm to 7.00am, and normal parking at other times.

TAC43/05 **FURTHER RECOMMENDED** that a night-time taxi zone be introduced on the northern side of Woodlark Street with the times of 7.00pm to 7.00am, and normal parking at other times.
(05-4246:R7313,R7329)

R & Mrs L O'Neill; drawing attention to the increasing traffic volumes on Casino Street, South Lismore, and requesting the 60 kph speed zone be extended to reduce speed and noise levels for residents.

An inspection revealed that the existing 60 kph zone finished approximately 10m from the last house on Casino Street and, consequently, it was considered appropriate to extend the zone further out.

TAC44/05 **RECOMMENDED** the existing 60 kph zone at the western end of Casino Street be extended a further 200m west and larger 'C' size signs be used.
(05-4572:S352,R6907)

The Channon Craft Market Inc; expressing concern for current traffic management practices on Market Days.

The Committee was advised that an onsite meeting had been held to discuss the issues of concern. Much work had already taken place and generally the management of traffic on Market Days worked extremely well. It was felt that the current practice of taping off the road shoulders on The Channon Road leading down through the cutting and past the markets was the most effective means of keeping these areas clear. The inclusion of qualified traffic controllers in front of the personnel installing the tape was seen as a positive move. The speed limit through the village was currently 60 kph and it had been requested that this be reduced to 50 kph. This reduced speed limit already applied to a number of villages.

TAC45/05 **RECOMMENDED** that the speed limit within the village of The Channon be reduced to 50 kph.
(05-5321:S346)

General Business

Lismore Fire Station – Molesworth Street Access

Due to increases in traffic volumes and congestion on Molesworth Street, motorists were regularly backed up past the fire station and consequently blocking access at times.

TAC46/05 **RECOMMENDED** that 'Keep Clear' be painted on the road pavement in front of the fire station driveways.
(R7322)

Intersection of Eltham / Johnston Roads – Roundabout Modifications

A plan was tabled at the meeting showing modifications to the above roundabout in an effort to remove the current practice of a significant number of motorists cutting across to the wrong side of the road when negotiating the facility.

TAC47/05 **RECOMMENDED** that the plan be referred to Council's Roads Section for inclusion in a future works programme as funds become available. (R4002,R4001)

Part 'B' – No Recommendations For Councillors' Information

Business Arising

Blue Hills College – Bus turn-around and drop-off area

(Refer Clause TAC28/05 from meeting of April 20, 2005)

- B-05:05-1 Mr MacDonald advised that he and Snr Const Hilder had met with the school principal and other school representatives onsite to discuss bus operations servicing the school, and it was clear that there was insufficient onstreet area at Blue Hills Avenue to cater for the six buses that currently service the school and any additional demand in the future. The school has significant areas of undeveloped land and it was suggested that a survey needed to be carried out by the school and a plan prepared that would identify an appropriate layout within the school's land, which would provide an adequate pick-up / drop-off area and bus turnaround. The Principal undertook to arrange the above and submit to Council for further consideration when completed. (05-2676:S352,R6609)

Correspondence / Reports

Lismore High School, School Council; expressing concern regarding ongoing road safety issues in the vicinity of the school.

- B-05:05-2 An onsite meeting with school representatives identified the area surrounding the southern pedestrian approach to the marked crossing on the corner of Dalley and College Streets as the area of most concern. Children were walking north along College Street and out onto the crossing without taking due care. They were also partly obscured by a number of power poles along Dalley Street and a hedge on the corner. It was suggested that this matter be referred to the Design Services Section for investigation with a view to developing some type of chicane on the footpath area adjacent to the southern pedestrian approach to the marked crossing. Mr MacDonald advised that he had also liaised with the owners of the property on the corner with a view to their maintaining the hedge as low as practical so as not to restrict the view of pedestrians. (05-3636:P15879)

NSW Department of Primary Industry, Wollongbar Agricultural Institute; requesting the 80 kph speed zone on the Bruxner Highway (SH16) be extended from its present location near Bau Farm to the Lismore City Council local government boundary and ultimately through to the Wollongbar TAFE.

- B-05:05-3 Mr Baldwin advised that this issue was currently under investigation by the RTA, which would ultimately make the decision as to the appropriate speed limit on the full length of road in both local government areas. (05-4277,05-4278,05-4346:S352)

CountryLink; expressing concern for the present location of the CountryLink coach stop at Eltham and seeking a more appropriate site.

- B-05:05-4 Mr MacDonald advised that he had spoken with the writer who had informed that patronage to Eltham on the CountryLink coach was generally small and that there was the option of dropping passengers at the Clunes bus stop. It was the Committee's view that it was a matter for the operator to determine if Johnston Road was unsafe and also to seek alternatives.
It was noted that Council had not been consulted in the first instance when the service had been introduced as a result of the cancellation of the train service. It was suggested that if the bus service could not satisfactorily service the area then the train should be reintroduced. (05-4373:S133)

M Crowther; drawing attention to the intersection of the Bruxner Highway (SH16) and Parrots Nest Road, South Gundurimba, and requesting the intersection be upgraded to improve road safety.

- B-05:05-5 An inspection confirmed that significant sight distance and safety issues existed at the intersection. Mr Baldwin advised that investigations had taken place previously and any proposed realignment or modifications would be costly due to topography in the area. Mr Moorhouse suggested an alternative might be to provide a new link onto Parrots Nest Road from Johnson Road, which was closer to Lismore. This would enable the closure of the existing intersection of the Bruxner Highway and Parrots Nest Road.
Mr Baldwin undertook to further investigate this option and report back to the Committee. (05-4687:R4808,R4807)

NSW Roads & Traffic Authority; advising in connection with lane adjustments at the intersection of Ballina Street (SH16) and Hunter Street.

- B-05:05-6 The RTA had responded to Council's letter in which it proposed lane adjustments at the above intersection to provide additional road width for westbound traffic on Ballina Street. The RTA has advised that it would like to assess the operation of the proposed Diadem Street traffic signals and the impact these signals will have at Hunter Street in regard to turning traffic, prior to any decision on additional measures at both Dibbs and Hunter Streets. (05-4808:R6002,R6030)

NSW Roads & Traffic Authority; forwarding request from Mills Transport for the introduction of B-Doubles on Lismore to Woodburn route via South Gundurimba, Wyrallah, Tucki and Tuckurimba.

- B-05:05-7 Concerns were raised about the impact by B-Doubles on local infrastructure along this route, in particular the Wyrallah Ferry Bridge, which would need further structural assessment prior to any such concurrence.
At this stage it was felt that consent should be refused. (05-4852:S341,R5201)

General Business

Kirklands Bus Lines – Bus Timetable Changes

- B-05:05-8 Mr Moy of Kirklands was present for this item and was invited to outline the current progress on the introduction of the new bus services. As changes were still being made to the routes, this would obviously impact on any changes required to infrastructure such as bus shelters. Mr Moy undertook to communicate further with Council once all changes were in place in order to identify any alterations. (S135)

Parking / Traffic Management – Stocks Street, East Lismore

- B-05:05-9 Cr Swientek had advised that the residents of Stocks Street were still experiencing problems with crowding of driveways by visitors/employees of St Vincent's Hospital and had requested a review of traffic/parking management for this area. Council has held a number of discussions with hospital management about problems being created on surrounding streets and a significant number of new spaces had been developed onsite. However, this did not meet demand and probably never would. As an interim measure it was suggested that white lines be painted approximately 1m each side of the driveways along the eastern side of Stocks Street to assist in keeping the driveway areas clear. The Rangers would also monitor parking to ensure any inconvenience to residents is kept to a minimum. (05-4366:R7479,S353)

Parking Facilities – No. 93 Hunter Street, Lismore

- B-05:05-10 Mrs T Bennett of No. 93 Hunter Street had expressed concern for vehicles being parked close to her driveway and the intersection with McKenzie Street, resulting in the sight distance of oncoming traffic being restricted. A visit to the property and subsequent 'phone call had failed to contact Mrs Bennett to further discuss the parking problems. Mr MacDonald advised that he would continue to investigate with a view to resolving any existing problems. (R6030)

Herb Festival – Proposed Fun Run

- B-05:05-11 Mr John Bancroft and Ms Lisa Audus were present for this item and were invited to outline the proposal. It is proposed to start the Fun Run at the University on a Sunday morning at 8.30 am and finish in Heritage Park. Where possible every endeavour would be made to use existing road crossing points such as underpasses but there were a number of locations where traffic controllers and signage would need to be in place. There were no objections to the proposed run provided a proper traffic management plan was in place. Mr Bancroft and Ms Audus undertook to arrange the preparation of a traffic management plan that would be resubmitted for information and approval once complete. (S822)

Intersection of Ballina Road (SH16) and William Blair Avenue, Goonellabah

- B-05:05-12 Snr Const Hilder advised that a total of seven (7) accidents had occurred on Ballina Road at the William Blair Avenue intersection since September 2004, with most being rear-end collisions. It was noted that this matter had been referred to Council's Design Services Section for further investigation. (R6408,R6533)

Clunes Village – Excessive Speed

- B-05:05-13 Mr George raised concerns on behalf of the Clunes community regarding the excessive speed at which some southbound motorists were travelling, particularly prior to the general store. Mr Baldwin advised that the traffic counts carried out did not support that there was a significant problem as the 85th percentile speed was relatively low. Snr Const Hilder advised that the Police Service would continue to carry out patrols in the area in question in an effort to reduce current concerns. (R4101,R1301)

Closure

This concluded the business and the meeting terminated at 11.45 am.

Chairperson

Co-ordinator
Traffic & Law Enforcement

Documents for Signing & Sealing

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

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

Recommendation

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

Request, Real Property Act – Lot 37 in Deposited Plan 830469

As part of the Fischer Street subdivision by the Department of Housing an area of public open space was gazetted (Gazette No. 130 – November 199) as “Public Reserve”. Unfortunately the Crown did not conclude the transfer of the land to Council and the Registrar General has sought to clarify the matter by having Council confirm its acceptance of the land as park by way of a “Request”.

(05-4873: P23306)

Department of Community Services

Funding agreements:

- a) under Children’s Services Program for Koala Long Day Care Centre for 2005/06 - \$32,514.
- b) under Community Services Grants Program for community worker for 2005/06 - \$11,597

(05-4977: S728)

Section 356 Donations

a) Representative Selection – Policy 1.4.10 (GL2033.6)

Budget: \$1,100 To date:\$2,579.18

Simon Mahony – selected to play for Australian Deaf Rugby Union team to tour New Zealand from August 7-21, 2005.

In accordance with policy.

\$328.00

b) City Hall Reductions in Rental – Policy 8.4.2 (GL2033.2)

Budget: \$8,100 To date:\$4,681.15

R.E.D. Inc. – music class – Wednesdays from April 2004-June 30, 2004 and from 1/7/05-30/6/06 if required.

In accordance with policy – 25% of fee

04/05

\$15.75 pw

c) Council Contributions to Charitable Organisations**Waste Facility – Policy 5.6.1 (GL2033.15)**

Budget: \$6,000 To date:\$5,482.03

North Coast A & I Society – September 2004 – March 2005.

In accordance with policy.

605.00

Donations for May 2005

Animal Right & Rescue	\$30.36
Challenge Foundation	\$110.00
Five Loaves	\$16.00
Friends of the Koala	\$14.55
LifeLine	\$110.00
Salvation Army	\$101.00
Westpac Life Saver Rescue Helicopter	<u>\$11.00</u>

In accordance with policy.

\$392.91

Recommendation

In accordance with Section 356(1) of the Local Government Act 1993, the donations to persons as listed above are hereby approved for distribution.

Confidential Matters–Committee of the Whole

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

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

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

Recommendation

That the Council exclude members of the press and public from the meeting and move into Committee-of-the-Whole to consider the following matters:

Item *2003/04 Evaluation/audit Promotion Fund Expenditure – Lismore Unlimited Opportunities (LUO)*

Grounds for Closure **Section 10A(2) (e) and (g):**

Public Interest Discussion of this matter in an open meeting would on balance be contrary to the public interest because information would, if disclosed, prejudice the maintenance of law and advice concerning litigation, or would be privileged from production in legal proceedings on the grounds of legal professional privilege.

Item *Tryton Waste Services (Lismore) Pty Ltd - Contract*

Grounds for Closure **Section 10A(2) (c) and (d):**

Public Interest Discussion of this matter in an open meeting would on balance be contrary to the public interest because it could adversely impact on negotiations between Council and the contractor.

Item *Community Resources and Facilities*

Grounds for Closure **Section 10A(2) (c) and (d):**

Public Interest Discussion of this matter in an open meeting would on balance be contrary to the public interest because it could adversely impact on negotiations between Council and potential purchasers.

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, MAY 10, 2005 AT 6.00PM.

Present Mayor, Councillor King; Councillors Chant, Crimmins, Dowell, Ekins, Graham (6.14pm), Hampton, Henry, Irwin, Meineke and Swientek, together with the General Manager; Group Managers- Corporate & Community Services, City Works, Planning & Development, Business & Enterprise; Manager-Special Projects & Properties, Manager-Finance & Administration, Manager-Water & Wastewater, Acting Manager-Economic Development & Tourism, Manager-Community Services, Administrative Services Manager and Team Leader-Administrative Support.

81/05 **Apologies/
Leave of
Absence** An apology for non-attendance on behalf of Councillor Tomlinson was received and accepted and leave of absence granted. Leave of absence was approved for Councillors Irwin (June 2–13); King (May 28-June 8) and Crimmins (June 18-25).
(Councillors Swientek/Chant)

82/05 **Minutes** The minutes of the Ordinary Meeting held on April 12, 2005, were confirmed, subject to it being noted that Councillor Ekins voted against Minute 67/05.
(Councillors Irwin/Hampton)

Public Access Session

NIL

Condolences

Late Robert (Bruce) Duncan

The death of former local Member of State Parliament, Mr Robert Bruce Duncan, occurred on Saturday, May 7. Bruce was born in Lismore in 1929. He attended Lismore High School and as a young man worked a dairy farm at Koonorigan.

He entered State politics in 1965 as the Member for Lismore and retired in 1988 after 23 years service. He served as Shadow Minister for Education and Public Works and Ports as well as being a member of numerous Parliamentary Committees.

He was a gifted speaker and fought very hard for the North Coast dairy industry in its efforts to gain access to the Sydney milk market.

Bruce had an involvement with the Westpac Life Saver Rescue Helicopter Service from its inception in 1982. Over time his interest increased with his involvement in numerous facets of the service culminating in his appointment as Chairman of the Board in 1992, a position he held until 1998. He was appointed a Life Member in 2001. The very important Rescue Helicopter is here today due to the efforts of people like Bruce Duncan.

He was a community minded citizen, a good friend to many and a man described as one of nature's gentlemen. He was a man held in the highest esteem by so many.

Bruce is survived by wife Marlene and 2 sons Peter and Ian.

Late Robert (Bruce) Gordon

Bruce Gordon was born on December 31, 1934 and passed away on April 23 in his 70th year. A son of one of Lismore's long established and respected families, he was educated in Lismore with his secondary education being undertaken at Scots College, Sydney.

He chose law as his career and was articled to the firm of McIntosh & Balzer. He accepted a partnership in the firm and eventually became a senior partner in the firm of McIntosh, Barr & Gordon.

Bruce's interests included the media and television and he became a Director of The Northern Star and eventually Chairman of the Board. His considerable community interests included membership of the Board of Caroon, now known as Uniting Care and a period as Chairman.

He also had a strong involvement with the Board of Lismore Challenge Foundation.

Bruce is survived by his wife Pam and two children, Steve and Margaret.

- 83/05 The Mayor moved that Council's expressions of sympathy be conveyed to the families of Mr Gordon and Mr Duncan and the motion was carried with members standing and observing the customary moment's silence. (S75)

Disclosure of Interest

S459

Councillor Dowell advised that she is the President of the Northern Rivers Social Development Council (NRSDC) and that Linda Lomman of the Public Transport Development Project within NRSDC is a nominee for the Public Transport Policy Advisory Group but that she did not believe that this represented a conflict of interest.

Notice of Motion

At this juncture 6.14pm Councillor Graham attended the meeting.

Crozier Oval Lights

- 84/05 Formal notice having been given by Councillor Chant it was **RESOLVED** that the General Manager seek a change to the Plan of Management for Lismore Park to permit the installation of lights on Crozier Oval.

(Councillors Chant/Meineke)

Voting Against: Councillors Irwin and Ekins. (05-4340: P25112)

Reports

Policy Advisory Groups – Community Membership

A MOTION WAS MOVED that the report be received and that all nominations be accepted.

(Councillor Swientek)

The motion LAPSED for want of a seconder.

- 85/05 **RESOLVED** that the report be received and -
1 That Council make the following appointments to its Policy Advisory Groups:

Sport & Recreation PAG -

Cheryl Amor	Basketball
Melinda Clark	Tennis
Therese Crollick	Aquatics
Ross Dowse	Softball
Matt Kelso	Soccer
Clint Mallett	Hockey
Mark Pearce	Rugby
Norman Ryder	Cricket
Tony Clarke	North Coast Academy of Sport
James Roberts	NSW Sport and Recreation

Arts and Culture PAG –

Martyn Fox & Bette Guy	Community and professional arts practitioners
Jan Davis	Arts educator representative (SCU, TAFE)
Stephen Alderton	Director, Regional Art Gallery
Ros Derrett	Festival & events/tourist representative
Jyllie Jackson	Creative industries/small business representative

Public Transport PAG –

Peter Shepherd	Lismore Branch of Bus & Coach Association
Stephen Haywood	Lismore Taxis
Colleen Thomas	Northern Rivers Community Transport
Nick Casmirri	Community representative
Therese Crollick	Community representative
Robert Weatherby	Community representative

- 2 That Linda Lomman (Public Transport Development Project) also be appointed to the Public Transport PAG under the Transport Operators criteria.
- 3 That Council thank the following unsuccessful candidates for their interest in nominating:
Laurie Cooper, Barry Davidson, Mary Lemon, John McMahon, Paul Parry, John Hoffman, Valerie Axtens and Heather Sidney.
- 4 Council continue to seek nominations for the following PAG's:
 - Roads
 - Community Services
 - Sustainable Environment
 - Economic Development

(Councillors Irwin/Dowell)

Voting Against: Councillor Swientek.
(S36)

Review of Fees – Sporting Clubs

A MOTION WAS MOVED that the report be received and –

- 1 That the existing fees and charges for sport remain unchanged for 2005/06.
- 2 That further investigation be undertaken into the fees for turf wickets, athletics, twilight cricket and winter cricket in consultation with the sports clubs concerned and the Lismore District Sports Association (LDSA), to be reviewed during 2005/06.
- 3 That individual clubs and Council staff liaise on maintenance responsibilities.

(Councillors Dowell/Henry)

AN AMENDMENT WAS MOVED that the report be received and –

- 1 That the existing fees and charges for sport remain unchanged for 2005/06.
- 2 That further investigation be undertaken into the fees for turf wickets, athletics, twilight cricket and winter cricket in consultation with the sports clubs concerned and the Lismore District Sports Association (LDSA), to be reviewed during 2005/06.
- 3 That individual clubs and Council staff liaise on maintenance responsibilities.
- 4 That Council further investigate and discuss with clubs a way of effectively passing on any reduction in fees to these sports users.

(Councillors Swientek/Chant)

On submission to the meeting the AMENDMENT was DEFEATED.

Voting Against: Councillors Irwin, Ekins, Dowell, King, Crimmins, Graham, Hampton and Henry.

- 86/05 **RESOLVED** that the report be received and –
- 1 That the existing fees and charges for sport remain unchanged for 2005/06.
 - 2 That further investigation be undertaken into the fees for turf wickets, athletics, twilight cricket and winter cricket in consultation with the sports clubs concerned and the Lismore District Sports Association (LDSA), to be reviewed during 2005/06.
 - 3 That individual clubs and Council staff liaise on maintenance responsibilities.
- (Councillors Dowell/Henry)
Voting Against: Councillor Swientek. (S157)

Organisational Structure

- 87/05 **RESOLVED** that the report be received and –
- 1 That in response to the obligations contained in Section 333 of the Local Government Act, 1993 (the Act) Council re-determine the organisation structure as shown on Attachment #2.
 - 2 That the re-determined organisation structure be made effective from 1st July 2005.
 - 3 That the positions of Executive Director – Infrastructure Services and Executive Director – Development and Governance be determined to be senior staff positions within the meaning of Section 332 of the Act.
 - 4 That Council acknowledge that the consultation process required under Section 337 of the Act shall be reported through the Mayor and Deputy Mayor, who shall also be a member of the Recruitment Panel to be formed by the General Manager.
- (Councillors Hampton/Meineke)
Voting Against: Councillor Ekins. (S258)

Amendment to Lismore City Local Environmental Plan to allow building works within the Floodway

- 88/05 **RESOLVED** that the report be received and in accordance with section 54 of the Environmental Planning and Assessment Act 1979 Council prepare an amending Local Environmental Plan to:
- Allow building works to occur on existing buildings in the floodway subject to:
 - No expansion of the building footprint; and
 - All work to be internal or above the 1 in 100 ARI flood level; and
 - Any new materials below the 1 in 100 ARI flood level shall be compatible with immersion; and
 - A certificate from a suitably qualified engineer that states that the building (including foundations) when modified will be able to withstand the impacts of the floodwaters and debris in the floodway for floods up to the 1 in 500 ARI flood event; and
 - No residential use is allowed for the modified building (other than existing dwelling houses or dwelling houses used in conjunction with an industrial use) subject to the above dot points.
- (Councillors Meineke/Irwin) (D04/1048)

Liquid Trade Waste Local Approvals Policy for the discharge of liquid trade waste to sewer and Wastewater Usage Charging Strategy

- 89/05 **RESOLVED** that the report be received and that the revised Trade Waste Policy for the discharge of Liquid Trade Waste to Sewer and the Usage Charging Strategy be exhibited for a minimum of 28 days, with a view to adopting it after seeking and considering public comments.
- (Councillors Irwin/Swientek) (S518)

Tenders for Construction of 150mm diameter water mains and 30kL concrete tank, Nimbin Water Supply

- 90/05 **RESOLVED** that the report be received and –
- 1 The contract for the construction of 150mm diameter water mains and 30kL concrete tank at Nimbin be awarded to Eire Contractors Pty Ltd at the rates submitted. (The estimated price of the works is \$ 157,892 plus GST.)
 - 2 The Mayor and General Manager be authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.
 - 3 The works be fully funded by Council.
(Councillors Swientek/Graham) (T25018,S304)

Management Plan Review 2003-2006 – quarter ended March 2005

- 91/05 **RESOLVED** that the report be received and its contents noted.
(Councillors Irwin/Dowell) (S4)

March 2005 Quarterly Budget Review Statement

- 92/05 **RESOLVED** that the report be received and –
- 1 The amount transferred to reserve in accordance with resolution 34/05 be reduced by (\$152,000) and utilised to offset the operating deficit, the transfer to result in an overall operating surplus of \$50,000.
 - 2 Council adopt the March 2005 Budget Review Statement for General, Water and Sewerage Funds incorporating recommendation 1.
 - 3 This information is submitted to Council's Auditor.
(Councillors Irwin/Chant) (S880)

April 2005 – Investments held by Council

- 93/05 **RESOLVED** that the report be received and noted.
(Councillors Irwin/Dowell) (S178)

Committee Recommendations

Traffic Advisory Committee 20/4/05

- 94/05 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted, excluding Clause TAC30/05.
(Councillors Irwin/Dowell)

Clause TAC30/05 – A J Mills & Sons Pty Limited

- 95/05 **RESOLVED** that the Council wishes the RTA to be advised that the Lismore/Bangalow Road is not suitable for B-doubles in its current state.
(Councillors Irwin/Hampton) (05-3118: S374)

- 96/05 **RESOLVED** that Council reiterate its call for a new north/east corridor linking Lismore to Bangalow and that Council call on the RTA to have a meeting with Council to examine the needs of regional traffic.
(Councillors Swientek/Dowell)
Voting Against: Councillors Irwin and Ekins.
(S352)

Documents for Signing and Sealing

97/05 **RESOLVED** that the following documents be executed under the Common Seal of Council:

Sale of Lot 736 Lancaster Drive, Goonellabah

Council has negotiated an offer of \$95,000 (plus GST) for the purchase of Lot 736 in DP 1078465 Lancaster Drive, Goonellabah. This lot has a very limited building area due to sewer access constraints and the negotiated price is above average when taken on a per square metre rate for the said building area.

(Councillors Hampton/Graham)

Voting Against: Councillor Swientek. (05-3807: P28324)

Section 356 Donations

98/05 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the donations to persons as listed are hereby approved for distribution.

Representative Selection – Policy 1.4.10 (GL2033.6)

Budget: \$1,100 *To date:* \$1,288

Garon Clough, Jon Hudson and Michael Munro who have been selected to represent their country in the upcoming U19 World Softball Championships in Canada later this year.

In accordance with policy (\$328 each)

\$984.00

City Hall Reductions in Rental – Policy 8.4.2 (GL2033.2)

Budget: \$8,100 *To date:* \$4,681.15

Jehovah's Witnesses – Convention May 7 and 8, 2005

In accordance with policy.

\$439.50

City Church Lismore – Sundays from March 13 to June 30, 2005

In accordance with policy.

\$26.25 pw

Enterprise Network for Young Australians (ENYA) – workshops on free literacy workshops for young people. (05-4562: P6816)

In accordance with policy. (Subject to increased fees & charges from July 1.)

\$26.25

Banners – Policy 1.4.14 (GL2033.8)

Budget: \$700 *To date:* \$965.00

Salvation Army Red Shield Appeal – Banner at Oakes Oval May 16-29, 2005. (05-4176: S164)

One week in accordance with policy.

\$60.00

Council Contributions to Charitable Organisations

Waste Facility – Policy 5.6.1 (G.2033.15)

Budget: \$6,000 *To date:* \$4484.12

In accordance with policy.

Animal Rights & Rescue	\$18.91	
Challenge Foundation	\$49.93	
Five Loaves	\$41.36	
Friends of the Koala	\$16.44	
LifeLine	\$110.00	
Saint Vincent de Paul	\$61.36	
Salvation Army	\$101.00	
Westpac Life Saver Rescue Helicopter	<u>\$17.00</u>	\$416.00

Mayor's Discretionary Fund (GL2033.26)

Budget: \$2,700 To date: \$2,611.34

Deaf Society of NSW – donation towards “kite kit” for
kite workshop for children.
(Councillors Irwin/Henry)

\$50.00

Closure

This concluded the business and the meeting terminated at 8.23 pm.

CONFIRMED this 14TH of JUNE, 2005 at which meeting the signature here was
subscribed.

MAYOR

