

# COUNCIL Business Paper



**LISMORE**  
*City Council*

**DECEMBER 12, 2000**



## **NOTICE OF COUNCIL MEETING**

**An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on TUESDAY, DECEMBER 12, 2000, at 6.00pm and members of Council are requested to attend.**

(Ken Gainger)  
**GENERAL MANAGER**

# **COUNCIL BUSINESS AGENDA**

12/12/00

## **PUBLIC ACCESS SESSION:**

**PAGE NO.**

Peter Burge re Rescission Motion – Eastpoint Shopping Village – Traffic Arrangements

2

## **PUBLIC QUESTION TIME:**

## **OPENING OF MEETING AND PRAYER (MAYOR):**

## **APOLOGIES AND LEAVE OF ABSENCE**

**CONFIRMATION OF MINUTES** – Ordinary meeting 21/11/00  
Special meeting 28/11/00

## **CONDOLENCES**

## **DISCLOSURE OF INTEREST**

## **MAYORAL MINUTES**

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## **NOTICES OF RESCISSION**

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(Consideration of the Suspension of Standing Orders to debate matters raised during Public Access).

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## **QUESTIONS WITHOUT NOTICE**

## **CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE**

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## **Mayoral Minute**

### **Subject: Review of Communications and Marketing Position**

(File: IRG/NS: J2036)

It has come to my notice, unfortunately rather belatedly, that the position of Communications and Marketing Officer has become vacant. As this position initially started as a part-time position and has now become a full-time position, I feel Council is justified in reviewing this position to assess whether it is a position which should remain part-time or phased out altogether.

I understand that interviews have already been carried out, which is unfortunate, however, I still am of the opinion Council should be given the opportunity to review the position. I have requested the General Manager to defer making an appointment until Council considers this Minute.

I have also requested the General Manager to provide details of the total cost to Council when this position was first created and what it is being offered at currently, again in terms of total cost.

The objective of this review is for Council to consider investing its funds into improving or maintaining its image or investing into infrastructure. I fully understand for the position to become redundant would require Council to reduce its demand on staff and I would expect a follow-up report on how this could be achieved.

#### **General Manager's Comments:**

This Mayoral Minute has caused me some concern because it seeks to perpetuate a recent trend towards ad-hoc intervention in the role and function of the General Manager in the day-to-day management of the Council relative to the appointment/re-appointment of staff. (Section 335 LGA) Whilst it is appropriate for the Council to review positions within its organisation structure from time to time, this should be done in conjunction with the annual preparation of the Management Plan and Budget, with a clearly enunciated strategic objective in mind and following a complete evaluation of the operational impact on Council and its constituents.

To selectively target staff positions as they become vacant leads to poor staff morale and inevitably means transferring responsibilities onto other staff in an already stressed workforce, usually with poor outcomes and reduced service quality.

Whilst, contrary to the Minute, I have neither been requested to defer the appointment or provide financial details about the position, I am happy to do so in order to provide Council with the opportunity to understand the full implications of the recommendations which follow, both in terms of the Communications and Marketing Officer position specifically and staff positions in general.

I will prepare a more detailed review of these issues and forward this information to Councillors before the Council meeting.

#### **RECOMMENDATION: (MM01)**

Council consider adopting one of the following options:

1. Reverting the position back to part-time; **or**
2. Eliminate the position and distribute the work to existing staff using consultants when necessary; **or**
3. Proceed with the appointment as advertised.

**NOTICE OF RESCISSION MOTION**

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

**That Council's decision in regard to Eastpoint Shopping Centre be rescinded. (Min. No. 348/00)**

**COUNCILLOR** R M Irwin

**COUNCILLOR** D J Roberts

**COUNCILLOR** D R Tomlinson

**DATE** November 28, 2000

(00-17900: S746)

**NOTICE OF MOTION**

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

**That in order to preserve the credibility of Council's planning process, Council adopt the policy of adhering to its own DCP's. Where it appears that a particular planning proposal has merit but falls foul of the DCP's then Council convene a workshop of Councillors and interested parties to examine the issue and if necessary, subsequently change the DCP in question.**

**Reason:**

A failure by Council to apply DCP's consistently could well leave us in the position of having Council decisions successfully challenged in Court. In effect this would mean that many of Council's planning powers are taken over by the Court system. This will give rise to uncertainty for developers and possibly lead to outcomes that could well be opposed by all Councillors and the community.

**COUNCILLOR** D R Tomlinson

**DATE** November 28, 2000

**STAFF COMMENT BY MANAGER-PLANNING SERVICES:**

Development Control Plans contain provisions and standards which are expected by the public, including the development industry, and Council officers, to be encapsulations of Council's policies and requirements. It is expected that applicants for development will be aware of the contents of relevant DCPs and will prepare applications that are consistent with their requirements. Subscribers to the Development Manual, which contains the LEP, DCPs and S94 Plan and all updates thereto, comprise all local planning and development consultancies.

All recently adopted development control plans contain a clause which permits variation of provisions of the DCP in certain circumstances. It is such a provision which gives DCPs their flexibility, provided that a development application still conforms with the aims and objectives of the relevant DCP and of the provision to be varied. However, should Council wish to change the contents of a DCP on the basis, for example, of a policy change or altered legislation, then the Environmental Planning & Assessment Act sets out the procedure which must be followed.

DCP 28 Subdivision, for example, at clause 2.5 states:

*Council may approve development that does not strictly comply with this Plan. This will only be permitted where the variation is considered to be minor and after the receipt of a satisfactory application which demonstrates compliance is physically impossible, or impractical, and where the alternative proposed is substantiated as a better design solution.*

*In all cases the proposed departure, in the opinion of Council, must meet the objectives and performance criteria of the Plan.*

## **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

### **Notice of Motion - Adhering to Council DCP's**

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DCP 27 Buffer Areas at clause 1.6 also allows for departures from the nominated buffers providing an applicant addresses several heads of consideration.

Therefore, if a particular development application has merit but is unable to comply with particular provision(s) of a DCP, then the applicant is able to submit a case for variation of the provision(s). It is expected that such a submission would include reasons for the variation and demonstrate that the application comprised a better design solution and that the aims and objectives of the DCP and of the relevant provision(s) were still able to be met.

It is considered that the variation process allowed for in each DCP should be sufficient to allow approval of applications with merit, while still providing some certainty for the public, development industry, and Council officers about the guidelines to be followed.

If applicants avail themselves of the variation provisions within each DCP, and the variation still allows compliance with the objectives of the relevant provision and of the DCP, then there would be no need for a workshop of Councillors and other parties and an alteration to the DCP. However, Cr. Tomlinson's suggestion for such a workshop is endorsed if Council wishes to make policy changes which require alteration to the DCP.

If Council wishes to take an alternative approach of allowing variations to DCPs on an ad hoc basis without a case for variation substantiated by an applicant, and without consideration of the aims and objectives of that DCP, then the effect will be as stated by Cr. Tomlinson. If Council itself does not adhere to its adopted DCPs, then there is no reason to suppose the Land & Environment Court will. The Court practice over many years has been to uphold Council decisions only where Council has itself consistently adhered to its own requirements. Additionally there would be no certainty for the development industry, leading to delays and frustration in the preparation and assessment of development applications.

The procedure for preparing and amending DCPs as set out in the EP & A Regulation requires public exhibition of the plan and consideration by Council of any submissions received. The result is that the provisions of DCPs are known to the public, who are entitled to expect that if a DCP is adopted by Council then the 'rules' of the DCP will apply to all in a fair and equal manner.

**NOTICE OF MOTION**

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

**That this Council give its full support to the Local Government Association for it to continue its current campaign to gain a permanent and substantial increase in local government road funding. That this Council believes road funding should be a fixed percentage of the funds raised from the fuel excise and not tied to the vagaries of the election cycle nor windfall budget surpluses.**

**COUNCILLOR** D R Tomlinson

**DATE** November 28, 2000

**STAFF COMMENT BY GROUP MANAGER-CITY WORKS:**

We elect Governments to manage the Country on our behalf. All Governments collect taxes to fund the management of the Country.

Taxing fuel is a very simple and effective means of collecting money for Governments to spend as they see fit. Unfortunately, Governments have forgotten that they have a duty to maintain and upgrade the road system and have chosen to put money collected from road users into other projects, both good and wasteful.

A sound management approach would be to calculate the funds required to maintain the Nation's roads and allocate the funds collected from fuel taxes accordingly; the whole aim being to fund the existing assets at a sustainable level.

Regrettably most past Governments have been more interested in spending money collected from road users on anything but the road system.

A responsible Federal Government which was interested in a sustainable road system would not hesitate to agree to the guarantee of a fixed percentage of road tax towards roads for (say) a five-year period. This would ensure that the roads were maintained into the future at a sustainable level.

The current increase in road funding is a step in the right direction. This now needs to be consolidated into an agreed formula that allocates funds to roads in a sustainable manner. A fixed percentage of the fuel tax would solve this problem.

I strongly support Cr Tomlinson's proposal.

**NOTICE OF MOTION**

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

- 1 That the Clause 7.1 of the Lismore Contributions Plan 1999 be amended to require that where a developer proposes to satisfy open space contributions by way of dedication of land, the land to be dedicated shall be of a minimum standard.**
- 2 That the Lismore Contributions Plan 1999 be amended to include the minimum standards acceptable to Council.**
- 3 The minimum standards be prepared by Council's Planning staff in consultation with the Manager-Parks & Reserves and Public Lands Strategic Management Team.**
- 4 The Lismore Contributions Plan 1999 be amended such that where land does not meet the minimum standards no credit against Section 94 contributions will be given.**
- 5 That Council will not accept any land to be dedicated that does not meet the minimum standard.**
- 6 That a report from staff on the proposed amendments be presented to Council for determination.**

**COUNCILLOR** R R Baxter

**DATE** November 29, 2000

**STAFF COMMENT BY RECREATION PLANNER:**

Council's Recreation Planner for the following reasons supports the notice of motion.

The establishment of minimum standards for land to be dedicated will help to ensure that Council does not accept poor quality land that is unsuitable or simply not required.

The traditional standards based approach to open space provision focused on the amount rather than the quality or need of land and often resulted in the contribution of poor quality land that is difficult and costly to develop and maintain. With this in mind, care must be taken in developing the minimum standards to ensure dedicated land is of an acceptable standard, not only in terms of size but also in terms of quality. The minimum standards must also address the need for additional open space taking into consideration factors such as the provision of existing open space and the population density and demographic characteristics of an area.

**STAFF COMMENT BY ACTING GROUP MANAGER-PLANNING & DEVELOPMENT:**

Council's Development Assessment Planner supports the notice of motion, as the minimum standards will provide suitable assessment criteria to enable staff and Councillor's to make informed determinations on the offset of contribution against the dedication of land. The current plan provides little flexibility in determination of acceptance or not of a given piece of land to offset against contributions. This has resulted in Council receiving land that is unsuitable for use as open space and having to offset the value of this land against contributions. This land is often undevelopable and provides an opportunity for the developers to divest themselves of useless land that then becomes a maintenance burden for Council.

## **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

### **Notice of Motion – Councillor Baxter – Lismore Contributions Plan**

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The review of these clauses in the contributions plan will also enable the rectification of anomalies within the clause to bring the Lismore Contributions Plan 1999 into line with the current best practice for contributions planning as advocated by the Department of Urban Affairs and Planning Section 94 Contributions Plans Manual.

#### **STAFF COMMENT BY MANAGER PARKS & RECREATION:**

Council's Manager Parks & Recreation strongly supports the notice of motion for the following reasons:

- Setting a minimum standard enables staff the ability to ensure that land offered for dedication has some recreational value to the broader community.
- The existing approach has been quantitative rather than qualitative thereby resulting in Council ending up with vast amounts of open space that have little or no recreational value and which Council has an obligation to maintain forever.
- Often land obtained under the existing system is steep, weed infested, and has poor accessibility thereby adding enormously to maintenance costs which offer no tangible return or benefit to the wider community, resulting in the waste of tens of thousands of dollars annually in maintaining these sites to a very low standard.
- Costs to develop land of this nature increase significantly either restricting the quality of the finished product or causing an additional drain on Council's financial reserves.

In determining the standards for such dedicated lands Council should be mindful of such things as the local demand for quality open space and the demographic profiles of the catchment neighborhoods amongst other considerations.

(00-17855: S517)

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**Subject/File No:** THE DRAFT LISMORE RURAL HOUSING STRATEGY  
(BB:MG:S668)

**Prepared By:** Strategic Planner – Bruce Blackford

**Reason:** Close of second public exhibition

**Objective:** Council's adoption of the Strategy

**Management Plan Activity:** Strategic Planning

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### **Background:**

At its meeting of October 10, 2000 Council considered a report on submissions received in response to the first exhibition of the draft Rural Housing Strategy. The report made recommendations for substantial changes to the draft Strategy and included the comments and recommendations of the Rural Strategy Steering Committee. A copy of the amended draft was distributed to Councillors with the October 11 Business Paper. Council resolved as follows:

1. To re-exhibit the draft Strategy (as amended) for a period of 28 days.
2. That copies of the draft Strategy be sent to all affected landowners and other persons who made submissions during the first exhibition period.
3. That any further submissions to the Strategy be referred to the Rural Strategy Steering Committee for their recommendation to Council.

### **Public Exhibition**

The draft Strategy was placed on public exhibition from October 23, 2000 to November 20, 2000. The Strategy was displayed at the City Library, Nimbin Community Centre, Clunes Store, Bexhill Store, The Channon Store, Modanville Store and the Dunoon Store. Copies of the Strategy were made available to the public free of charge at Council's Administration Centre. Copies of the Strategy, together with the October 10 report to Council, were also sent to all sixty (60) persons and organisations who made submissions during the first exhibition period as well as to all landowners affected by the changes to the draft Strategy as proposed in the second draft.

A total of 23 submissions were received in response to the second exhibition period.

### **Rural Strategy Steering Committee**

The Rural Strategy Steering Committee met on November 23, 2000 to consider the submissions received in response to the second exhibition period. The committee was established with the specific aim of guiding the draft Rural Housing Strategy through the preparation and exhibition process to its final adoption by Council. Consequently, the November 23 meeting will likely be the last meeting of the steering committee. During the life of the Committee, Committee members have given their time and experience in the aim of producing a rural strategy that satisfies community expectations, meets statutory requirements and State Government guidelines and provides a sustainable framework for future rural settlement in Lismore. The comments and recommendations in the following section of this report reflect the views of the Committee expressed at the November 23 meeting (except for those relating to the submission lodged by National Parks and Wildlife Service which was received after the Committee meeting date).

### Submissions

The submissions have been categorised as - submissions from Government agencies (3), submissions relating to specific properties (12), submissions relating to Part B of the Strategy – Rural Land Sharing Communities (2) and general submissions (6). These are summarised as follows:

#### **Submissions from Government Departments:**

##### Submission No. 1: Department of Mineral Resources

The Department has raised a concern about the inclusion of an additional parcel of land in the Nimbin area on Stony Chute Road. The parcel is isolated from the existing village and rural residential areas and is in an area identified as having open cut and underground mine potential. The submission states that the Department needs to consider the resource potential of this area further before finalising its assessment. On this basis it provisionally objects to the proposed inclusion of this land but undertakes to finalise its ongoing assessment and advise Council as soon as possible.

##### Comment:

No timeframe has been given by the Department for the finalisation of its more detailed assessment of potential resources in the area. Inclusion of the subject land in the Strategy does not guarantee approval of any future subdivision application and there is the further step of a rezoning before a subdivision application can be lodged. Rather than excluding the land from the Strategy on the basis that there may be some underground resource potential in the area, it is recommended that the land be left in the Strategy and that any future rezoning application be assessed on the basis of the most current information supplied by the Department of Mineral Resources at the time.

##### Submission No. 2: National Parks and Wildlife Service

- (a) NPWS supports the objectives of the Strategy but recommends expanding the term 'natural environment' to include 'the protection of flora and fauna (including threatened species), native vegetation remnants, wildlife corridors, soils and water quality'. Also recommends including an additional objective in relation to the protection of sites of Aboriginal significance.
  - (b) Recommends that prior to finalisation of the Strategy, further investigation be carried out into the environmental and cultural values of the lands identified as having potential for rural residential development to comply with North Coast REP requirements.
  - (c) Recommends that search of NPWS Wildlife Atlas be undertaken for flora and fauna records in preferred rural residential areas. Also that the following constraints be considered prior to finalisation of the Strategy:
    - Areas of significance for native vegetation, with particular reference to the value of habitat for threatened species, populations of ecological communities and their habitats, or regionally significant species and vegetation associations, including Rare or Threatened Australian Plants;
    - Areas of potential significance for native fauna with particular reference to the value of habitat for threatened species, populations or ecological communities, or regionally significant species;
    - Areas of Koala Habitat and Koala movement corridors.
    - Regional and sub-regional wildlife corridors.
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- Areas of archaeological potential and Aboriginal heritage value as identified by the Aboriginal community and sites registered on the NPWS Aboriginal Sites Register.

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- (d) The inclusion of environmental enhancement requirements is supported. However, following the more detailed investigations recommended in (b) and (c) above the environmental enhancement requirements may be expanded upon.
- (e) Following further investigations, the location of some preferred rural residential areas (eg. Falls Road Nimbin and at the Channon) may need to be modified as they may support vegetation that has value as wildlife corridors and for maintaining biodiversity.

#### Comment:

- (a) The proposed changes to Strategy objectives are supported.
- (b) Detailed environmental investigations of the nominated potential rural residential areas has not been undertaken as part of the Strategy process as it has been considered that this should be the responsibility of landowners in each of the nominated areas before rezoning can proceed rather than of Council. Significant resources would be required of Council to carry out such detailed investigations prior to the finalisation of the Strategy although for the most part the nominated areas comprise lands which have previously cleared for agriculture purposes. Identification of land in the Strategy is not an automatic guarantee that such land will be rezoned for rural residential purposes as the Strategy recognises that a substantial level of assessment must be undertaken before such rezoning can occur.
- (c) A search of NPWS Wildlife Atlas for records of threatened flora and fauna can be undertaken prior to the finalisation of the Strategy. In terms of the consideration of constraints listed by NPWS, it is recommended that these be included in the requirements that must be addressed in the preparation of a Locality Development Guideline (LDG) for each locality prior to the consideration of any rezoning application.
- (d) It is intended that detailed environmental enhancement opportunities be identified as an outcome of investigations in the preparation of the LDG.
- (e) It is recommended that a requirement for the applicant to identify local and regionally important wildlife corridors be a requirement to be included in the General Outline section of the Strategy that makes reference to the Falls Road and The Channon areas.

#### Submission No. 3 NSW Agriculture

The Department congratulates Council on strategic approach to accommodating rural settlement in Lismore and fully endorses the Strategy.

#### **Submissions Relating to Specific Properties:**

##### Submission No. 1:

Lot 5, DP 562740, James Road, Goonellabah.

Area 46.9h.

This submission requests that the subject property be considered for inclusion in the Strategy for Rural Residential Development.

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### Comment:

This land is located at the end of the spur on James Road and is largely constrained by steep slopes. The site is not contiguous with other rural residential areas and is separated from the urban area by land currently zoned General Rural. The owner has made a separate submission requesting that the land also be considered for its urban potential as part of the forthcoming review of the Urban Development Strategy. Due to the nature and location of the land it is not recommended that it be included in the Strategy.

### Submission No. 2:

Lot 416, DP 873496, Cowlong Road, McLeans Ridges

The submission thanks Council for identifying a section of their property fronting Palmer's Road for inclusion in the Strategy.

### Submission No. 3:

Lot 2, DP 587430, Wyrallah Road, East Lismore

This submission requests reconsideration of the previous submission requesting inclusion of the above land within the Strategy for Rural Residential Development. Further information has been provided which includes a conceptual layout showing an eleven (11) lot subdivision with lots varying in size from 5000 to 6500 sq. metres. (See Attachment No. 1) All lots are serviced by a single access point to Wyrallah Road located in the vicinity of the driveway to the existing house on the property. The lot design has taken into account the location of existing water and sewer easements across the property.

### Comment

The additional information supplied in the submission addresses to some extent the original concern about 'ribbon development' in that a single access point is nominated to the eleven proposed lots off Wyrallah Road, although visually the proposal could still have the appearance of ribbon style development. The site is considered to have relatively poor amenity for rural residential subdivision particularly in comparison with other rural residential areas close to Lismore such as McLeans Ridges and Richmond Hill. The site is close to the East Lismore Sewerage Treatment Plant, the Wyrallah Road landfill site and industrial development in Skyline Road. The southern half of the property is affected by the 400m buffer to the STP although a small ridgeline provides a topographical barrier between the two.

The site is also identified in Council's Industrial Lands Study as having future potential for industrial development. Given the range and quality of choices for rural residential settlement close to Lismore, it is doubtful whether the land could satisfy the Strategy criteria in terms of market demand and feasibility. For these reasons it is recommended that the land not be included within the Strategy.

### Submission No. 4:

Lot 16, DP 1011612, Roseview Road & Lot 123, DP 731488, Boatharbour Road.

The previous submission that these two properties be included in the Strategy was rejected on the grounds that the amount of land requested for inclusion was in excess of projected requirements, particularly given that the amount of potential land already identified in the Camerons Road area. The applicant has submitted a revised proposal substantially reducing the amount of proposed rural residential land on each property. (See Attachment No. 2)

### Comment

The areas identified in the submission form logical extensions to existing and proposed rural residential development in Cowlong Road and Cameron's Road. Development of the areas nominated would produce an additional 15-20 rural residential lots only. On this basis the submission is supported.

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### Submission No. 5:

Lot 3, DP 583666 and Lot 11, DP 602908, Skyline Road, Monaltrie.

This submission requests reconsideration of the previous submission that the above properties be included in the rural residential strategy.

### Comment

No additional information or justification has been included in this submission. The land was assessed as unsuitable for rural residential development in the previous assessment and no argument has been put forward that might change that view.

### Submission No. 6:

Lot 113, DP 755729, McLeay Road, North Lismore.

This submission raises the following issues:

- (a) The owners believe that the location of Council's hard rock quarry at North Lismore as well as the speedway/go-kart/saleyards pose no constraint on development of their property.
- (b) They recognise that Council should have the opportunity to satisfy itself on the question of whether the most appropriate form of development for this site is urban or rural residential.
- (c) They propose that the property be identified in the Rural Housing Strategy now as having potential for rural residential development but with a proviso that rezoning be 'stayed' pending the forthcoming review of the Urban Development Strategy. They propose a sunset on the consideration of this matter of one year.

### Comment

Additional information has also been submitted which demonstrates that an acceptable intersection could be constructed to service the site south of the existing McLeay Road/Dunoon Road intersection. The suggestion that the land could be included in the Strategy on the proviso that it is found to be unsuitable for urban development is reasonable providing Council is able to satisfy itself that the noise generated by the speedway events is unlikely to be the cause for legitimate complaint from future residents living on the site. In this regard, it is recommended that Council undertake independent noise assessments on the Dunoon Road plateau area during a number of speedway events as part of its urban investigations for the area. Inclusion in the Strategy should also be conditional upon the results of such noise assessments being within the acceptable limits as imposed under the previous EPA licence. Such noise assessments will be necessary as part of the urban potential investigation for the area. There is no objection to the suggested "sunset clause" of one year for the urban investigations to be completed as this would fit within the current programme of review of the Urban Development Strategy.

### Submission No. 7:

Lot 1, DP 258403, Minshul Crescent, Tullera.

This submission thanks Council for recognising the potential for rural residential development in Minshul Crescent, Tullera.

### Submission No. 8:

Lot 2, DP 700634, Wyrallah Road, Monaltrie.

This submission accepts that inclusion of the above land in the Rural Housing Strategy is not the most appropriate way to overcome the planning difficulties presented by this site. However, the submission notes that the SEPP No 1 approach was previously tried and refused. It asks Council to strengthen its recommendation with respect to a future SEPP No 1 application.

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### Comment

Any future application for subdivision would be assessed by Council taking into account the matters for consideration under Section 79(c) of the EP & A Act. No guarantee can be given by Council in advance as to whether an application under SEPP No 1 would be supported or not.

### Submission No. 9:

Lot 4, DP 580081, Dunoon Road, Tullera.

The submission thanks Council for recognising the nexus between the subject site and nominated rural residential areas in Minshul Crescent.

### Submission No. 10:

Lot 3, DP 733168, Cowlong Road, McLeans Ridges.

This submission states that while the writer is sympathetic to the planning principle that Council should not identify land east of Cowlong Road for future rural residential development, there is a pattern of small lot subdivision in the area and the subject lot has limited horticultural potential. If an 80 metre buffer to neighbouring macadamia plantations and a 50 metre buffer to the existing water course are imposed on the land, a small area adjacent to Cowlong Road would be available for rural residential subdivision. This would be free of constraints and would not result in conflicts with surrounding agricultural activities.

### Comment:

The submitted plan indicates that a very limited area of the subject property would be suitable for rural residential subdivision notwithstanding that it is within the area identified in the McLean's Ridges Horticultural Study as unsuitable for rural residential development. It is considered that inclusion of this land in the Strategy would create an undesirable precedent in terms of the recommendations of the horticultural study and it is therefore recommended that the land not be included.

### Submission No. 11

Lot 2, DP 592677, McKenzie Road, Eltham

Area: 6.588ha

This submission requests reconsideration of the first submission to have the subject property included in the strategy. It states that the land satisfies most of the criteria in the Strategy but was rejected on the basis of its "relative isolation from the main rural residential areas at McLean's Ridges". It states that the land is adjacent to an existing rural residential subdivision approved by the Land and Environment Court. The owners are interested in investigating Community Title with six 1 ha lots integrated with small scale agricultural pursuits.

### Comment:

The rural residential subdivision next door to this property was approved contrary to Council's determination at the time. Concerns were expressed at the time about the relative isolation of this site to other rural residential areas and the state of the rural roads that access the site. An arguably poor decision by the Land and Environment Court should not necessarily provide a precedent for other similar developments in the area. Inclusion of this land is therefore not supported.

### Submission No. 12:

Pt Lot 2, DP 633404, Dunoon Road, Tullera

Area: 24.5ha

This submission requests reconsideration of the above property for inclusion in the Strategy. It was originally rejected on the basis that much of the site is constrained by slope and because of objections by NSW Agriculture. The owner has submitted a sketch map showing the extent of flat land on the site and states that access could be achieved from Bentley Road rather than Dunoon

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Road. (See Attachment No. 3). It also states that subdivision has previously been approved on land to the south, which is constrained by slope.

### Comment:

The owner has submitted a sketch of the property that fairly represents the extent of flat and developable land on the lot. This land is limited in extent and would yield a limited number of rural residential lots. However, the site is contiguous with other small lot rural subdivision in the area and inclusion of the smaller area of unconstrained land in the Strategy is supported on the basis that direct access to Dunoon Road from any future lot is prohibited.

## Submissions Relating to Part B of the Strategy

### Submission No. 1:

This submission relates to the following issues:

- (a) Concerned that Part B of the Strategy (Rural Landsharing Communities) does not reflect the intent of SEPP No. 15 in terms of enabling the pooling of resources for low-income earners to develop communal rural living opportunities. Concerns relate to restrictions on RSLC's having to be within two kilometres of a bitumen road and within four kilometres of community facilities as these areas will have higher land values. RSLC's should be assessed on merit in terms of actual increase in road traffic not on a blanket criteria.
- (b) Objects to the requirement for development to be in proximity to existing community facilities. Facilities such as halls, schools, fire-sheds and shops have often been developed by residents of RSLC's once these communities have been established.
- (c) Notes an error in Table 4 to Part B of the Strategy regarding the date of consent for DA99/112.

### Comment:

- (a) The Strategy seeks to strike a balance in terms of locational criteria for RLSCs. RLSCs are permitted in a much broader area than other forms of rural housing. At the same time it is important that of rural development of any form is not permitted in areas where there will be a financial impact upon the wider community in terms of upgrading and maintaining rural roads.
- (b) Where such facilities have been provided by established RLSCs, the Strategy permits the development of new RLSCs within the prescribed road distance.
- (c) The error in Table 4 will be corrected.

### Submission No. 2: (on behalf of Pan Com)

Opposes Part B of the draft Strategy on the following grounds:

- (a) The locational requirements for RLSCs are more restrictive than for other forms of rural housing eg Dual occupancy must be within 5km of Nimbin or 3km from other villages whereas RLSCs must be within 4km of either.
- (b) RLSCs require more documentation to establish than other forms of rural housing.
- (c) Council has not recommended RLSCs as the preferred form of development in areas selected for closer rural settlement as it has with other forms.

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- (d) Strategy does not comply with the Minister's letter to Council, which states that Councils may make provisions which provide the same opportunities as SEPP No 15 for RLSCs.
- (e) Class 3 land is not defined by NSW Agriculture as 'prime cop and pasture land' and should not be excluded as potential land for the RLSC.
- (f) The Strategy does not specify which community facilities are used to determine the 4km requirement. Many existing communities have their own primary school, shop or community hall etc.
- (g) There is a wealth of evidence indicating that residents of RLSCs do not use community facilities to the extent that residents of other housing forms do. This is discriminatory to apply these locational criteria to RLSCs.
- (h) The requirement in the DCP for RLSCs for 10 copies of plans and SEE is excessive.
- (i) The requirements in the DCP to outline methods of 'conflict resolution' etc are not planning matters and are discriminatory as they are not required for other rural housing types.
- (j) Objects to requirements that Council's maintenance costs for the length of the secondary road to be not beyond the financial capability of existing and proposed development. Also requirement that length of secondary road is not greater than 2km is discriminatory as this does not apply to other forms of rural housing.
- (k) Formula for Section 94 Contributions should be spelt out in DCP. This impost is discriminatory unless levied on all forms of rural housing.
- (l) Urges Council to reject Strategy and remain with SEPP No 15.

#### Comment:

- (a) The locational requirements for RLSCs are in fact less restrictive than for other forms of rural housing. Whereas other forms must be located within 5km of Nimbin or 3km from other nominated villages containing a minimum threshold of services, RLSCs need only to be located within 4 kms of any of the following:
    - A rural primary school;
    - Shops;
    - Community halls;
    - Existing multiple occupancy developments exceeding twenty five (25) approved dwellings sites;
    - Two or more adjoining existing multiple occupancy developments where the number of approved dwelling sites will exceed twenty-five (25).
  - (b) This claim is incorrect. A new RLSC development requires the lodgement of a DA whereas new rural residential subdivision will require the lodgement of a rezoning application and Locality Development Guideline before the DA can even be considered. Overall the level of documentation required for rural subdivision will be greater for rural residential than for RLSCs although there will be many similarities in the type of information required.
  - (c) There would be nothing to prevent the development of RLSCs in areas nominated as preferred rural residential areas. Similarly there would be nothing to prevent development along the lines of Community Title subdivision in such areas.
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- (d) The Minister's letter also states that "*where rural settlement guidelines such as the Guidelines on Rural Settlement on the North Coast of NSW apply these should be taken into account*". The draft Strategy specifically takes into account these guidelines.
- (e) "Prime crop and pasture land" is defined in SEPP No. 15 as including Class 1, 2 or 3 land identified by the Department of Agriculture. The same definition of prime crop and pasture land as included in the SEPP is adopted in the draft DCP for RLSCs.
- (f) The Strategy does specify which community facilities are to be used to determine the 4km requirement. These are listed on Page 19 of the Strategy.
- (g) If there is a "wealth of evidence" to suggest that RLSC residents do not use community facilities to the extent that residents of other housing forms do, it has not been referenced or documented with the submission. It would seem discriminatory in itself to suggest that RLSC residents are less likely than other people to use schools, shops or community halls.
- (h) For most Das, five copies of plans and the accompanying Statement of Environmental Effects are sufficient. However, RLSC applications are normally referred to State Government agencies for comment, hence the requirement for additional copies.
- (i) The issues relating to internal conflict resolution in the draft DCP are included as discretionary matters only for the applicant to consider when preparing a management plan. Best practice would suggest that such matters should be addressed by applicants when establishing a new rural landsharing community and this was originally included in the DCP at the suggestion of Pan Com.
- (j) The object of the road locational criteria in the Strategy is to ensure that traffic generating developments are not located in areas where, because of the length and condition of the access road, future maintenance demands on that road will place an undue burden on the wider community. The requirement that the length of secondary road be not greater than 2km is not discriminatory to RLSCs as rural residential subdivision must be located on a good standard bitumen road or alternatively the existing road access must be brought up to that standard.
- (k) The EP & A Act stipulates that Section 94 contributions, formulas etc be provided in a Section 94 Contributions Plan. To replicate all the information in the Section 94 Contributions Plan in Council's DCPs would make such documents cumbersome and unwieldy to use. S94 road contributions are not discriminatory on RLSCs and are in fact calculated at a lower rate than for conventional rural residential subdivision.
- (l) Council has already resolved to seek exemption to SEPP No. 15 through the preparation of its own strategy for RLSC development.

### **General Submissions**

#### Submission No. 1:

This submission related to the following matters:

- (a) That the quota of Rural Residential lots should be 15 not 35 based on REP requirements.
  - (b) That land at McLeans Ridges should be excluded based on the NSW Agriculture submission.
  - (c) That Rural Residential development should not be allowed to sterilise future resource extraction at the Bexhill Brickworks.
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- (d) That the Rural Residential Strategy contravenes Council's 2020 Vision Statement which aims to enhance and maintain rural Lismore.

### Comment:

- (a) The reason for recommending an annual quota of 35 dwellings is fully explained in the draft Strategy and in the October 10 report to Council. If the arguments put forward for this figure are not acceptable to the Director-General it is likely that she will not agree to the Strategy.
- (b) The land referred to is at Pineapple Road. It is recommended that it be included due to its proximity to the Lismore urban area.
- (c) The Strategy has adopted a buffer to the Bexhill Brickworks based upon a site specific assessment of noise, dust, etc carried out by GeoLINK. This has been discussed with the Department of Mineral Resources who have raised no objection.
- (d) The Strategy is considered to be consistent with the 2020 Vision Statement in that it limits rural residential development to specific locations close to existing urban and village areas.

### Submission No. 2:

This submission supports the Strategy and the manner in which the process has been conducted.

### Submission No. 3:

This submission raises the following issues:

- (a) The authors are pleased that Council has decided to withdraw land east of Johnston Road, Clunes from the Strategy.
- (b) The quota should be 15 lots per annum not 35. Assumptions in the Strategy are based on a projected growth rate of 600 persons per annum which is not substantiated by ABS figures. There is substantial unsold rural residential land already and further subdivision at this rate will result in the ultimate subdivision of all Class 4 land.
- (c) Further release of rural residential land in Eltham area will result in increased traffic on Boatharbour Road. Developers are only required to upgrade a short section of road adjacent to their development. Who will upgrade other sections of Boatharbour Road?
- (d) Rural Residential development will have an adverse impact on visual amenity. The proliferation of brick and tile houses is out of character with rural areas. New dwellings should be of timber and iron construction in keeping with the Australian rural tradition. Council should provide sets of plans and specifications free to potential rural house builders and could hold an architectural competition to build up a collection of such plans.

### Comment

- (a) Noted.
- (b) This issue was discussed in detail in the October 10 report to Council and justification has been included in the Strategy.
- (c) The amount of land to be released in the Eltham Road area has been reduced substantially with the deletion of the area east of Johnston Road.
- (d) New rural residential housing can sometimes be out of keeping with the established rural character and this has an effect on the scenic and rural amenity of an area. However to require all houses to be constructed of timber and iron would be to exclude the use of other 'innovative'
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building materials which may well be compatible with the rural landscape (mud brick, hebel block, rendered straw bales etc) and would place an unacceptable restriction on people's choice of house design and materials.

### Submission No. 4:

The submission states that the Steering Committee is setting a dangerous precedent by "filling in" prime agricultural land. Despite the Strategy guidelines and NSW Agriculture advice, the preferred rural residential areas contain 30% prime agricultural land.

### Comment:

The McLean's Ridges Horticultural Study identifies land east of Cowlong Road as having the highest horticultural potential in the McLean's Ridges area. Preferred rural residential areas have been excluded from this area.

### Submission No. 5:

Requests reconsideration of previous submission which asked that:

- (a) detached dual occupancy be permitted on all rural land 5 acres or more,
- (b) that a separate access road be permitted if the terrain dictates, and
- (c) that detached dual occupancies be permitted at any distance from the original dwelling.

### Comment:

These issues were addressed in detail in the report to Council of October 10, 2000. Because of the restrictions on dual occupancy in the North Coast REP and advice to Council from the Department of Urban Affairs and Planning no changes to the existing guidelines for dual occupancy in the Strategy are recommended.

### Submission No. 6:

- (a) This submission strongly objects to the provision of the Strategy that will permit the erection of dual occupancies on land in 1(c) zones on the basis that this will result in a loss of amenity for existing residents and will result in an increase in the number of cats and dogs with consequent impacts on wildlife. The submission maintains that:
  - Detached dual occupancies be allowed only if the immediate neighbours agree.
  - The overall density be limited to a specific number of dwellings/ha.
  - The number of cats and dogs be limited to the current number (before the erection of the dual occupancy).
- (b) Requests that council put a hold on any new rural residential subdivision until such time as the respective distributor roads have been upgraded to an adequate standard.

### Comment:

- (a)
    - Adjoining neighbours would be notified of any proposed dual occupancy in the 1(c) zone and would have the opportunity to object. Council would then determine the application on the merits of the case as would be the case with any development application.
    - Overall density is determined through consideration of such factors as amenity and privacy, ability to dispose of effluent on-site etc. The very small number of detached rural dual occupancies approved in previous years suggests that the proliferation of dual occupancies in 1(c) zones is unlikely to be a major concern.
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- It would be very difficult to limit the number of cats and dogs on dual occupancies in subdivision where cats and dogs are already permitted. Such a proposal would be virtually impossible to enforce.
- (b) Only limited areas are identified at Modanville for rural residential expansion. Thus any increase in traffic on Dunoon Road generated by such development would also be limited. Such development will be required to contribute through Section 94 Contributions to the upgrading of rural roads.

### **Other Issues**

1. Since the initial preparation of the draft Strategy it has been noted that there have been changes to the proposed route of the eastern by-pass section of the urban arterial road network. The location of the proposed eastern by-pass as shown on the map identifying potential rural residential areas in the Richmond Hill and McLean's Ridges catchment. It is therefore recommended that the map be amended to reflect the proposed new location of the road.
2. Discussions with DLWC have indicated that under the proposed new Water Act all properties with direct riparian access, including those with an approved rural landsharing community development, will have a single riparian right only. The potential for the creation of new riparian rights only arises where subdivision occurs that results in new riparian frontage being created. Consequently reference to restrictions on the creation of new riparian rights in Part B of the Strategy are unnecessary.

### **Manager - Finance & Administration Comments**

Not required

### **Other Group Comments**

Comments from City Works were provided in the October 10 report to Council following the first exhibition.

### **Conclusion**

The following is a summary of the recommended amendments to the draft Rural Housing Strategy (as exhibited in its second exhibition) as outlined previously in this report:

1. That the Strategy objectives be amended to reflect the recommendations from National parks and Wildlife Service.
2. That the constraints to rural residential development identified by NPWS be included in the Strategy as matters to be addressed in the preparation of a Locality Development Guideline.
3. That a requirement for the applicant to identify and consider local and regionally important wildlife corridors be a requirement to be included in the general outline section of the Strategy in relation to the Falls Road area at Nimbin and The Channon.
4. That the nominated areas on Lot 16 DP 1011612, Roseview Road & Lot 123 DP 731488, Boatharbour Road referred to in submission No. 4 be identified as potential rural residential areas.

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### **Draft Lismore Rural Housing Strategy**

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5. That Lot 113 DP 755729, McLeay Road North Lismore be identified as a potential rural residential area subject to a proviso in the Strategy that:
  - (a) Rezoning to rural residential be stayed pending Council's investigation of the area for its urban potential and that such rezoning not proceed if the outcome of that investigation is that the land is determined to be suitable for urban development.
  - (b) That such proviso is to apply for a period of one year from Council's adoption of the Strategy after which time the site will be deemed suitable for rural residential development unless Council's investigation has already determined that it is suitable for urban development.
  - (c) That notwithstanding (a) and (b) above, Council will not support the rezoning of the site to rural residential if the outcome of independent noise assessments commissioned by Council indicate that the noise levels experienced on the site during the operation of the Lismore Speedway are not within acceptable limits as imposed under the previous EPA licence conditions.
6. That the unconstrained area nominated on Lot 2 DP 633404, Dunoon Road Tullera be identified as a potential rural residential area subject to the proviso that no direct access to future lots from Dunoon Road is to be permitted.
7. That the error in Table 4 concerning the approval status of DA 99/112 be rectified.
8. That the location of the Urban Arterial Road shown on the map for the Richmond Hill/McLean's Ridges Catchment be amended to reflect the current proposed location.
9. That any reference to the creation of riparian rights in the DCP for Rural Landsharing Communities be deleted.

### **Recommendation (Pla46)**

That Council

1. Adopt the Rural Housing Strategy incorporating those amendments as recommended in this report;
2. Forward the Rural Housing Strategy to the Director-General of Urban Affairs and Planning for her agreement; and
3. Resolve to disband the Rural Strategy Steering Committee and write to the members of the Committee thanking them for their involvement and assistance with the preparation of the Rural Housing Strategy.

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**Subject/File No:** REVIEW OF DCP NO 9 – NIMBIN VILLAGE (S385)

**Prepared By:** Strategic Planner – Bruce Blackford (BB:MG:S385)

**Reason:** Completion of Consultant's review of the Nimbin DCP

**Objective:** Council's agreement to exhibit the draft DCP

**Management Plan Activity:** Strategic Planning

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### **Background:**

Development Control Plan No 9 (Nimbin Village) provides planning guidelines for new development specific to the village of Nimbin. The DCP came into effect in June, 1992. Since then no comprehensive review of the DCP has been undertaken although a review was commenced in 1995 but not finalised.

The current DCP has not proved easy to administer by Council staff and in particular the maps in the DCP are difficult to decipher. There was a need to update the DCP so that it is presented in a more user friendly format as well as ensuring that it reflects current Council policies and community aspirations. Consequently a Consultant was engaged to review the plan. That review has now been completed and the Consultant has produced a background planning study to the DCP as well as a new draft DCP for Nimbin village. These are included as attachments to this report.

The draft DCP recognises four (4) distinct landuse precincts within the Village - Residential, Commercial, Light Industrial and Community Village precincts. The Residential precinct comprises two sub-precincts being the established residential area and a new residential development area to the east of the existing village. Guidelines for new development and redevelopment are provided for each precinct.

In preparing the background study and draft DCP the Consultant has consulted with local community organisations, Government agencies, other service providers, Council's Heritage Advisor and Council staff. Those involved in the consultations include:

- The Nimbin Community Development Association (Community Forum)
- Nimbin Chamber of Commerce
- Community Health
- Nimbin Police
- North Coast Community Housing
- NSW Health – Area Planning
- Nimbin School

### **Manager - Finance & Administration Comments**

Not required.

### **Public Consultations**

Apart from the pre-consultation that has already occurred as outlined above, public consultations would normally be undertaken during the statutory exhibition period. The minimum statutory requirement for exhibiting draft Development Control Plans is 28 days.

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## **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

### **Review of DCP No. 9 – Nimbin Village**

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Given that the minimum period would span Christmas/New Year, it is recommended that the draft DCP be placed on public exhibition for an extended period of three months. During the exhibition period it is intended that a public meeting will be held in Nimbin as well as a workshop for Councillors.

#### **Other Group Comments**

Other groups have been consulted in the preparation of the draft DCP.

#### **Recommendation (Pla 45)**

That Council place the Draft DCP for Nimbin Village on exhibition for a period of 3 months.

**Subject/File No:** AMENDMENT TO DCP NO. 36 – OUTDOOR ADVERTISING STRUCTURES

**Prepared By:** Strategic Planner – Bruce Blackford

**Reason:** To incorporate substantive provisions of Clause 24 of the Lismore Local Environmental Plan 2000 within DCP No 36.

**Objective:** Council's agreement to exhibit the amendment to DCP No 36

**Management Plan Activity:** Strategic Planning

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**Background:**

One of the recommendations of the current review of LEP 2000 (Amendment No. 6) was to streamline and simplify Clause 24 of the LEP relating to outdoor advertising. It is proposed to transfer many of the existing provisions of that Clause into DCP No 36 (Outdoor Advertising Structures) where such provisions are considered to be more appropriately contained within a Development Control Plan.

The definitions currently listed under Sub-clause 24(1) of the LEP, together with the development control table under subclause 24(2), are to be deleted and similar provisions inserted within the relevant sections of the DCP. A draft amendment to DCP No 36 has been prepared containing these consequential amendments, a copy of which is included as Attachment 1. A copy of DCP No 36 incorporating the proposed amendments is included as Attachment 2.

**Manager - Finance & Administration Comments**

Not required

**Public Consultations**

Public submissions will be invited as part of the public exhibition process. It is recommended that the draft DCP amendments be exhibited concurrently with draft LEP Amendment No 6.

**Other Group Comments**

Not required

**Recommendation (Pla 44)**

That the draft amendment to DCP No 36 be placed on public exhibition for a period of 3 months.

**ATTACHMENT NO 1**

**LISMORE DEVELOPMENT CONTROL PLAN NO. 36**

**AMENDMENT NO. 2**

**Citation**

1. This plan may be cited as Lismore Development Control Plan No. 36, Amendment No. 2.

**Land to which this plan applies**

2. This plan applies to the whole of the Lismore City area.

**Objectives**

3. This plan aims to amend Development Control Plan No.36 to include definitions and a development control table for outdoor advertising that were previously included in clause 24 of the Lismore Local Environmental Plan 2000.

**Amendment of Lismore Development Control Plan No. 36**

4. Lismore Development Control Plan No. 36 is amended:

**(1) by deleting clauses 4.0, 4.1 and 4.2 and inserting instead the following clause:**

**4.0 Definitions**

In this plan:

*advertising billboard* means a structure (such as framework, a signboard, a noticeboard, a wall, or a fence) erected or used primarily for the display of advertising matter.

*advertising sign* means an advertisement which refers to the name of the business, the premises, the use, the address, telephone number, or which communicates an advertising message by any other means to the public. An outdoor advertising sign is the advertising content which is displayed on an outdoor advertising structure.

*advertising structure* means a device whereby any advertising sign may be displayed, or which is designed or adopted or apparently designed or adopted for the display of advertising. The structure may be attached to a premises, or it may be an existing wall of a building, a free-standing wall, a fence, or items attached to or mounted on parked vehicles and box trailers upon which graphics are displayed.

*animated sign* means an advertising sign with movement, or that flashes or changes colour, due to the use of electrical or manufactured sources of power.

*awning sign (above)* means an advertising sign that is located on top of an awning or verandah and that does not project above the parapet or ridgeline or beyond the awning edge.

*awning sign (below)* means an advertising sign that is fixed below an awning and above the footpath and that does not project above the awning edge and is located at least 2.5 metres above the footpath and 500 millimetres from the kerbing edge or awning edge.

***banner/flag sign*** means a single piece of lightweight material attached or supported on one or two sides that displays advertising matter.

***blimp/balloon sign*** means an advertising sign which is inflated and suspended above the premises, site or event which it is intended to promote or identify and which is tethered and displayed at the same premises for a period of no more than one calendar month in any one year.

***bunting*** means an advertising sign consisting of a continuous string of lightweight coloured material secured so as to allow movement.

***chalkboard sign*** means a board used for the purpose of describing services or goods for sale which vary on a regular basis, such as a restaurant menu.

***directional sign*** means an advertising sign erected by the Council for the purpose of directing vehicular or pedestrian traffic, or advising the public (including advising the public about any restrictions), and which does not include any information of a commercial nature.

***election sign*** means an advertising sign which is temporarily displayed to relay information for political purposes and which has an area not exceeding 1 square metre and which is only exhibited during the campaign concerned.

***fascia sign*** means an advertising sign that is painted on or attached to the fascia or return of an awning, but does not exceed the height of the fascia or the return of the awning.

***home occupation sign*** means an advertising sign attached or located within the curtilage of a dwelling and which bears only the name, occupation and phone number of the occupier and has an area not exceeding 1 square metre.

***illuminated sign (indirect)*** means an advertising sign in the form of a device (such as a reflective or luminous sign) in which a source of light is extended to the device in order to make the message readable.

***illuminated sign (internal)*** means an advertising sign illuminated by an internal source of light.

***illuminated sign (neon)*** means an illuminated advertising sign constructed from neon tubing.

***integrated sign*** means an advertising sign that is permanent and is an integrated design component of a building.

***pole/pylon sign*** means an advertising sign which is supported by one or more columns, uprights or braces fixed to the ground and which is not directly attached to any building or other structure.

***portable footpath sign*** means a small, free-standing, portable advertising sign (other than a chalkboard) located on a footpath or area utilised for pedestrian traffic and includes a sandwich board.

***projecting wall sign (horizontal)*** means an advertising sign which projects more than 300 millimetres from any wall to which it is attached, being a sign that has a width greater than its height.

*projecting wall sign (vertical)* means an advertising sign which projects more than 300 millimetres from any wall to which it is attached, being a sign that has a height greater than its width.

*real estate sign* means an advertising sign temporarily located on any land, building or structure which indicates the land, building or other structure is for sale, rent or auction, and which has an area not exceeding 5 square metres.

*sky/roof/fin sign* means an advertising sign erected on or above a roof or parapet wall of a building and which is supported, wholly or partially, by the building, and includes an advertising sign extending above the roof line of a building.

*temporary sign* means an advertising sign which is intended to advertise community or civic projects, construction projects or other special public events on a temporary basis and which is erected for no more than two consecutive calendar months.

*tourist sign* means an advertising sign that directs the travelling public to tourist facilities, activities or accommodation or places of scientific, historical or scenic interest.

*wall sign* means an advertising sign affixed or painted directly onto an exterior wall of a building, bus shelter or other structure and which is parallel to the face of the building or other structure.

*window sign* means an advertising sign painted or displayed on the exterior or interior of a shop window or on any glazed surface of a building or structure.;

- (2) **by inserting after clause 4.0 the following clause:**

### **5.0 Development Control Table**

The erection or display of an advertisement on land within a zone under the Lismore Local Environmental Plan 2000 specified in column 1 of the Table below:

- (a) may be carried out without development consent if it is listed in column 2 under the heading “Without development consent”; or
- (b) may be carried out only with development consent if it is listed in column 3 under the heading “Only with development consent”; and
- (c) is prohibited if it is listed in column 4 under the heading “prohibited”.

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## Amendment to DCP No. 36 – Outdoor Advertising Structures

**Table**

<b>Column 1 Zone No.</b>	<b>Column 2 Without development consent</b>	<b>Column 3 Only with development consent</b>	<b>Column 4 Prohibited</b>
1 (a), 1 (b), 1 (r)	chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, awning sign (above), banner/flag sign, blimp/balloon sign, bunting, illuminated sign (internal), illuminated sign (neon), pole/pylon sign, portable footpath sign, projecting wall sign, sky/roof/fin sign
1 (c), 1 (d), 1 (f)	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, awning sign (above), banner/flag sign, blimp/balloon sign, bunting, illuminated sign (internal), illuminated sign (neon), pole/pylon sign, portable footpath sign, projecting wall sign, sky/roof/fin sign, wall sign
2 (a)	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign (not exceeding an area of 2 square metres where the land is used for residential purposes)	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, awning sign (above), banner/flag sign, blimp/balloon sign, bunting, illuminated sign (internal), illuminated sign (neon), pole/pylon sign, portable footpath sign, projecting wall sign, sky/roof/fin sign, window sign (other than at ground floor)
2 (f), 2 (v)	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign, window sign (ground floor only)	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, portable footpath sign, sky/roof/fin sign
3 (a), 3 (b), 3 (f), 4 (a)	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign, wall sign (not exceeding an area equivalent to 10% of the area of the wall), window sign (ground floor only)	any advertising sign not listed in Column 2 or 4	portable footpath sign
5	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign, window sign (ground floor only)	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, bunting, election sign, portable footpath sign, sky/roof/fin sign

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Amendment to DCP No. 36 – Outdoor Advertising Structures

Column 1 Zone No.	Column 2 Without development consent	Column 3 Only with development consent	Column 4 Prohibited
6 (a), 6 (b)	awning sign (below), chalkboard sign, election sign, fascia sign, home occupation sign, real estate sign, window sign (ground floor only)	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, bunting, election sign, portable footpath sign, sky/roof/fin sign
7 (a), 7 (b), 8	fascia sign, home occupation sign, real estate sign	any advertising sign not listed in Column 2 or 4	advertising billboard, animated sign, awning sign, banner/flag sign, blimp/balloon sign, bunting, election sign, illuminated sign, integrated sign, pole/pylon sign, portable footpath sign, projecting wall sign, sky/roof/fin sign, wall sign, window sign

(3) by inserting after clause 5.0 the following clause:

### 6.0 Design Guidelines

The design of all signs should have regard to the following matters::

- (4) by re-numbering subclauses 4.3 to 4.12 as 6.1 to 6.10;
- (5) by re-numbering clauses 5.0 to 7.0 as 7.0 to 9.0;
- (6) by re-numbering subclauses 7.1 to 7.14 as 9.1 to 9.14;
- (7) by deleting the heading “**Consultation**” at clause 6.2 and inserting instead the heading “**Professional consultation**”;
- (8) by inserting at the end of the first sentence of clause 7.0 the following words: “Applications should address both the advertising content and the structure on which it is to be displayed.”;
- (9) by deleting from the first sentence of clause 9.0 the matter “Clause 45 of Lismore LEP 1992 (Appendix A)” and inserting instead the matter “Clause 6 of this plan”.

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

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<b>Subject/File No:</b>	LISMORE LEP AMENDMENT NO 6 (BB:MG:S761)
<b>Prepared By:</b>	Strategic Planner – Bruce Blackford
<b>Reason:</b>	Receipt of responses from Government Agencies and development industry to the draft plan.
<b>Objective:</b>	Council's agreement to place the draft plan on public exhibition.
<b>Management Plan Activity:</b>	Strategic Planning

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### **Background:**

At its meeting of September 19, 2000 Council considered a report on identified anomalies and other inconsistencies in the Lismore Local Environmental Plan 2000 and resolved:

1. To prepare a draft LEP amendment to rectify anomalies in LEP 2000 as outlined in that report subject to the deletion of proposed wording in clause 39 – Rural Workers' Dwellings – *“that the dwelling be rendered uninhabitable should its use as a rural worker's dwelling cease”*;
2. To inform the Director-General of Urban Affairs and Planning of its decision; and
3. To consult with relevant public authorities and the development industry prior to finalising the draft amendment.

### **Consultation:**

Details of the proposed amendments were forwarded to the Department of Mineral Resources, Roads and Traffic Authority, NSW Agriculture, the Department of Land and Water Conservation and Rous Water for comment as well as to four local consultancy firms involved in the preparation and lodgement of rezoning and development applications with Council. The following responses were received:

1. Dept. of Mineral Resources  
Objects to proposed prohibition of mining and extractive industry in the 1(b) Agricultural zone. States that mining and extraction use very small amounts of land (compared with agriculture) and are essentially transient land uses. In many instances land can be rehabilitated to its former agricultural capability after mining.

#### Comment:

The arguments put forward by Mineral resources are considered valid. It is recommended that mining and extractive industry not be included as prohibited uses in the 1(b) zone.

2. Roads and Traffic Authority  
Advises that the RTA has no objections to the proposed amendments.
3. NSW Agriculture
  - (a) The proposed definition of 'agriculture' does not have a commercial focus and may cause difficulty for people carrying out agriculture in town or village zones.
  - (b) The difference between 'animal establishment' and 'animal husbandry' is not clear.
  - (c) It is not clear whether the definition of agriculture includes farm forestry or the growing of medicinal products.

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- (d) Activities that are ancillary to agriculture such as on-farm processing are matters raising problems with regard to agriculture.
- (e) Definition of animal establishment requires refining as it relies on an interpretation of 'large numbers of animals'. The definition may also need a commercial focus so as not to capture backyard establishments.
- (f) Recommends guidance be sought from DUAP regarding consistent North Coast wide definitions for these activities.

### Comment:

- (a) This is acknowledged although no known problems with backyard agriculture have been experienced to date.
  - (b) Farm forestry would fall within the definition of 'forestry' and would not be considered as agriculture as it is separately defined in the LEP. The growing of medicinal herbs would be covered by the proposed definition.
  - (c) It is acknowledged that there may be an issue where certain on-farm processing activities such as macadamia dehusking plants are currently considered ancillary to agriculture. This will be the subject of a separate report to Council as it is not considered appropriate to 'bury' any proposed changes to the current situation in this current amendment.
  - (d) The current proposed definition of animal establishment does not refer to 'large numbers of animals' but refers instead to animals that are intensively housed. It is acknowledged however that the current definition does not have a commercial focus.
  - (e) It is recommended that advice from DUAP be sought during the exhibition period regarding consistent regional definitions.
4. Walker & Newton (Consulting Surveyors and Planners)  
Generally agrees with the proposed amendments with the exception of the following:
- (a) Clause 5 –  
Believes that goods transport terminals and extractive industries should be allowed direct access to main roads providing appropriate safety and engineering standards are met. This could help to keep heavy vehicles out of residential streets.

### Comment:

This view was also shared by City Works. It is therefore recommended that 'goods transport terminals' and 'extractive industries' be deleted from Schedule 3 – "Development with restricted access to roads in rural zones".

- (b) Clauses 30 & 35 –

Believes the word "prevent" in the zone objectives for the 1(a) and 1(r) zones - "to prevent the fragmentation of rural land" should be replaced with a more discretionary word.

### Comment:

It is recommended that the word "prevent" be replaced with the word "discourage" in both clauses.

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(c) Clause 36 –

Has concerns about the proposal to have only a minimum lot size for the 1(c) Rural Residential zone instead of the current minimum and average lot sizes.

Comment:

Given the very small amounts of undeveloped 1(c) land still available in Lismore it is considered that no real purpose is served by changing the lot size requirements at this stage.

(d) Clause 39 –

(i). Objects to the requirement that rural workers' dwellings share the same access road as the principal farm dwelling as a rural worker may have to monitor activities on the other side of the farm.

(ii). Objects to the requirement that the applicant be required to demonstrate a "sufficient net return to pay" a rural worker. The approval of a rural worker's dwelling should be on merit assessment even where full production has not been achieved.

Comment:

The requirement for shared access roads for a rural worker's dwelling has been incorporated into the Rural Housing Strategy and is a concept strongly supported by NSW Agriculture. The concept of a farm property generating sufficient net return to employ a rural worker is fundamental to the justification for a second dwelling on a rural holding to house a rural worker.

(e) Clause 54 –

Believes that the proposed requirement to achieve a minimum 12 dwellings/ha in new subdivisions the 2(a) zone is overly prescriptive and makes no allowance for site features or topography.

Comment:

The proposed 12 dwellings/ha is substantially less than the 15 dwellings/ha recommended by the Department of Urban Affairs and Planning. However, it is conceded that many of the remaining undeveloped areas in the 2(a) zone are topographically constrained and such densities may be difficult to achieve in many circumstances. It is agreed that subdivision design should take into account features such as local topography, vegetation etc. However, there should also be an underlying objective of maximising residential densities within those constraints to ensure the optimal use of zoned residential land. It is recommended that a clause worded to this effect be added to existing Clause 51 of the LEP applying to the subdivision of land in the 2(a) zone.

### **Manager - Finance & Administration Comments**

Not required

### **Public Consultations**

Opportunities for the public to make comment are provided during the formal exhibition period.

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### **Other Group Comments**

Comments from City Works regarding the proposed amendment were provided in the planning report to Council of September 19, 2000. Advice has been received from Council's Crime Prevention Development Officer regarding the location of 'amusement parlours'. IT states that while both management and location are of prime importance in the successful operation of these facilities it is considered inappropriate for such facilities to be located in neighbourhood business zones. Hence this use has been included as a prohibited use in the 3(b) zone.

### **Recommendation (Pla 47)**

1. That the proposed changes as outlined in this report be incorporated into draft LEP Amendment No. 6; and
2. That draft LEP Amendment No 6 be placed on public exhibition for a period of 3 months.

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### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

#### **LISMORE LOCAL ENVIRONMENTAL PLAN 2000 (AMENDMENT No. 6)**

I, the Minister for Urban Affairs and Planning, in pursuance of section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder.

#### **Minister for Urban Affairs and Planning**

Sydney, 2000.

#### **Citation**

1. This plan may be cited as Lismore Local Environmental Plan 2000 (Amendment No. 6).

#### **Aims, objectives etc.**

2. To remove anomalies and other inconsistencies in Lismore Local Environmental Plan 2000 and introduce a consolidated list of definitions.

#### **Land to which this plan applies**

3. This plan applies to all land within the Lismore local government area.

#### **Relationship to other environmental planning instruments**

4. This plan amends Lismore Local Environmental Plan 2000 in the manner set out in clause 5.

#### **Amendment of Lismore Local Environmental Plan 2000**

5. Lismore Local Environmental Plan 2000 is amended:
  - (1) by inserting in clause 5 after the matter “with the exception of clauses” the matter “4(1),”;
  - (2) by inserting in clause 5 after the matter “29,” the matter “32,”;
  - (3) by deleting in clause 5 all words after the matter “Schedule 1”;
  - (4) by deleting from clause 9(2) the matter “29 June 2000” and inserting instead the matter “ ”;
  - (5) by deleting clause 11 and inserting instead the clause:

#### **11 Subdivision of land generally**

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- “Except as otherwise provided in this plan, a person may not subdivide land to which this plan applies except with the consent of Council.”;
- (6) by inserting at the start of clause 18(2) the words “Despite any other provision of this plan,”;
- (7) by deleting from clause 19(1) the word “except” and inserting instead the words “including any land not zoned under this plan, but not including”;
- (8) by deleting from clause 23(d) the word “reafforestation” and inserting instead the word “reforestation”;
- (9) by deleting clauses 24(1) and 24(2) and inserting instead the clause:
- (1) Development for the purpose of the erection or display of an advertisement in a zone is development that
- (a) may be carried out without development consent if it is listed under the heading “Without development consent” for that zone, or
- (b) may be carried out only with development consent if it is listed under the heading “Only with development consent” for that zone, or
- (c) is prohibited if it is listed under the heading “prohibited” for that zone in the table to clause 6.0 of Lismore Development Control Plan No 36 as adopted by the council on \_\_\_\_\_ ;
- (10) by deleting from clause 24(3) the matter “(2) **Advertisements on trailers on public land prohibited**” and inserting instead the matter “(2);
- (11) by deleting from clause 24(4) the matter “(4) **Directional signs**” and inserting instead the matter “(3)”;
- (12) by deleting from clause 24(5) the matter “(5) **Matters for assessment relating to outdoor advertising**” and inserting instead the matter “(4)”;
- (13) by deleting clause 27 and inserting instead the clause:

#### **27 Temporary use of public land**

- (1) In this clause, *public land* means land vested in the Crown, a Minister of the Crown, a statutory body, the Council or an organisation established for public purposes.
- (2) Despite any other provision of this plan, a person may, without development consent, use public land for any purpose (not being a regular or recurrent country market) for a maximum period of 6 days (whether consecutive or not) in a calendar year, unless the use of the land for the purpose:
- (a) would constitute the carrying out of designated development, or
- (b) would involve the erection of or alteration of any structure, being a structure or an alteration intended to be permanent.
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- (3) Nothing in this clause permits a person to use land:
  - (a) without the agreement of the owner or any trustees controlling the land, or
  - (b) without complying with other legislation in force in relation to the land or the proposed use of the land.;

(14) by deleting from clause 28(1) the matter “(1)”;

(15) by deleting from clause 28 all of subclause (2);

(16) by inserting after clause 28 the following clause:

**28A Demolition of a building or work**

Except with the consent of the Council, a person may not carry out the demolition of any building or work unless:

- (a) the Council has consented to demolition as a condition of subdivision or development consent, or
- (b) an order to demolish has been issued by the Council under section 121 of the Act, or
- (c) the building or work is defined as exempt development under clause 9.;

(17) by inserting after clause 28A the following clause:

**19 Zone objectives and zoning control tables**

(1) The objectives of each zone are set out in the table in Part 3 that provides general zoning controls for that zone, under the heading “Objectives (or Objective) of zone”.

(2) Except as otherwise provided for by this plan, for each zone, the development that:

- (a) may be carried out without development consent, is indicated in the table that provides general zoning controls for that zone under the heading “Without development consent”, or
- (b) may be carried out only with development consent, is indicated in that table under the heading “Only with development consent”, or
- (c) is prohibited, is indicated in that table under the heading “Prohibited”.

(3) The consent authority must not grant consent to the carrying out of development in a particular zone unless the consent authority is of the opinion that the proposed development is consistent with the objectives of the zone in which it is to be carried out.

(4) Development is advertised development, for the purposes of the Act, if the development is listed under the heading “Only with development consent-advertised development” in the table that provides general zoning controls for a particular zone. However, such development is not advertised development if it involves only alterations or additions to existing buildings or works, being alterations or additions of a minor nature which, in the opinion of the consent

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authority, do not to any significant extent change the scale, impact, size or degree of the existing buildings or works.;

- (18) by deleting clause 29;
- (19) by deleting from clause 30.1 objectives (a) to (g) and inserting instead the following objectives:
- (a) to maintain and encourage sustainable agricultural activities within the zone, and
  - (b) to enable a range of other uses to occur on rural land providing such uses do not conflict with existing or potential agriculture and do not detract from the scenic amenity and character of the rural environment, and
  - (c) to discourage the fragmentation of rural land, and
  - (c) to restrict the establishment of inappropriate traffic generating uses along main road frontages, and
  - (e) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality.
- (20) by inserting in clause 30.4 in alphabetical order the matters “abattoirs”, “extractive industries”, “generating works”, “institutions”, “liquid fuel depots”, “mines” and “offensive or hazardous industries”;
- (21) by deleting from clause 30.4 the matters “(unless allowed with consent)” and “and shops ancillary to a permitted use”;
- (22) by deleting from clause 31.1 objectives (a) to (d) and inserting instead the following:
- (a) to preserve areas of higher quality agricultural land for agricultural production, and
  - (b) to permit a range of activities that support the agricultural industries being conducted on the land and limit development that may, in the opinion of the Council, reduce the agricultural production potential of the land, and
  - (c) to discourage the fragmentation of rural land, and
  - (d) to control development that may restrict the function of or create traffic hazards along classified roads, and
  - (e) to enable tourist facilities to be provided that promote an appreciation of the rural environment and associated agricultural and horticultural activities, while ensuring the continued economic viability of the land.;
- (23) by deleting from clause 31.4 the matters “abattoirs”, “airfields”, “caravan parks for non-permanent occupation”, “helipads”, “heliports” and “tourist facilities (other than rural tourist facilities)”;
- (24) by deleting from clause 31.5 the matters “large scale generating works” and “shops (unless allowed with consent)” and inserting in alphabetical order the
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- matters “abattoirs”, “airfields”, “generating works”, “helipads”, “heliports”, “liquid fuel depots”, “recreation facilities”, “service stations”, “shops (other than convenience shops)” and “tourist facilities (other than rural tourist facilities)”;
- (25) by deleting from clause 32.4 the matter “restaurant” and inserting instead the matter “refreshment room”;
- (26) by deleting from clause 32.5 the matters “animal saleyards” and “large scale generating works” and inserting in alphabetical order the matters “extractive industries”, “generating works” and “offensive or hazardous industries”;
- (27) by inserting in clause 33.3 in alphabetical order the matters “art and craft galleries”, “bed and breakfast establishments”, “communications facilities” and “recreation facilities”;
- (28) by deleting from clause 35.1 objectives (a) to (d) and inserting instead the following objectives:
- (a) to limit the development of non-agricultural uses, except those which will not be adversely affected by flooding, and
  - (b) to encourage the use of the land for its optimum productive potential, and
  - (c) to permit a range of activities that support the agricultural industries being conducted on the land and limit development that may, in the opinion of the Council, reduce the agricultural production potential of the land, and
  - (d) to discourage the fragmentation of rural land, and
  - (e) to control development that may restrict the function of, or create a traffic hazard along, classified and other formed roads.;
- (29) by inserting in clause 35.4 in alphabetical order the matters “extractive industries” and “mines”;
- (30) by inserting in clause 35.5 in alphabetical order the matter “recreation facilities”;
- (31) by deleting from column 2 opposite the matter “No 1 (b) Agricultural Zone” in the table to clause 36(1) the matter “20 ha” and inserting instead the matter “20 ha<sup>1.</sup>”;
- (32) by deleting from column 2 opposite the matter “No 1 (c) Rural Residential Zone” in the table to clause 36(1) the matter “0.2 ha” and inserting instead the matter “0.2 ha<sup>2.</sup>”;
- (33) by inserting after the table to clause 36(1) the matters
- <sup>1.</sup> refer also to clause 36(2)
  - <sup>2.</sup> refer also to clause 40(2)(e)
- (34) by deleting from clause 36(3)(a) the matter “the Department of” and inserting instead “NSW”;
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- (35) by deleting from clause 36(4) the matter “the purpose of a building, work, place or land use lawfully allowed” and inserting instead the matter “a permissible use”;
- (36) by inserting at the end of clause 36(5)(d) the matter “or as permitted under subclause (2).”;
- (37) by deleting from clause 37 the word “**generally**” after “**Rural dwellings**” and inserting instead the matter “**and rural dual occupancy**”;
- (38) by deleting from clause 37(4) subclauses (b) and (c) and inserting instead the following:
- (b) consists of an allotment that was lawfully created in accordance with clause 36(2) or clause 36(5), or
  - (c) consists of an allotment of any size that was lawfully created, or approved by the Council or consented to, before 27 March 1992 (the date of commencement of *Lismore Local Environmental Plan 1992*) and on which the dwelling-house could have been lawfully erected immediately before that date, or
  - (d) consists of an allotment consented to for use for residential purposes, in accordance with the provisions of *Lismore Local Environmental Plan 1992*.
- (39) by deleting from clause 37(5) the matter “subclause (4)(a)” and inserting instead the matter “subclauses (4)(a) and (4)(b)”;
- (40) by inserting after clause 37(6) the following subclause:
- (7) Where, in accordance with this clause, development for the purposes of a dwelling-house may be carried out on an allotment of land, a person may, with development consent:
    - (a) erect a dual occupancy building on the allotment, or
    - (b) alter or add to a dwelling-house erected on the allotment so as to create a dual occupancy building.
- (41) by deleting from clause 39 subclause (2) and inserting instead after subclause (1) the following:
- (5) Rural workers’ dwellings may, with consent, be erected on a parcel of land to which this clause applies provided:
    - (a) each dwelling is on the same legal title as the principal farm dwelling and the principal farm dwelling is occupied by the landowner or manager or someone engaged in the operation of the farm, and
    - (b) each rural worker’s dwelling is to be occupied by a worker directly engaged in agricultural employment on that land, and
    - (c) the applicant demonstrates that the nature, scale and output of the agricultural enterprise generates enough income to support an employee who is to be housed in the dwelling, and
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- (d) evidence is provided showing how the employee will assist in the operation of the farm and that no alternative local labour or housing is likely to be available, and
  - (e) any other workers' dwellings on that land are used by persons substantially engaged in agricultural employment on that land, and
  - (f) the erection of each dwelling will not significantly reduce the suitability of the land for agriculture or create conflict with adjoining land uses, and
  - (g) each rural workers' dwelling shares the same access road as the principal farm dwelling.;
- (42) by inserting in clause 39(3) after the matter "the total number of" the matter "rural workers";
- (43) by deleting from clause 41(3) the matter "(f) whether the development is essential to the viability of the use of the land concerned."
- (44) by deleting clause 42;
- (45) by deleting the matter "County Council" at the end of clause 45(2) and inserting instead the matter "Water";
- (46) by deleting clause 45(3) and inserting instead after subclause (2) the following:
- (3) Despite subclause (2), the concurrence of Rous Water is not required for the erection of a dwelling house unless the development is to be carried out on land shown hatched on the map (being the land to be inundated by the Dunoon dam).;
- (47) by deleting clause 46(1) and clause 46(3);
- (48) by deleting clause 47;
- (49) by deleting from clause 48.4 the matters "institutions" and "restaurants" and inserting in alphabetical order the matter "refreshment rooms";
- (50) by deleting from clause 48.5 the matters "animal saleyards" and "home offices" and inserting in alphabetical order the matters "art and craft galleries", "institutions", "offensive or hazardous industries" and "recreation facilities";
- (51) by inserting in clause 49.4 in alphabetical order the matters "recreation facilities" and "refreshment rooms";
- (52) by deleting from clause 49.5 the matters "animal saleyards", "home offices" and "restaurants" and inserting in alphabetical order the matters "dual occupancies" and "offensive or hazardous industries";
- (53) by deleting from clause 50.4 the matters "home offices" and "institutions" and inserting in alphabetical order the matter "recreation facilities";
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(54) by deleting from clause 50.5 the matters “animal saleyards” and “extractive, offensive or hazardous industries” and inserting in alphabetical order the matters “extractive industries”, “institutions” and “offensive or hazardous industries”;

(55) by deleting clause 51 and inserting instead the following clause:

**51 Subdivision of land in Zones Nos 2(a) and 2(v)**

- (1) This clause applies to land within Zone No 2(a) or 2(v).
- (2) Consent must not be granted to subdivision of land to which this clause applies unless the consent authority has had regard to the matters relating to environmental impact specified in Schedule 5.
- (3) If the land is within Zone No 2(a), consent must not be granted to the subdivision of land unless:
  - (a) each separate lot of land created by the subdivision has an area of not less than 400 square metres, and
  - (b) arrangements satisfactory to the consent authority have been made for the provision of a reticulated water supply, an electricity supply and disposal of stormwater and sewage effluent on each lot created, and
  - (d) the consent authority is satisfied that the number of lots created by the subdivision has been maximised, having had regard for the matters listed in Schedule 5.
- (4) Notwithstanding subclause (3) (a), consent may be granted for a subdivision that will create lots with an area of less than 400 square metres where the proposed plan of subdivision shows the proposed location on the proposed lots of any proposed dwellings and involves the concept of zero lot lines and reduced boundary setbacks.

(56) by inserting in the heading to clause 53 after the matter “**Dwellings**” the matter “**and dual occupancies**”;

(57) by deleting from clause 53(1) the matter “, 2(f) or” and inserting instead the matter “and”;

(58) by deleting clause 54;

(59) by deleting from clause 57 subclauses (1) and (2);

(60) by inserting in clause 58.4 in alphabetical order the matter “generating works”;

(61) by deleting from clause 58.5 the matters “animal saleyards” and “home offices” and inserting in alphabetical order the matter “extractive industries”;

(62) by deleting from clause 59.3 the matter “restaurants (up to 150 square metres in floor area)” and inserting in alphabetical order the matters “art and craft galleries”, “communications facilities”, “home offices”, “recreational facilities” and “refreshment rooms (up to 150 square metres in floor area)”;

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- (63) by deleting from clause 59.5 the matters “animal saleyards” and “home offices” and inserting in alphabetical the matter “amusement parlours”;
- (64) by deleting from clause 60.5 the matters “animal saleyards”, “dwelling houses (other than lawfully erected prior to 27 March 1992 or physically attached to and used in conjunction with buildings or uses allowed with development consent)”, “exhibition homes”, “home offices” and “liquor outlets” and inserting in alphabetical order the matters “dual occupancies”, “dwelling houses (other than where physically attached to and used in conjunction with buildings or uses allowed with development consent)”, “exhibition dwellings”, “extractive industries” and “offensive or hazardous industries”;
- (65) by deleting clause 62;
- (66) by inserting in clause 63.4 in alphabetical order the matters “abattoirs” and “restricted premises”;
- (67) by deleting from clause 63.5 the matter “animal saleyards” and inserting in alphabetical order the matters “dual occupancies”, “exhibition dwellings” and “stock and saleyards”;
- (68) by deleting from clause 66.5 the matter “animal saleyards” and inserting in alphabetical order the matter “helipads”;
- (69) by deleting from clause 67.3 the matter “(other than gas holders or generating works)”;
- (70) by inserting in clause 67.4 in alphabetical order the matter “art and craft galleries”;
- (71) by inserting in clause 68.3 in alphabetical order the matter “art and craft galleries”;
- (72) by inserting in clause 68.4 in alphabetical order the matter “recreation facilities”;
- (73) by inserting at the end of clause 70(4) the matter “in accordance with a Section 94 Contributions Plan.”;
- (74) by deleting clause 75;
- (75) by deleting clause 76;
- (76) by deleting from Schedule 3 the matters “animal saleyards” and “junk yards” and inserting in alphabetical order the matter “art and craft galleries”;
- (77) by deleting Schedule 7 Definitions and inserting instead the following:

### **Schedule 7 Definitions**

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(Clause 6 (1))

In this plan:

**abattoir** means a building or place used for the slaughter of animals or birds, whether or not animal by-products are processed, manufactured or distributed there.

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

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means:

- (a) make structural changes to the outside of the heritage item, building or work, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, not including changes that maintain the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work.

**amusement parlour** means any premises where more than four amusement devices, consisting of either pinball machines, pool tables, billiard tables, or coin operated amusement devices or the like, are provided for the entertainment of the public, with the exception of any premises the subject of a hotelier's licence under the Liquor Act 1982.

**animal establishment** means an establishment in which animals are intensively housed, fed or slaughtered and includes an abattoir, a cattle feedlot, an intensive piggery, a chicken farm, and an intensive aquaculture farm.

**art and craft gallery** means a building or place used for the display and sale of items of art and craft.

**boarding house** includes a house let in lodgings or a hostel but does not include a motel.

**brothel** means a building or place habitually used for the purpose of prostitution.

**bulk store** means a building or place used for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

**bulky goods showroom** means a building or place used for the sale by retail or auction, the hire or the display of items (whether goods or materials) which are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display; or
- (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading items into their vehicles after purchase, but does not include a building or place used for the sale of foodstuffs or clothing or a motor showroom.

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***bush fire hazard reduction*** means a reduction or modification (by controlled burning or mechanical or manual means) of material that constitutes a bush fire hazard.

***caravan park*** means a site :

- (a) on which moveable dwellings (as defined in the *Local Government Act 1993*) are placed for the purpose of providing permanent accommodation or for the purpose of providing temporary accommodation for tourists, or
- (b) used for the purpose of the erection, assembly or placement of cabins for temporary accommodation by tourists.

***car repair station*** means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery and includes panel beating and spray painting.

***child care establishment*** means a building or place used for the purpose of caring for or supervising children which:

- (a) caters for more than five under school age children who are not related to the owner,
  - (b) may include an educational function, and
  - (c) may operate for the purpose of gain,
- but does not include a building or place providing residential care for those children.

***club*** means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the Registered Clubs Act, 1976.

***commercial premises*** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.

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

***community facility*** means a building owned by a public authority or a body of persons which may be used for the physical, social, cultural, or intellectual development or welfare of the local community, and includes an art or craft gallery, a health centre, an information centre, a kiosk, a museum, a library, a youth centre, restroom, a neighbourhood centre, a welfare centre and a senior citizens centre or the like, but does not include a building or place elsewhere defined in this plan.

***complying development*** (see clause 9)

***convenience shop*** means a shop selling or hiring out a variety of small consumer goods which may include a place used for the fuelling of motor vehicles and the retail sale of petrol, oil and petroleum products, a cafe, a take-away food service, postal services, and video hire services where the gross floor area does not exceed 100 square metres.

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*council* means the Council of the City of Lismore.

*craft studio* means a building or place used for the purpose of carrying out of any 1 or more of the occupations referred to below by not more than 3 persons, being an occupation the carrying out of which does not involve interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and includes the display and sale only of items made on the premises:

- art
- design
- handicrafts
- photography
- pottery
- sculpture
- weaving
- a like occupation involving craft or art work.

*demolition*, in relation to a heritage item or to a building, work, relic or place within a heritage conservation area, means the damaging defacing, destruction, pulling, down or removal of the heritage item, building, work, relic or place in whole or in part.

*development* means:

- (a) the use of land, and
- (b) the subdivision of land, and
- (c) the erection of a building, and
- (d) the carrying out of a work, and
- (e) the demolition of a building or work, and
- (f) any other act, matter or thing referred to in section 26 of the Act that is controlled by an environmental planning instrument,

but does not include any development of a class or description prescribed by the Environmental Planning and Assessment Regulations for the purposes of this definition.

*dual occupancy building* means a building containing two dwellings only.

*dwelling* means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

*dwelling-house* means a building containing one but not more than one dwelling.

*educational establishment* means a building used as a school, college technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.

*environmental facilities* means:

- (a) a structure or work which provides for nature or scientific study or display facilities, such as walking tracks, board walks, observation decks, bird hides or the like, or

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(b) environmental management or restoration facilities, such as those for bush regeneration, swamp restoration, erosion and runoff prevention works or the like.

*exempt development* (see clause 9)

*exhibition dwelling* means a new dwelling-house not used as a dwelling, that is used for a pre-determined period for the exhibition of the dwelling-house or interior household appliances or products, whether or not the dwelling-house includes a sales office.

*extractive industry* means:

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

*extractive material* means sand, gravel, clay, turf, soil, rock, stone or similar substances.

*floodway* means the area marked “FW” on the sheet of the map marked “Map No 7, Development Control Plan No 7-Flood Prone Lands”.

*flood affected land* means the land that would be inundated by the 1% AEP (Annual Exceedance Probability) flood, as shown on a map kept at the office of the Council.

*flood standard* means the flood level established by the 1% AEP (Annual Exceedance Probability) flood, as determined by the Council.

*forestry* includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation, other than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

*generating works* means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

*goods transport terminal* means a building or place used for the principal purpose of the bulk handling of goods for transport by road, rail, river or air, including facilities for the loading and unloading of vehicles or craft used to transport those goods and for the parking, servicing and repair of those vehicles or craft.

*gross floor area* means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1 400 millimetres above each floor level excluding:

- (i) columns, fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall;
- (ii) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air conditioning ducts;

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- (iii) car-parking needed to meet any requirements of the council and any internal access thereto;
- (iv) space for the loading and unloading of goods.

**health care professional** means a person who provides professional health services to members of the public, and includes:

- (a) a podiatrist registered under the Podiatrists Registration Act 1989, and
- (b) a chiropractor or osteopath or chiropractor and osteopath registered under the Chiropractors and Osteopaths Act 1991, and
- (c) a physiotherapist registered under the Physiotherapists Registration Act 1945, and
- (d) an optometrist registered under the Optometrists Act 1930.

**helipad** means an area or place not open to public use which is authorised by the Department of Transport and which is set apart for the taking off and landing of helicopters.

**heliport** means an area or place open to public use which is licensed by the Department of Transport for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

**heritage conservation area** means an area described in Schedule 2.

**heritage item** means a building, work, relic, tree or place described in Schedule 1.

**home industry** means an industry carried on in a building (other than a dwelling-house or a dwelling in a residential building) under the following circumstances:

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not -
  - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise;
  - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter; or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a residential building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the Factories, Shops and Industries Act 1962, or
- (b) the employment of more than one person other than those residents, or
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise, or
- (d) the display of goods, whether in a window or otherwise, or

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- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (f) the sales of items (whether goods or materials), or the exposure or offer for sale of items, by retail from the premises.

**home office** means a building or place:

- (a) which is attached to, forms part of, or is in the vicinity of, a dwelling, and
- (b) which is used for the purpose of carrying on a business by the permanent residents of the dwelling, and
- (c) at which not more than one person other than those residents is employed, and
- (d) which is not used for the display of goods, whether in a window or otherwise, and
- (e) the use of which does not involve the exhibition of any notice, advertisement or sign, and
- (f) which is not used for the sale of any goods.

**hospital** means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes:

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or refreshment rooms and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.

**industry** means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or any articles for a commercial purpose, but (in a table providing general zoning controls) does not include development elsewhere defined for the purposes of this plan.

**institution** means a penal or reformatory establishment.

**landscape** means character or visual quality of the environment of a particular location or area and may include both natural and man-made elements.

**licensed premises** means a building or place which is licensed under the Liquor Act 1982 to permit the sale of liquor for consumption both on and away from the building or place, and includes a hotel, tavern or registered club, but does not otherwise include a liquor outlet; (LEP 2000)

**light industry** means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

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**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

**liquor outlet** means a building or place which is licensed under the Liquor Act 1982 to permit the sale of liquor for consumption away from the licensed premises.

**main road** means a road that is declared to be a main road by an order in force under the Roads Act, 1993.

**marina** means a pontoon, jetty, piers or the like used, or intended to be used, to provide moorings for boats used for pleasure or recreation, whether or not operated for the purpose of gain, which may be used for the provision of :

- (a) slipways, and
  - (b) facilities for the repair, maintenance and fuelling of boats, or the supply of accessories and parts for boats or boating enthusiasts, and
  - (c) foodstuffs,
- but does not include a shop.

**materials recycling yard** means a building or place used for collecting dismantling, storing, abandoning, recycling or sale of secondhand or scrap materials, but does not include recycling drop-off centres operated by, or on behalf of, the Council.

**medical centre** means a building or place used for the purpose of providing professional health services (such as preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon, wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**motel** means a building or buildings (other than a hotel, boarding-house or residential flat building) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed therein or thereon.

**offensive or hazardous industry** means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

**passenger transport terminal** means any building or place used for the assembly, dispersal and convenience of passengers travelling by any form of passenger transport, and includes

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associated facilities for parking, manoeuvring, storing or routinely servicing any vehicle forming part of that undertaking.

**place of assembly** means a public hall, theatre, cinema, conference/reception centre, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

**place of public worship** means a church, chapel or other place of public worship or religious instruction or place used for the purpose of religious training.

**public building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

**public utility undertaking** means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking.

**recreation area** means an area used for outdoor sporting, leisure or recreation activities and may include clubhouse facilities, spectator facilities or shelters, but (in a table providing general zoning controls) does not include a building or place elsewhere specifically defined for the purposes of this plan.

**recreation establishment** means health farms, religious retreat houses, rest homes, youth camps and the like but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause.

**recreation facility** means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

**recreation vehicle area** means an area designated as a recreation vehicle area by the Environment Protection Authority under the *Recreation Vehicles Act 1983*.

**refreshment room** means a restaurant, café, tea room, eating house or the like.

**relic** means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the City of Lismore which is 50 or more years old.

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**residential building** means a building or group of buildings erected on one lot of land and containing three or more dwellings.

**restricted premises** means a building or place used or intended for use as a shop in which:

- (a) any classified publications (other than unrestricted publications) within the meaning of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* are available for sale or rental to the public, or
- (b) a business is conducted involving selling or disposing of products to which section 578E of the *Crimes Act 1900* applies, or
- (c) a business is conducted, an object of which is the display or exhibition of any article that is primarily concerned with sexual behaviour, but which is not printed matter.

**retail plant nursery** means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are sold therein.

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**rural industry** means the handling, treating, processing or packing of primary products unless such activity is part of the agricultural activity of the property concerned and also includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**rural tourist facility** means a small scale establishment providing basic holiday accommodation or basic recreational or educational facilities and includes a camping ground, bed and breakfast establishment, holiday camp and guest house, hostel, educational facility or the like; the facilities provided at which are integrated with or designed to complement the rural activities or attractions on the site or the surrounding locality.

**rural worker's dwelling** means a dwelling which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in rural occupation on that land.

**sawmill** means a mill handling, cutting and processing timber from logs or baulks.

**service station** means a building or place used for the fuelling of motor vehicles and the sale by retail of petrol, oil or other petroleum products, whether or not the building or place is also used for one or more of the following purposes:

- (a) the hiring of trailers, or
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles, or
- (c) the washing and greasing of motor vehicles, or
- (d) the repairing and servicing of motor vehicles (but not the body building, panel beating, or spray painting of motor vehicles), or
- (e) the retail selling or hiring out of small convenience consumer goods, but only if the gross floor area used for such selling or hiring is not greater than 100 square metres.

**shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere

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specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause.

***stock and sale yard*** means a building or place used for the purpose of offering animals for sale and includes a public cattle market.

***the Act*** means the Environmental Planning and Assessment Act, 1979.

***the map*** means the map marked “Lismore Local Environmental Plan 2000” as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of maps).

***tourist facilities*** means an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities.

***transport depot*** means a building or place used for the parking or storage of motor powered or motor drawn vehicles used in connection with a passenger or goods transport undertaking.

***utility installation*** means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

***veterinary hospital*** means a building or place used for diagnosing or for surgically or medically treating animals, whether or not the animals are kept on the premises for the purposes of treatment.

***warehouse*** means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

***wholesale plant nursery*** means a building or place used for either the growing or storage of plants, pending their sale in large quantities for the purposes of resale or agriculture.

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

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**Subject/File No:** OLD LISMORE HIGH SCHOOL SITE:  
AL:LC:P25791,P26243,P26242

**Prepared By:** Manager Client Services – Andrew Lovett

**Reason:** To update Council on the recent State Government response to Council's Proposal for the Old Lismore High School Site

**Objective:** To inform Council, and to gain Councils endorsement for the proposed response to the Department of Education and Training. (DET).

**Management Plan Activity:** Art Gallery, Library,& Property

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**Preface:**

This report contains preliminary information for Councillors to consider the current situation on the Old Lismore High School Site at this the last meeting for the year 2000. There is further critical information which will be forwarded to the Councillors prior to the meeting.

**Background:**

Council has considered the matter of the Old Lismore High School site on three occasions: Special Meeting January 25, 1999; Meeting held December 14, 1999 and Meeting held August 8, 2000.

Council, prior to 30 June 2000, acquired the Harold Fredericks Car Park as operational land for a price of \$425,000.

At the meeting held 8 August, 2000, Council resolved:

- 196/00 *That the report be received and –*
- 1 *Council make formal approach by writing to the Minister for Education and Training, requesting that Lot 14 of DP867281 be transferred to Council at nominal value as operational land whilst Lot 15 of DP 867281 remains in the Minister's ownership.*
  - 2 *Council request a copy of the fire safety report for the site from the Minister for Education and Training.*
  - 3 *Council contribute \$10,000 towards the cost of developing a Business Plan on the condition that funding is forthcoming from Commonwealth and State Government sources for this purpose.*
- 197/00 *That Council invite a representative of the Ministry of Arts to address Councillors in a workshop to talk about the Old Lismore High School site's potential benefits to Lismore and possible sources of funding.*

As a result of these resolutions, a letter was forwarded to the Minister for Education detailing Councils proposal.

Response from Department of Education & Training (DET)

Council has received a letter in response on behalf of the Minister under the signature of the Parliamentary Secretary, Tony Stewart, MP. The essence of the DET's response is contained in the paragraphs below:

"The approval to transfer Lots 14 and 15 to Council for a nominal consideration took into account the benefits to the Department Education and Training (DET) of being relieved of the future maintenance of Block "A" which is situated on Lot 15.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Old Lismore High School Site

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If Council wishes to proceed with the acquisition of Lot 14 only, these benefits would be considerably reduced. The DET is, therefore, prepared to approve the sale of Lot 14 to Council provided that it is at market value as determined by the State Valuation Office."

Clearly, an important piece of information that Councillors need before determining further action, is the market valuation as determined by the State Valuation Office. This valuation has been commissioned, and has been promised for Wednesday 6 December, 2000. When the valuation has been received it will be forwarded to Councillors with the necessary analysis. It was considered very important for this matter to be included in this business paper so that Councillors can make a determination at the December meeting.

### Fire Safety Report

We have received the Fire Safety Assessment Report, as commission by the DET and compiled by Mark Norris and Associates, local building consultants. The report outlines three main areas of non compliance within the Building Code of Australia:

1. *"The means of egress from Blocks A & B exceed the required travel distances and therefore warrant the construction of fire-isolated stairwells, together with the installation of an automatic smoke detection and alarm systems throughout.*
2. *The provision of fire fighting facilities is equipped for all Blocks and requires installation of hydrants, hose reels and portable fire extinguishes. The installation to Blocks A & B only of an automatic smoke detection and alarm system.*
3. *The provision of access for disable persons together with disable facilities to all Blocks on all levels."*

The actions required to make good Blocks B & C were those identified in the previous Council inspection. They have already been costed into the capital calculations for the upgrading of the site.

Rectification works include the enclosure of the stairwells in B Block. Installation of fire hydrants for both Blocks. Installation of lifts for disabled access and improvement to the external stairs on C Block.

### Workshop with the Ministry of Arts

The Ministry of Arts have been contacted with the intent of setting up the proposed Workshop for early in the new year.

### Manager - Finance & Administration Comments

To be advised prior to the meeting.

### Public Consultations

Not Applicable.

### Other Group Comments

#### **Community Services Manager**

As per clause 3 of Council's recommendation of August 8, 2000, applications for funding of the Business Plan have been forwarded to the Northern Rivers Area Consultative Committee and the Department of State and Regional Development. I am advised that a decision on both is imminent.

# **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

## **Old Lismore High School Site**

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### **Conclusion**

This is a preliminary report which will be supplemented with further material when the valuation for Lot 14 of DP867281 is received from the State Valuation Office.

### **Recommendation GM38**

To be advised prior to the meeting.

**Subject/File No:** AMENDMENT 4 TO DCP NO. 14 - ENERGY EFFICIENCY  
(PCR:MG:S405)

**Prepared By:** Manager – Building And Regulation - Peter Craig

**Reason:** To formulate a policy on energy efficient homes and to alter DCP 14 by amendment NO 4 to include the policy.

**Objective:** For Council to review submissions made during the public exhibition period and to adopt Amendment No 4 to DCP 14 – Residential Development

**Management Plan Activity:** Building and Regulation

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**Background:**

Council at its Ordinary Meeting held on October 10, 2000 resolved to endorse Amendment No. 4 (Attachment No. 1) to DCP 14 – Residential Development for public exhibition.

Amendment 4 introduces an Energy Smart Homes Policy, in keeping with the Sustainable Energy Development Authority's objectives by incorporating the requirements into our existing Residential DCP (DCP 14). It requires that all new residential development must achieve a minimum energy rating of 3.5 stars, using an accepted energy rating technique for both the building envelope and the hot water system.

The proposal was publicly exhibited for a period of 28 days with submissions being received until November 24, 2000. It was also industry workshopped on Wednesday, November 8, 2000. Although over 200 workshop invitations were posted to builders, building designers, architects etc. less than 20 attended.

**Public Consultation**

Industry Workshop

Some attendees at the workshop expressed concern over the following:-

1. The perception that there would be an increase in building costs in relation to the construction of the building and the hot water system.

*Comment:*

Building Costs – It was acknowledged that a poorly designed dwelling may not achieve its 3.5 star energy rating and an owner may have to provide some additional element to the building.

Any additional expense to upgrade their building would have to be cost recoverable over a ten-year period or an applicant could seek an exemption from the requirements. However the consensus in the Industry Workshop was that a properly designed building would easily achieve the 3.5 star rating.

Hot Water System – An additional expense in purchasing a 3.5 star rated hot water system would have to be cost recoverable over a seven (7) year period or an exemption could once again be applied for by an applicant.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Amendment No. 4 to DCP 14 – Energy Efficiency

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The Group was also advised (as reported in my report to Council of October 10, 2000) that once our Policy was implemented, SEDA would provide an incentive of a \$500 rebate, for people purchasing a solar hot water system or a heat pump system. This incentive is currently available to June 30, 2001 but SEDA are confident of extending this incentive period.

2. The sudden impact of implementation of Amendment 4 eg buildings that had already been designed but had not yet made it to Council for approval may not comply.

### *Comment:*

The Forum was advised that it was Council's intention to provide an in-house lenient operational approach for a three (3) month period from January 1, 2001 wherein an applicant submitting an application would have to address one of the three rating techniques. If however the proposal did not achieve a 3.5 star rating the building would not have to be upgraded to comply.

### **Submissions**

As stated previously there was an exhaustive mail-out advising industry of this initiative, as well as an industry workshop. However, Council has only received the following two (2) submissions:

1. Pat Twohill – President of Northern Rivers Branch of the Building Designers' Association of NSW supports the general principles of the Energy Smart Housing Policy as well as the method of assessment proposed by Lismore City Council.
2. John Bath – John Bath and Associates was strongly in favour of the proposal and detailed his experiences wherein energy efficient homes have *“proved to be much more desirable in which to live”*. John went on to say *“I wish Council well in the implementation of the Policy and look forward to seeing positive changes reflected in smarter designed residential buildings, ones that contribute to more pleasant living conditions while conserving energy”*.

Copies of both correspondence are attached.

### **Manager – Finance & Administration Comments**

N/A

### **Other Group Comments**

Not applicable.

### **Conclusion**

The adoption of Amendment 4 to DCP 14 will support a global approach to the reduction of greenhouse gases by requiring new residential development to be more energy efficient, whilst providing more comfortable buildings to live in.

### **Recommendation (Pla 48)**

It is recommended that Council:

1. Pursuant to Clause 20(1) of the Environmental Planning and Assessment Regulation 1994 resolved to adopt Amendment No. 4 (as attached) to Development Control Plan No. 14 to commence on January 1, 2001.
2. Agree that pursuant to Clause 20(2) of the Environmental Planning and Assessment Regulation 1994 public notice be given of Council's decision within twenty-eight (28) days of that decision.

**ATTACHMENT 1**

**LISMORE DEVELOPMENT CONTROL PLAN NO. 14**

**AMENDMENT NO. 4**

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**Citation**

1 This plan may be cited as Lismore Development Control Plan No. 14, Amendment No. 4.

**Land to which this plan applies**

2 This plan applies to Class 1 and 2 buildings in residential development in the City of Lismore.

**Objectives**

3. This plan aims to amend Development Control Plan No. 14 to provide more energy efficient buildings.

**Amendment of Lismore Development Control Plan No. 14**

4 Lismore Development Control Plan No. 14 is amended by:

(1) **Contents Page**

(a) Insert: "APPENDIX 3 – Attachment for Energy Efficiency Compliance and Exemptions".

(2) **In Clause 1.5 – How to Use this Plan.**

(a) Insert: after "but not mandatory": "*Council's Energy Efficiency Principles are mandatory and require that all residential development must achieve a **minimum energy rating of 3.5 stars** using an accepted energy rating technique for both the proposed developments' building envelope and hot water system OR seek an Exemption from this provision. Section 2.3 of this document details the requirements and the process necessary for providing this rating*".

(3) **In Clause 1.6 - Definitions**

Insert: "*north*" refers to true solar north. This direction is taken to be 11<sup>0</sup> west of magnetic north in the Lismore City area".

(4) **In Clause 2.3**

(a) Delete the heading: "*Orientation and Resource Efficiency*"

Insert the heading: "*Energy Efficiency*".

(b) Insert after objectives, a new heading "*Requirements*"

(c) Delete the two paragraphs: "*Housing should be designed to minimise energy consumption and reduce water usage and wastewater generation. This is best achieved at the design stage, although retro-fitting of existing housing can achieve considerable improvements.*"

*The conservation of water and energy can result in significant cost savings to individual households as well as providing wider benefits for the community and the environment. All residential buildings are required to attain a minimum of a 3.5 star NatHERS ratings, or comply with Council's Energy Efficiency Policy*".

Insert: *All residential development must achieve a **minimum energy rating of 3.5 stars** using an accepted energy rating technique for both the proposed developments' building envelope and hot water system OR seek an Exemption from this provision. NOTE: Minor alterations and additions to residential buildings do not need to meet this Requirement unless the additions are greater than 50% of the existing internal floor space (garage floor area is not to be included).*

*Further all new residential developments must install a hot water system with a minimum standard energy rating of 3.5 stars. In the case of additions and alterations there is no Requirement to meet the Policy requirements for Hot Water systems, unless the existing system is being changed.*

*Exemptions may be granted for these Energy Efficiency Requirements and full details for these are contained in APPENDIX 3 – document entitled "ATTACHMENT FOR ENERGY EFFICIENCY COMPLIANCE AND EXEMPTIONS."*

#### **APPROVED ENERGY RATING TECHNIQUES**

##### **FOR THE BUILDING ENVELOPE –**

*Table 2.3.1 describes the accepted techniques which apply to the various forms of Application. In this Table, three (3) different forms of Energy rating technique exist.*

1. *Deemed to Comply Certificate – This Certificate has been developed to form the easiest form of application and embraces the basic principles of the Energy Smart Home. By complying with ALL sections of the Certificate, Lismore City Council deems that the intent of DCP No. 14 relating to Energy Efficiency matters has been complied with.*

*NOTE: All section of the Certificate MUST BE complied with.*

2. *Lismore City Council Energy Rating Scorecard. This Scorecard itemizes each component of the building and provides a pointscore. The points are allocated for both the summer and winter seasons and once added up result in an Energy rating for that structure.*

*The Scorecard is not an exact Energy Rating technique however, provides confidence to Council that the home will satisfy its Energy Efficiency Principles.*

3. *NatHERS Certificate or Certificate from Approved Software. Such Certificates provide the most accurate form of Energy rating and are issued by Accredited Users. A list of NatHERS Assessors can be obtained from Council.*

*Some Development types require specified types of rating technique, Table 2.3.1 below shows these.*

**LISMORE CITY COUNCIL - Meeting held December 12, 2000**

**Amendment No. 4 to DCP 14 – Energy Efficiency**

Development Type	Deemed To Comply Certificate	Scorecard	NatHERS or Approved Software
<u>Single and Two Storey</u> - Single Dwelling - Dual Occupancy	✓	✓	✓
Multiple Occupancy (Villa Units, etc)			✓

**TABLE 2.3.1**

- (d) Include the heading and paragraph for Hot Water Systems.

**HOT WATER SYSTEMS**

*If the Application is for a new dwelling and proposes any of the following types of environmentally inefficient systems, then an Exemption Certificate must be lodged with the Application and approved by Council.*

- Electric*
  - Instantaneous
  - Continuous
  - Storage

*The Exemption Certificate uses a financial costing, over a seven (7) year period, to compare the cost effectiveness of one of the above forms of inefficient hot water systems to a solar hot water system. If it can be shown that the electric system is more cost effective than the solar equivalent then an Exemption will be granted.*

- (e) Insert: Hot water systems

**Hot Water Systems**

*Conventional hot water systems account for around 27% of the average domestic energy bill. Solar systems can result in savings of between 60% and 75% of the total cost of hot water heating and can also improve the resale value of the house. A solar hot water system is more expensive to purchase and install than a conventional system, but will save money over time through reduced running costs. Council encourages the use of solar hot water systems.*

*In many instances water heating is the biggest greenhouse gas generator in the home. Table 2.3.2 rates Hot Water Systems in terms of energy efficiency and greenhouse gas emissions. A 5 star rating is the most desirable.*

TYPE	STAR RATING
Solar Gas Boost	5
Solar Electric Boost	4
Gas - Instantaneous	4
Gas - Storage	4
Heat Pump – Elect. Storage	4
Electric - Instantaneous	2
Electric - Continuous	1
Electric - Storage	1

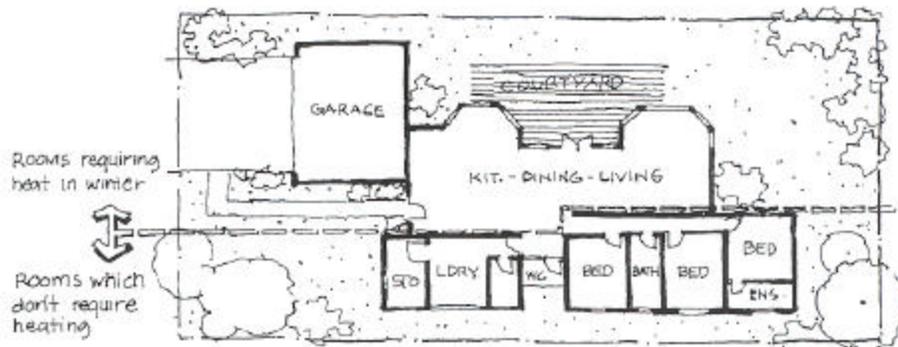
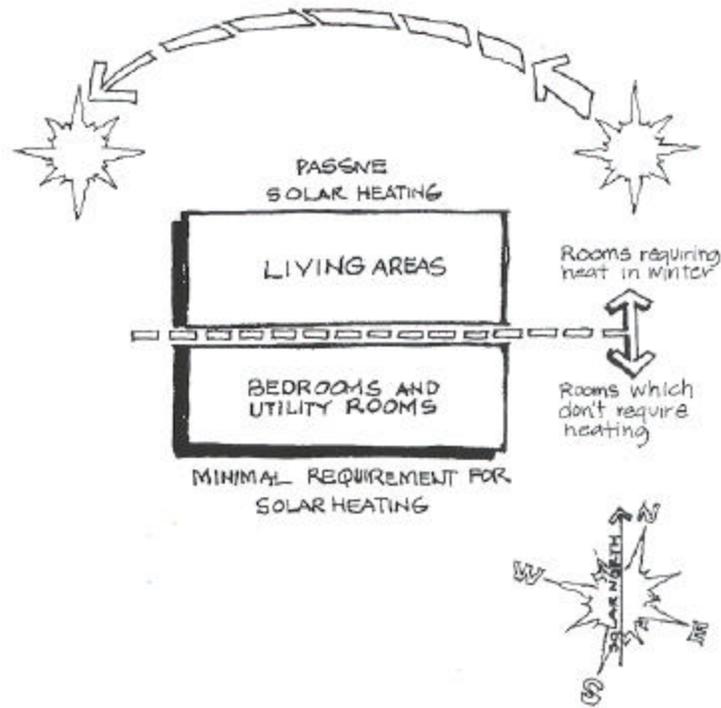
**TABLE 2.3.2**

Amendment No. 4 to DCP 14 – Energy Efficiency

(f) Insert: Above the heading Orientation: ***“Energy Efficiency Design Principles”***

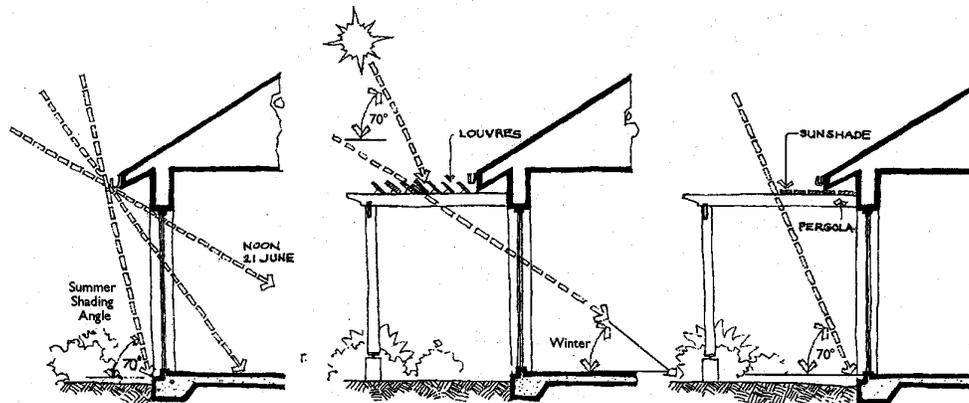
(g) Delete: The orientation diagrams

Insert: Two new orientation diagrams.



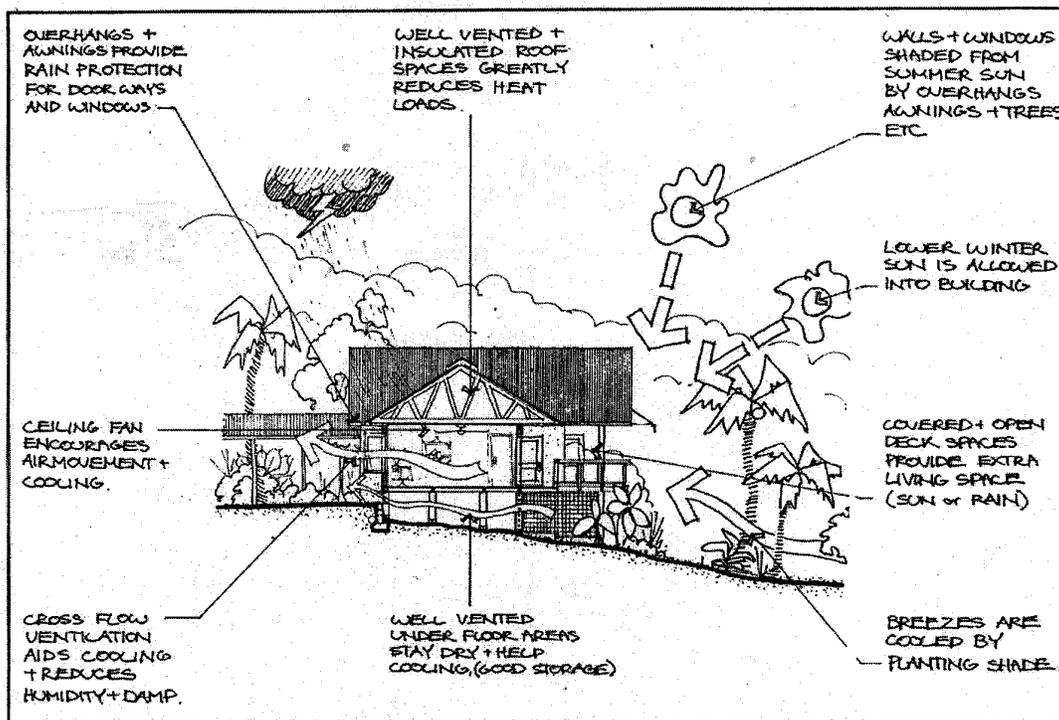
(h) Delete: The Glazing and Shade Control Diagram.

Insert: A new Glazing and Shade Control Diagram.



(i) Delete: The Ventilation Diagram.

Insert: A new Ventilation Diagram.



(j) Under the heading "Insulation" delete:  
*The use of insulation in walls and roofs can significantly alter the rate at which a dwelling can gain or lose heat".*

Insert: *"The use of insulation in walls, roofs and ceiling can significantly alter the rate at which a dwelling can gain or lose heat".*

- (k) Delete: *“The effectiveness of insulation is measured by its resistance to heat flow. This is known as the materials “R” Value. The greater the R Value, the higher its insulating quality. Housing construction should achieve an added R Value for insulation equivalent to the following:  
R1.5 - for roofs and ceilings.  
R1.0 – for walls (except where construction materials to be used have a total R Value equivalent to the Australian Standards)”.*

Insert: *The effectiveness of insulation is measured by its resistance to heat flow. This is known as the materials “R” Value. The greater the R Value, the higher its insulating quality. It is suggested by the use of the following options the energy performance of a building will be greatly improved.*

*Walls - Weatherboard, metal or F.C. (fibrous cement) should use reflective foil insulation.*

*Roofs - Tiled roofs – should use reflective foil insulation.  
- Metal roofs – should use R1.0 insulating blanket backed with reflective foil.*

*Ceilings – use a minimum of R1.5 bulk insulation.*

*In addition, lighter coloured roofs will provide significant energy efficiency improvements on the North Coast of NSW. However, there is a potential for glare to adjoining property owners, and it is thus recommended that the proposed use of light coloured roofs should be discussed with Council.*

- (5) In Clause 2.5 Landscaping and Privacy

- (a) Insert in Objectives:  
*“To provide assistance with housing energy efficiency and to minimise the impact of shadowing on adjoining properties.*
- (b) Insert at end of 4<sup>th</sup> paragraph;  
*“Additionally, landscaping design should minimize the impact of solar access on adjoining properties ie plants should not reduce the winter sun on adjoining properties”.*

- (6) Clause 3.0 – Guidelines for Submitting a Development Application.

- (a) Insert: *“One of the three (3) accepted forms of Energy rating for the building envelope AND/OR Exemption Certificates for either the building envelope or hot water system”.*
- (b) Insert:  
*The Construction Plans for the Development must clearly show the following information:*
- *North Point (this must be identified as either Magnetic North or True North). True North is approximately 1° west of magnetic north in the Lismore City Council.*
  - *Information presently supplied on the construction materials to be used.*
  - *Colour of roof and walls (described as light, medium or dark).*
-

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

### Amendment No. 4 to DCP 14 – Energy Efficiency

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- *The type and location (walls, under roof, ceiling, underfloor) of insulation to be used. (including sisalation).*
- *Any variations to glazing such as the use of tinted or reflective glass.*
- *Floor covering types, if known, and where in the house they will be located (eg tiles, carpet, bare timber etc).*
- *Hot Water System type and size to be installed (required only for new developments). Installation location also be shown on the floor plans.*  
*(NOTE: If Scorecard technique to be used, also add the following information: - Total internal floor area (m<sup>2</sup>) excluding garage, total area of glass (m<sup>2</sup>) for the total house, the north facing wall and the west facing wall).*

(7) Insert: Appendix 3 (As attached)

## LISMORE CITY COUNCIL – Meeting held December 12, 2000

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**Subject/File No:** TENDERS FOR THE REPAINTING OF THE HOLLAND STREET WATER RESERVOIR – T20026

**Prepared By:** Contracts Officer - Chris Allison

**Reason:** To inform Council of tenders received for the Repainting of the Internal of the Holland Street Water Reservoir

**Objective:** To obtain Council approval to award the Tender

**Management Plan Activity:** Client Services / Business & Enterprise (Water & Wastewater)

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### **Background:**

As part of routine maintenance, divers from Aqualift were called to inspect the internal and external coatings of the Holland Street Reservoir. This inspection was undertaken in April 1999 and the report identified that the floor was heavily corroded with deep pitting and the internal columns had the coating missing and down to the undercoat. Aqualift recommended that works on the internal surface be undertaken within twenty-four months to ensure that the reservoir structure was not compromised.

Tenders were recently invited for the repainting of the both the internal and external surfaces of the Holland Street Water Reservoir. Two tenders were received, both in excess of the budget estimate prepared by the Department of Works and Services. As a result the scope of works was altered to internal repainting only and the tender re-advertised.

The tender documents were prepared by the Client Services Unit on behalf of the Water and Wastewater Business Unit.

Tenders were advertised in the Northern Star and The Courier Mail. Tender documents were issued to six (6) companies, with six (6) tenders were received by the close of tender on 2.00pm, Tuesday, September 12, 2000.

### **Tender Examination:**

The tenders received are summarised below:

<b>TENDERER</b>	<b>TENDERED PRICE</b>
Donnelly Asset Management Pty Ltd	\$ 96,813.00
Ray's Machinery Painting Pty Ltd	\$ 136,510.00
Aust-Cote Pty Ltd	\$ 140,800.00
North Coast Abrasive Blasting	\$ 153,120.00
Programmed Maintenance Services	\$ 197,175.00
Aust-Cote Pty Ltd/Skyspan Pty Ltd (Non-conforming)	\$ 99,436.60

The tender price includes the cost of sandblasting the interior surface, disposal of waste materials and coating with an approved paint.

The estimated cost of undertaking these works is \$145,000. An evaluation panel consisting of Chris Allison (Contracts Officer) and Janaka Weeraratne (Asset Manager, Water and Wastewater Services) and undertook the assessment of the tenders. The tender documentation (Clause B7) defined four areas by which each tender would be assessed, Total Price, Capability & Relevant Experience, Quality & Safety and Management Plan. The tenderers were required to address each of these criteria in their tender. Attachment A shows the weighted result for each criteria.

## **LISMORE CITY COUNCIL – Meeting held December 12,2000**

### **Tenders for the Repainting of the Holland Street Water Reservoir – T22026**

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Although Donnelly Asset Management Pty Ltd provided the lowest priced tender, the tender was rejected as a non-conforming tender due to lack of detail submitted with the tender. Part of the requirement to be considered a conforming tender was the completion of all schedules attached to the tender document. Donnelly Asset Management Pty Ltd failed to submit all the required schedules and although contacted three times, still failed to provide the additional information.

The tender submitted by Aust-Cote Pty Ltd/Skyspan Pty Ltd was non-conforming in that instead of repainting the surface, it was proposed to line the internal surface with a flexible geotextile membrane. The tenderer was requested to provide additional information, in particular details relating to approval for potable water systems and references of similar installations. Although a level of detail has been provided, the company was unable to supply references of where the company had installed liners into similar tanks to the Holland Street Reservoir. Given the potential for cost savings, Council staff undertook extensive investigation of this proposal, however due to the critical nature of this reservoir and lack of evidence of similar installations, staff rejected this tender as non-conforming.

The three lowest conforming tenders were then assessed in accordance with the stated assessment criteria.

The weighted assessment shows Ray's Machinery Painting Pty Ltd offers the best value tender for this project.

#### Referee Check:

Referees given by Ray's Machinery Painting Pty Ltd were contacted and they indicated that this company had the necessary technical and managerial abilities to be capable of completing this work satisfactorily. One referee indicated a very high degree of satisfaction for the works carried by Ray's Machinery Painting Pty Ltd over the past four years.

#### **Asset Manager – Lismore Water**

The Holland Street Reservoir supplies water to Goonellabah that covers an area east of Council Chambers and Lombardo's Fruit Market and is a critical element in Council's water distribution network.

Aust-Cote Pty. Ltd/Skyspan Pty. Ltd have offered an alternative but discussions held with Sydney Water and an independent reservoir painting inspector have both indicated that this system has not been used anywhere in New South Wales.

There is also concern with the fastening of the liner around columns and openings. Holland Street Reservoir is a 10 ML reservoir (31.3 meter diameter by 14.3 meter height) and has been constructed with nine columns and four openings plus an internal ladder. The proposed lining system will have to be cut around all these openings, columns and the ladder. These may provide weak points and unlikely to be detected until a water leak occurs. Since there is no method of detection of an impending failure, the risk of failure is higher. In addition, all the columns and ladders will be painted which means that the life of the system is only the life of the paint system.

Taking these concerns into consideration, it is considered that the best value tender is provided by Ray's Machinery Painting Pty. Ltd and the recommendation is concurred to.

#### **Principal Accountant's Comments**

There is an amount of \$180,000 allocated to this project in this years budget. This appears to be an adequate amount to complete this task.

# **LISMORE CITY COUNCIL – Meeting held December 12,2000**

## **Tenders for the Repainting of the Holland Street Water Reservoir – T22026**

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### **Public Consultations**

Not required.

### **Other Group Comments**

Not required.

### **Conclusion**

The best value tenderer for the repainting of the Holland Street Water Reservoir is Ray's Machinery Painting Pty Ltd. The tenderer has performed similar work for a number of organisations and are prequalified on the Sydney Water Corporations - Prequalified Tender Panel for Industrial & Heavy Industrial Painting Contracts. In addition the tenderer's OH&S Management System is accredited by Sydney Water Corporation. The tenderer is considered to have technical and managerial abilities to be capable of completing the work satisfactorily.

### **Recommendation GM36**

1. The contract for the repainting of the internal of the Holland Street water reservoir (20026) be awarded to Ray's Machinery Painting Pty Ltd (trading as R.M.P. Abrasive Blasting) for the amount of \$136,510.00.
2. Should Ray's Machinery Painting Pty Ltd withdraw their tender, then the tender be awarded to Aust-Cote Pty Ltd provided their referee check is satisfactory.
3. The Mayor and General Manager are authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.

## LISMORE CITY COUNCIL – Meeting held December 12, 2000

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**Subject/File No:** TENDERS FOR THE PROVISION OF WATER MAIN CONSTRUCTION/REPLACEMENT – T21006

**Prepared By:** Contracts Officer - Chris Allison (T21006)

**Reason:** To inform Council of tenders received for the replacement of various water mains

**Objective:** To obtain Council approval to award the Tender

**Management Plan Activity:** Client Services / Business & Enterprise (Water & Wastewater)

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### **Background:**

Tenders have been called for the water main construction in Lake Street, Garrard Street, Ross Street and Krauss Avenue as part of the 1999/2000 water main replacement program.

These water mains were identified as needing replacement because they were in poor service condition.

Tender documents were prepared by the Client Services Unit on behalf of the Water and Wastewater Business Unit.

Tenders were advertised in the Northern Star and The Courier Mail. Tender documents were issued to thirteen (13) companies, with six tenders being received by the close of tender on 2.00pm, Tuesday, November 28, 2000.

### **Tender Examination:**

The tenders received are summarised below:

<b>TENDERER</b>	<b>TENDERED PRICE</b>	<b>ADJUSTED TENDER PRICE</b>
Accurate Earthworks	\$ 149,692.68	\$ 158,302.68
Camglade Pty Ltd	\$ 177,404.00	\$ 183,144.00
McDonald Keen Group	\$ 187,405.00	\$ 200,730.00
Diversified Construction Corp	\$ 189,695.00	\$ 214,295.00
Pipe Replacement Solutions	\$ 221,125.00	\$ 235,270.00
Traynor Constructions	\$ 256,947.00	\$ 289,747.00

The prices shown above are exclusive of GST. The tender price includes only the supply and laying cost of the pipeline. The adjusted tender price includes the supply and laying costs plus restoration costs and connection of water meters.

The estimated cost of undertaking these works is \$300,000.00 which includes survey, investigation, design and construction supervision. An evaluation panel consisting of Chris Allison (Contracts Officer) and Janaka Weeraratne (Asset Manager, Water and Wastewater Services) and undertook the assessment of the tenders. The tender documentation (Clause B7) defined four areas by which each tender would be assessed, Total Price, Knowledge of Local Conditions, Capability & Quality & Safety and Management. The tenderers were required to address each of these criteria in their tender. Attachment A shows the weighted result for each criteria.

The three (3) lowest conforming tenders were then assessed in accordance with the stated assessment criteria.

# **LISMORE CITY COUNCIL –Meeting held December 12, 2000**

## **Tenders for the Provision of Water Main Construction/Replacement**

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The weighted assessment shows that although Camglade Pty Ltd did not submit the lowest priced tender the tender has provided the best value tender for this project.

### Referee Check:

Camglade Pty Ltd have been contracted by Council for several previous contracts of a similar nature. The works under each contract have been performed to a high standard and as a local contractor have a good knowledge of the local conditions which may be encountered.

### **Asset Manager – Lismore Water**

Accurate Earthworks is the lowest cost tender for these works based on price only. This is confirmed by the fact that the prices quoted for various tasks including supply and laying of pipes is extremely low and appears to have underestimated the cost of the works. This may also be due to the fact that the tenderer has not worked in similar situations and weather conditions and our past experience with similar tenderers is that this leads to a greater level of disputes.

On the other hand, Camglade Pty Ltd has undertaken similar works for Council before and is well aware of Council's requirements and the local ground and weather conditions and has provided a competitive price. Taking all these factors into consideration (attachment A), Camglade Pty Ltd is the best suited tender to undertake the works and the recommendation to award the tender to Camglade Pty Ltd is concurred to.

### **Principal Accountant's Comments**

For the works detailed in this report there is an adequate budget allocation to cover all costs. I agree with the recommendations in the report to accept the tender of a known contractor with a proven track record.

### **Public Consultations**

Not required.

### **Other Group Comments**

Not required.

### **Conclusion**

The best value tenderer for the water main replacement is Camglade Pty Ltd. The tenderer has performed similar work satisfactorily for private developers and Lismore City Council in the past. The tenderer is considered to have technical and managerial abilities to be capable of completing the work satisfactorily. It is recommended that the Water Main Constriction for Lake Street, Garrard Street, Ross Street and Krauss Avenue be awarded to Camglade Pty Ltd for the amount of \$177,404.00 plus rate only item costs.

### **Recommendation GM37**

1. The contract for the water main replacement for Lake Street, Garrard Street, Ross Street and Krauss Avenue be awarded to Camglade Pty Ltd for the amount of \$177,404.00 plus rate only item costs.
2. The Mayor and General Manager are authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

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**Subject/File No:** PROPOSED OFFICEWORKS DEVELOPMENT –  
71 CARRINGTON STREET, LISMORE (DA00/679)  
(WR:MG:P17903)

**Prepared By:** Projects Assessment Planner – Warren Rackham

**Reason:** To seek delegation of authority for the General Manager to determine the development application.

**Objective:** To allow the project to meet contract deadlines.

**Management Plan Activity:** Development Assessment

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### **Background:**

1. The site contains the present John Chant vehicle service centre, Lot 1, DP 730530, being 71 Carrington Street, Lismore and having frontage also to Molesworth Street.
2. Since April this year a number of meetings have been held with Council by applicants for a bulky goods showroom, and a Development Application has now been lodged on November 22, 2000.
3. The proposal is for a large "OfficeWorks" Commercial Development of approximately 2,000 square metres gross floor area, elevated over a parking/service ground floor level. Value of the building is stated to be \$3 million, which value includes infrastructure, demolition, services relocation etc.

### **Current Position**

1. The applicant, Mr Rhys Brotherton, LMG Group, Epping, has now lodged a development application, however due to the fact that the first available Council meeting is February 13, 2001, the applicant has advised that their "*options on the site expire at the end of January, 2001*", special consideration has been requested for either:
  - (a) Council to hold a special meeting sometime in January to determine the application; or
  - (b) Delegation of Authority to determine the application be granted to the General manager, which will enable the DA to be assessed through the normal DAP/Delegated Authority process.

### **Conclusion**

Council staff have had some five (5) meetings since April 12, 2000 on this development, (some of these involving "the major projects team") with pre-design plans being developed to a point where the lodged DA is in accord with Council's policies and codes. The development purpose is quite compatible both on this CBD site, and in the zone, and but for the estimated value of the development (\$3 million) would have been determined through the normal DAP/delegated authority path.

There are no outstanding issues or features of this development which could not be competently dealt with by DAP, and, due to the timing of Council meetings and the "urgency" to the applicant, it is considered the development application can very adequately be assessed through the normal DAP process, and be determined by the General Manager.

# **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

**DA00/679 – Proposed Officeworks Development – 71 Carrington Street, Lismore**

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## **Recommendation (Pla 43)**

That the Development Application No. 2000/679 for the proposed OfficeWorks building on Lot 1, DP 730530 at Lismore be assessed through the normal DAP process, and the General Manager be granted Delegated Authority to determine the application.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

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**Subject/File No:** SUPPORT FOR MAJOR SPORTING EVENTS  
(NM:VLC:S375)

**Prepared By:** Manager - Parks & Recreation

**Reason:** To provide Council with an overview of the current situation and its restrictions.

**Objective:** To establish a budget allocation for the support of major sporting events.

**Management Plan Activity:** Parks & Recreation

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## **Introduction:**

This report concerns a subject that was submitted to the LDSA Committee in December 1999. It deals with the issues behind the Parks & Recreation Department providing support to major sporting events that are held in Lismore each year. The LDSA endorsed the concept contained in this report and, subsequently, this report is now submitted to Council seeking approval to proceed further with this concept.

## **The Matter:**

The purpose of reporting on this subject is because I have noted, in my time at Council, that there does not seem to be a dedicated budget for the support provided to major sporting events. By this, I mean the extraordinary preparation of sports fields and support activities undertaken when major events come to Lismore.

In effect, work of this nature is funded out of the general sports field maintenance budget which, in turn, makes it difficult to budget from one year to the next; particularly when you consider that the number of regional/significant sports events that Lismore hosts each year is increasing. It also means that some other fields end up receiving reduced levels of service because of the need to undertake support works for major events and still remain within budget at the end of each year. In reporting on this matter, I feel it appropriate to firstly acknowledge Lismore's sporting heritage and then to reflect on the economic factor.

It is more than obvious that Lismore and the Northern Rivers region has a strong sporting tradition and clearly Lismore, of recent times, has traded on its ability to host regional sporting events. In particular, it has long been considered that the attraction of major sporting events has beneficial economic spin-offs for the City's economy. This has become increasingly important as other major employers and economic stimulators in the City have either been closed down or have left the City.

Most of these major sport events require extraordinary work to be performed by the sportsground staff to enable the events to be staged. In recent times the number of incidents has increased to the point where Lismore can reasonably expect to attract several regional sports events each year. Given this scenario when viewed in the context of a fixed budget from year to year with escalating wages, plant costs and oncosts, not to mention inflation (say 2%), this situation is likely to lead to budget deficits or significant reductions in the level of service and quality of sports fields within the Lismore Local Government area.

Clearly there is a need to manage this situation where all the stakeholders (ie, sporting groups, local businesses, regular ground hirers and Council), all derive some benefit from this arrangement so as not to endanger the ability for Lismore to attract and stage such events. It should be noted that we do have an existing January Events Budget that can be used to attract major events in the month of January each year. However, this is obviously restrictive in its use.

### Support For Major Sporting Events

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As a result of recent over-expenditures in the sports ground budget, there is a definite need to develop some policy/criteria or mechanism at least, that will enable consistent reliable budgeting each year without jeopardising the City's attraction as a major sporting event venue. The costs associated with providing this kind of support is escalating with the increase in events. Given the fact that Council recovers less than 11% of what is spent on sports field maintenance and event support, to transfer the cost to the various organisers/promoters is not an option as this would make most events financially unviable.

It should be remembered that more often than not major events for various sports come along **out of season**. Two (2) good examples of this are the recent Queensland v's NSW Country Rugby Union game in February 1999 and the NSW Softball Championships played last June/July in the Baseball season. These situations often require negotiation with regular local hirers to vacate the venue and involve extraordinary preparation of playing surfaces such as the removal of sandstone pitching mounds, etc – for which this work is not budgeted.

Another example was the Baseball International Challenge at Oakes Oval last year. This again required converting Oakes Oval from a Cricket ground into a Baseball ground and involved installation of sandstone mounds, netting for spectator protection, additional line-marking and modification to the Cricket wicket to suit a Baseball outfield. In addition, Council Staff were required to be on hand well into each evening for preparation of the mounds and playing surface between games.

The cost of providing this service ran into several thousand dollars for just this one tournament and it is easy to see how these costs have the potential to mount throughout the year, restricting adequate expenditure on other sports fields for our "bread and butter" clients. These funds had to be sourced from within the Parks & Recreation Department's maintenance budget. This basically meant that another sportsground did not receive renovation or topdressing that it desperately needed. It is believed that this is not a suitable arrangement and makes it difficult to plan and budget from one year to the next.

The fact of the matter is that the budget structure does not allow for interpretative reporting that enables management to easily identify these extra costs and, therefore, a lot of this work is interpreted as budget over-expenditure at the end of the financial year when in fact it is probably important expenditure for the City.

I believe there is a definite need to re-arrange a sports grounds budget so that it clearly distinguishes between the main activities of the Department, comprising –

- **Maintenance:** Grass cutting, field preparation, asset maintenance (amenity blocks, etc), and litter control.
- **Refurbishment and Upgrade Projects:** Drainage, levelling, topdressing, scarifying, etc.
- **Capital Works:** Construction of new infrastructure such as seating, new synthetic wickets, sightscreens, etc.
- **Support for Major Events.**

Such a budget structure would enable Staff to benchmark their maintenance service delivery and to accurately budget for such from one year to the next. In addition, it would enable the establishment of an annual programme of field renovations that would not be dependent on how much money was left over at the end of each year which is invariably none, and finally it would enable Council to demonstrate and manage its contribution to the economic stimulus caused by major sports events.

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

### Support For Major Sporting Events

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It is also noteworthy that such a budget structure could be used as an advantage in promoting Lismore as an event destination. Such a structure would clearly demonstrate a financial commitment from Council when Staff are seeking to attract a National sporting event.

The other side of the issue is why should the sports ground budget need to shoulder the burden of restricted expenditure on other grounds at times when an event comes to Lismore and the Parks & Recreation Department is used as an economic stimulator. The more frequently these events are attracted, the more extraordinary work we will need to provide and the less service we in turn will be able to deliver to other regular hirers.

Whilst the completion of Crozier Oval will help the situation a little in accommodating out-of-season events, there is still a problem right across nearly all of Council's sports fields with Hepburn Park being preferred for Hockey and Touch Football and Cricket being conflicting users. Riverview Park is the preferred venue for Aussie Rules Carnivals but Oztag and Athletics compete for its use and if an AFL game were to come to Lismore, we would need to use Oakes Oval. Albert Park attracts regional Baseball events and has Softball as its alternate hirer.

As these venues have all become developed they have, in turn, attracted more regional events which, again, has committed Council to additional workloads in preparation. This is not good management as this has led to a deterioration of assets and amenities around the sports fields, as well as there being no funds left each year for improvement works to other grounds. Hence, the standard of sports fields other than Oakes Oval and Albert, Hepburn and Riverview Parks is below average which, in turn, affects thousands of regular users each week, particularly in adverse weather conditions.

I believe there is justification for the establishment of some reserve type funding to enable a response and additional preparation for significant events that is commiserate with the event booked. One such option would be as follows -

#### **Option:**

In keeping with the more strategic focus of the LDSA Committee, perhaps the Urban Sportsground Development Fund could be restructured to allow the establishment of a Major Event Support Fund. This would be possible because improvements in efficiencies within the Parks & Recreation Department have resulted in the establishment of a ground refurbishment programme within the existing maintenance budget.

As this support work has never been costed, it is estimated that the amount required would be in the vicinity of \$30,000 per annum. For example, the Urban Sports Ground Development Fund contains \$80,000 which in the past has funded Council works of up to \$60,000 and the remainder has gone to various sporting groups. If the Parks & Recreation Department were to establish its own self-funded refurbishment programme for sports grounds, it will reduce reliance on the full \$60,000 to a lesser amount. This would then free up a similar amount for the Major Event Support Fund. In addition, we could consider amalgamating the January Events Budget with these funds.

Such an arrangement would be in line with the new strategic role that the LDSA is taking and the existence of such a Fund could be used as a selling feature by Council Staff when trying to attract major events to Lismore. However, it should be noted that the intention of this Fund would be for the **sole** use of extraordinary ground preparation and not for promotional purposes.

## Support For Major Sporting Events

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It could be possible that recommendations for the use of these funds be required from the LDSA and that such recommendations be referred to the General Manager who has delegated authority to act on this advice. This would then prevent the funds from being expended inappropriately on other projects.

The only other point requiring clarification is to determine what criteria would be used to define a major event. The establishment of a Working Party comprising the Recreation Officer, Manager - Economic Development, Director of Tourism and Manager – Parks & Recreation could formulate such criteria. However, once this has been completed there is the distinct possibility that events that may have previously been given support may no longer qualify.

Alternatively, given the current organisational structure of Council at present, it could be argued that the responsibility of stimulating the local economy rests with the Business and Enterprise Group and, in particular, the Economic Development Unit. Therefore, the establishment of such a Fund could become that Department's responsibility with input from the LDSA, Finance Department and Parks & Recreation Department.

### **Manager - Finance & Administration Comments:**

I agree with the Manager - Parks & Recreation that the cost of supporting major sporting events comes at the expense of reduced service levels for regular sports ground users. It is also agreed that to implement full cost recovery from event organisers generally would make an event financially unviable. Given that neither of these outcomes are desired, how best do we meet the demands for extraordinary ground preparation?

The option to utilise part of the Urban Sports Field Development allocation and the January Events allocation for this purpose is supported. This maintains Council's contribution to its sporting facilities and brings the budget into line with actual works or services provided. Also, there are no additional funds required by Council.

From a practical perspective, this approach is reasonable as it seems ridiculous to be undertaking improvement works when our maintenance funding is inadequate, ie, why improve something and then not maintain it properly ?

The purpose of this report is to clearly establish a Fund for extraordinary ground maintenance. It is not intended to act as a promotional fund. This needs to be clearly understood. Ideally, a promotion fund should also be established to pursue such events in accordance with the adopted Events Strategy.

### **Other Group Comments:**

#### **Recreation Officer's Comment**

It is fact that the Parks & Recreation Budget does have to inherit an involvement in major events held on Council-owned parkland or ovals. Such involvement, *eg, rubbish removal, line-marking or ground repair*, can be costly and does require re-prioritisation of resources. It is also true that hosting major events can impact on many other Council functions such as road maintenance, traffic management, water and waste, etc.

Council's involvement in events has gained momentum or profile since the Events Strategy was forwarded to Council in 1998. The document alludes to an integrated approach to potentially hosting and managing a vast array of activities.

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# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Support For Major Sporting Events

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The recommendations contained within this report are one part of a much bigger picture as Council and external promoters may see great value in resources also being channelled towards administrative or marketing assistance.

At this point in time, within Council, many Departments or individuals have some interest or motivation to fund or facilitate events somehow. The EDU, LDSA, Lismore Tourism Panel, Parks & Recreation and Community Services Departments all consider they have an events role to play. Maybe the Events Strategy needs to be re-visited in conjunction with dealing with issues raised in this report?

### **Tourism Director's Comment**

The sentiments raised by the Manager - Parks & Recreation have long echoed throughout our Council, business sector and community and could be simply summarised - *that through a co-ordinated approach, events have the potential to provide positive economic and social benefits for Lismore.*

Enter the Lismore City Council Event Strategy (1998) that provides the principal direction to guide the development and marketing of events for the LGA. As events are seen to have a significant relationship with tourism promotions and infrastructure, the study looked at demand, supply, policy, planning and implementation that would assert Lismore's position as a premier location for quality festivals and special events, notwithstanding the value of sports events and co-ordination of Council's resources, such as the issues raised in this report, are identified in the Strategy.

My recommendation is that before we start another process to address the specific issues raised in this report we should first re-visit the Event Strategy and work towards its implementation. While it is a dynamic document, it provides the foundation for sound planning and decision-making. The first recommendation in the Strategy, for instance, is to form an Events Advisory Panel and at its meeting held on August 1, 2000, the Lismore Tourism Advisory Panel reinforced support for the Events Advisory Panel to be formed. This would aim to ensure that the diverse interests and implications of Lismore's development as an event destination would be directed in a co-ordinated manner and would include the issues contained in this report.

### **Conclusion:**

Clearly there is a need for the establishment of such a Fund to support major sports events. This will assist management in budgeting with some confidence from one year to the next for its regular sports ground maintenance and may assist Lismore in attracting future events because of this dedicated budget set aside for such works.

### **Recommendation:** (WOR29)

1. That Council approve the establishment of a dedicated Major Event Support Fund for the next financial year, as outlined in the report, and that such provision be incorporated in the draft budget for the 2001/02 financial year.
2. That Council's LDSA Committee and/or the Lismore Economic Development Advisory Board, in consultation with relevant Staff, make recommendation to the General Manager on the application/expenditure of these funds.

<b>Subject/File No:</b>	<b>ENVIRONMENTAL WEEDS SPECIES LIST</b> <a href="#">(NM:VLC:S331)</a>
<b>Prepared By:</b>	Manager-Parks & Recreation – Neil Moreton
<b>Reason:</b>	To update Council on the outcome of the public exhibition of the draft Environmental Weeds List.
<b>Objective:</b>	Council adoption of the list.
<b>Management Plan Activity:</b>	Parks & Recreation

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## **Background**

An environmental weed is a plant growing in the wrong place at the expense of the surrounding vegetation. Many plants introduced to Australia for use in gardens have become environmental weeds. When a plant, not native to the area, is very successful and resilient, it usually becomes a weed.

In late 1998 the Parks & Reserves Section produced a list (contained in the following pages) of plant species that are recognised to be environmental weeds. The list was compiled utilising a number of references, including Far North Coast County Council circulars.

The environmental weed species listed are divided into two categories -

1. Plants which would **not be permitted** in landscaping proposals for new development in the Lismore Local Government area, and
2. Plants **not recommended** to be planted.

The latter include some plants excepted due to their agricultural value. Three (3) native plants are suggested in place of each weed listed. Where possible, these attempt to match a feature of the weed such as size, fruit or flower colour, fleshy leaves, etc. Listed native plants are almost exclusively local species. However, non-invasive natives from other areas, or non-invasive ornamental plants would be permitted.

At the Council Meeting of February 2, 1999, Council resolved (Resolution 25/99) to place a copy of the draft Environmental Weeds Species List on public exhibition for comment and that a further report be brought back to Council summarising community response to the document.

## **Feedback**

As a consequence of the above resolution, Council Staff arranged for advertisements to be placed in Council's public notices column of the *'Northern Rivers Echo'* on the February 25 and March 4, 1999. In addition, articles also appeared in the *'Echo'* as a feature article. Submissions closed on March 30, 1999.

The draft list was also placed on Council's web page and received a lot of favourable comment. The list was further circulated to numerous environmental authorities and organisations as well as the local chapter of the Nursery Industries Association.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Environmental Weeds Species List

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These groups included -

- Far North Coast County Council (Bruce Scott);
- Richmond Catchment Management Committee;
- Rosemary Joseph (Member Australian Association of Bush Regenerators),
- Regional Vegetation Management Plan Committee (Marcus Riches);
- Department of Land & Water Conservation (Mark Stanton-Cook);
- National Parks & Wildlife Service (Lisa Russ),
- Big Scrub Landcare Group (Tony Parkes), and
- NSW Waterway Authority.

The Draft List was also presented at the "Rainforest: A Decade of Growth" Conference held at the Southern Cross University Conference Centre on November 21-23, 1998 and feedback was requested. It was very well received and Council was congratulated for its progressive approach to environmental weed management.

Bruce Scott (FNCCC) and Rosemary Joseph (AABR) provided useful feedback which was incorporated in the current Draft before being placed on public exhibition. Furthermore, both Bruce Scott and the NPWS NSW Pest Species Officer have indicated that they would like to use this Environmental Weed Species List as the basis for a Regional approach. The Richmond Catchment Management Committee has given approval in principal. To date, no negative feedback has been received from any of the above.

However, one radio journalist made news with the fact that the tree Jacaranda was listed and all questions/concerns were discussed in a radio interview on the local ABC Saturday morning gardening show in early 1999.

To date there has been only one written submission in response to the public exhibition. This was from Dr Paul Recher who made suggestions about the need to add and remove a number of plants from the list in order to protect the provenance of the local gene pool within our local vegetation. In response to Dr Recher's comments, Alexandra Palm was removed from the list of suggested replacement species.

Consequently, the exhibition and submission process has now been completed and Council needs to determine whether or not to adopt the list and set the benchmark for vegetation management in the Region.

Implications arising from adoption of the list would mean that Landscape Plans submitted to Council containing listed plants would not receive approval. In the longer term, the guideline would be included as part of a new "Landscape and Native Vegetation" Development Control Plan being developed in line with new Planning Legislation (particularly Complying Development).

There is no retrospective implication intended if the guideline is adopted. Therefore, there will be no requirement to remove any listed species already planted (*with the exception of declared noxious plants*). However, it is hoped to eventually introduce incentives to encourage the removal of such weeds. Council may decide to show leadership and set a good example by removing some of the most invasive species from landscaped areas under its control.

It should be remembered that Council manages large areas of land which are over-run with such introduced weed species. In time, the management of this land is going to cost Council large sums of money as it struggles to control their spread. By endorsing this list, Council is recognising the potential threat these weeds pose to our indigenous vegetation and the local economy.

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# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## Environmental Weeds Species List

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It could also be the catalyst needed to get the horticultural industry and the community focused on the issue.

Furthermore, the adoption of this guideline would be seen as a pro-active step toward Total Catchment Management objectives and has the ability to significantly improve riparian zones.

**Manager – Finance & Administration Comments** Not required

**Public Consultants** Complete

**Other Group Comments** Not required

### **Conclusion**

Council has the ability to have a significant impact on halting the spread of environmental weeds within the Lismore Local Government Area. Such invasion is threatening important areas of remnant vegetation and has significant economic implications on both public and private land. By influencing sale and planting of invasive plant species, we are addressing the problem at its source, rather than as the end result.

### **Recommendation** (WOR31)

1. That Council adopt the Environmental Weeds Species List.
2. That these guidelines be included within the proposed Development Control Plan for Landscaping and Native Vegetation Management.

**Subject/File No:** CHANGE OF RATING CATEGORY – PERRADENYA ESTATE  
(P13509)

**Prepared By:** Rating Services Co-ordinator - John Beacroft

**Reason:** To maintain consistency within Council's Rating Structure

**Objective:** For a Council Decision

**Management Plan Activity:** Financial Services 1.5

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**Background:**

Council resolved April 1, 1997

124/97 "**RESOLVED** that Council consider the area known as Modanville to be a centre of population and for the 1998/9 rating year the Residential Urban/Village Rate be applied. **FURTHER** that Council advise ratepayers within this centre of population of its decision."

Council made the decision following a Rating Workshop where the issue was discussed. Part of the paper presented at the Workshop pointed out the various numbers of assessments in other areas which Council rated at the Urban/Village Rate as follows :-

Modanville	178 assessments
Nimbin	128 assessments
Clunes	149 assessments
Dunoon	151 assessments

and so on down to the smaller Villages such as Bexhill.

The Perradenya development will comprise approximately 160 lots when fully developed and it is comparable in distance from the centre of Lismore as Modanville and Richmond Hill both of which are rated at the Residential Urban/Village rate.

The Perradenya development already has some facilities that are consistent with the various other Villages mentioned above such as the Adam Gilchrist Oval and Clubhouse and the character of the development is similar to Modanville. In addition there will be available reticulated water and sewer.

Council currently rates the whole Perradenya development as Residential Rural in one parcel and as one assessment as at June 30, 2000, no sales of individual lots have been notified.

As such, now is probably as good a time as any to make this decision for the 2001/2002 rating year and potential owners of property within the Estate would be aware of the rating levels rather than attempting to alter the rating category at some latter stage.

It should be remembered that Council will not receive any additional income from this proposal.

**Manager - Finance & Administration Comments**

I agree with the proposal as it will result in a consistent application of this rating category compared with all the other villages in the local government area.

# **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

## **Change of Rating Category – Perradenya Estate**

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### **Public Consultations**

Not Sought

### **Other Group Comments**

Not sought

### **Conclusion**

The Perradenya Estate has the potential to be a larger development than any of Council's current Villages. The rationale behind the Modanville change was to ensure that Council's rating levels were seen to be applied on a fair and equitable basis.

The inclusion of Perradenya within the Residential Urban/Village category would continue that approach.

### **Recommendation (COR56)**

That commencing in the 2001/2002 Rating year the land known as the Perradenya Estate be included within the Residential Urban/Village rating category.

**Subject/File No:** TELEVISION BLACK SPOT FUNDING

**Prepared By:** Group Manager – Corporate & Community Services

**Reason:** Announcement of a second round of funding

**Objective:** Determine if Council wishes to proceed with further applications

**Management Plan Activity:** Community Services

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### **Background:**

As you may be aware, Council has submitted two grant applications for TV Black Spot Funding as follows:

- East Lismore/Base Hospital/Lismore Heights/North/South Lismore – est. 3,050 households,
- Rosebank/Upper Coopers Creek/Goonengerry, with Byron Shire – est. 123 households in Lismore and 440 in Byron.

The technical assessment carried out clearly indicates that reception in these areas is bad/poor through the 5 channels and there is a very strong expectation from residents that should funding become available, that Council will proceed with the technical solution and then become responsible for the on-going maintenance costs. An announcement on funding for the first round is expected to be made late December to early in the New Year.

I continue to field calls and letters from residents outside the areas listed above also wanting to be included in any future grant applications that become available - there are an additional 5 – 6 sites that I am aware of, that may comply with the grant guidelines. The Federal Government has recently announced a second round of funding (minimum 50 households) with Expressions of Interest closing on March 30, 2001.

### **Grant Funding**

- Capital contribution of \$23,000 towards site establishment costs + \$2,000 for technical assessment costs,
- New transmission equipment of \$25,000 per service ie. \$125,000 for the 5 channels.

### **Technical Solution – First Round**

- *East Lismore* – new translator/antenna etc at Robinson’s Lookout – frequencies already allocated for commercial services in the past suggests that prior planning had already highlighted this area as a well known “black spot”. The capital and site costs are not expected to exceed the grant funding, however if they did, Council would be responsible for the additional costs.
- *Rosebank* – new translator on a new “green field” site on the corner of Repentance Creek Road and Federal Road. The capital and site costs are not expected to exceed the grant funding.

### **Ongoing Costs Associated with a Retransmission Site**

- Annual Apparatus Licence Fee payable to the Australian Communications Authority – est. @ \$1,698 pa.
- Operating costs – electricity est. @ \$964 pa.
- Maintenance cost – as a guideline \$600 pa for the first 3 years and then \$900 thereafter. Council would be responsible for all maintenance costs of the site and electronic equipment. With regular maintenance the transmission site should be in service for around 10+ years. The maintenance of the Rosebank site would obviously be shared with Byron Shire.

## Television Black Spot Funding

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### Where to From Here

I am reasonably confident that we will be successful in obtaining funding for the first round applications and under the grant guidelines Council is responsible for the ongoing costs as detailed above. Should Council agree to submit say, a further six applications and we were successful, then the annual ongoing costs would be in the order of \$28,000 (8 x \$3,500). As this is another clear example of the Federal government pushing responsibility and costs down to local government for a non - core activity, we need to determine a strategy to minimise exposure if Council wishes to pursue further funding.

As the commercial television stations are the major beneficiaries in this exercise, I have written to them requesting that they either take over the sites or make a contribution to the ongoing costs. No reply has been received to date. If they decline, then Council must give serious consideration as to whether or not to proceed with further applications.

I strongly believe we should proceed if successful in obtaining the first round of grant funding.

### Options to Minimise Costs to Council

- Lobby the local Federal member to either make the Federal government responsible for the costs or legislate to make it compulsory for the television stations to pay – this is contrary to the grant guidelines.
- Have the local residents that will benefit make a contribution – not recommended.
- Not proceed with the grant if successful (round 1), or apply for any additional funding.

### Manager - Finance & Administration Comments

It is acknowledged that many householders in the Lismore area will benefit from Council accepting any offer of funding. The financial impact associated with agreeing to provide the ongoing licence fees, operating cost, maintenance, etc (estimated at \$7,000) for Round 1 is not considered significant. The question that needs to be asked is whether or not the provision of this service is really part of Council's responsibilities.

Again, it would appear that another level of government has offered 'seed funding' opportunities to local government for the provision of a service that primarily rests with them. Recognising the need in the local community, Council has reacted to the perceived interest of their community and has applied for funding to provide the service.

Unfortunately, while this appears to satisfy the immediate needs of the community, it eventuates that the residents recognise the Council as responsible on an ongoing basis for all their needs, not the other level of government. As you would expect, with this expectation comes disappointment as we simply do not have the resources to provide everything that the community wants.

While in this situation, it appears that the direct cost is little, only time will tell. Some of my concerns include the need to replace the transmission equipment. It is estimated to cost \$125,000 now per location, how much and when is it going to be replaced, who is to meet these replacement costs, what is going to be the impact of technological changes, such as the introduction of digital television services.

I believe it is absolutely paramount from both Councils and the community's perspective that the ultimate responsibility associated with the provision, operation and maintenance of these facilities be redirected to the appropriate level of government

# **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

## **Television Black Spot Funding**

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### **Public Consultations**

If Council wishes to apply for additional funding then submissions will be sought.

### **Other Group Comments**

Not required.

### **Conclusion**

Whilst the opportunity to apply for grant funding to overcome television black spots is of benefit to certain parts of our area, it does come at a potential cost to the ratepayer. Council needs to determine if it is prepared to pick up this non - core cost from its already stretched budget if other means of funding are not forthcoming. In addition, the impact of digital television services which is due to be fully operational by 2008, needs to be determined prior to proceeding with any grant offers.

### **Recommendation**

That Council:

1. Accept any grants offered under round 1 of the funding.
2. Continue to push for the ongoing costs to be paid by third party/s.
3. Not submit any further Expressions of Interest for further funding under round 2, unless a commitment is forthcoming to cover all ongoing costs.

**Subject/File No:** ADAM GILCHRIST PARK PLAN OF MANAGEMENT

**Prepared By:** Alex Wilford, Recreation Planner

**Reason:** The exhibition and submission period for the Draft Plan of Management has closed.

**Objective:** Council adoption of the Adam Gilchrist Park Plan of Management

**Management Plan Activity:** Community Services

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### **Introduction:**

The public exhibition and submission period for the Draft Plan of Management for Adam Gilchrist Park ended on November 13, 2000.

The purpose of this report is to advise Council of the results of the exhibition and submission process and seek formal adoption of the Plan of Management. A copy of the Draft Plan was previously forwarded to all Councillors for the September 19, 2000 meeting.

### **Background:**

At the September 19, 2000 Council meeting it was resolved that –

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

The Draft Plan was subsequently placed on exhibition and public submissions were invited. This process was undertaken over a 6-week period until November 13, 2000. During this period, copies of the Draft Plan were made available for public examination at Council's Administration Centre and the Rous Water Offices in the CBD. Advertisements notifying the community of the Draft Plan exhibition and submission period were placed in the Council Notice section of the Northern Star and the Northern Rivers Echo.

No submissions to the Draft Plan were received.

### **Key Elements of the Plan**

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

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

## **LISMORE CITY COUNCIL - Meeting held December 12, 2000**

### **Adam Gilchrist Park Plan of Management**

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

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

#### **Process Following Council Adoption of the Plan**

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

- Make a copy of the Plan available for public inspection at Council's Administration Centre;
- Send key stakeholders a copy of the Plan.

#### **Implementation and Budgetary Requirements**

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

#### **Manager - Finance & Administration Comments**

Comments were provided for the previous report on September 19, 2000 and do not need to be repeated.

#### **Public Consultations**

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

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

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

#### **Conclusion**

The Draft Plan of Management for Adam Gilchrist Park was prepared by Walker and Newton to comply with conditions of development consent for the Perradenya Estate subdivision and provisions of the Local Government Act 1993. The Plan will direct the management and use of the park over the next five years.

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

#### **Recommendation (COR58)**

That Council adopt the Plan of Management for Adam Gilchrist Park as per the Draft Plan.

## LISMORE CITY COUNCIL - Meeting held December 12, 2000

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**Subject/File No:** AIRPORT TERMINAL EXECUTIVE LOUNGE  
(GW/LM: P9733)

**Prepared By:** Administrative Services Manager – Graeme Wilson

**Reason:** Opportunity presented by new terminal building.

**Objective:** To recognise the achievements of Councillor Crowther.

**Management Plan Activity:** Aerodrome Operations – 2.2 & 3.1

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### **Background:**

The opening of the new airport terminal marks a major milestone in the City's development, as it enhances its reputation as the regional capital.

In a similar vein, it is proposed to recognise the major role played by Councillor Crowther in the development of the total airport complex by naming the executive lounge in his honour.

There can be no doubt that the citizens of Lismore and the future residents of this City and its surrounds will reap the rewards of Councillor Crowther's efforts. Councillor Crowther and the airport are synonymous with each other. He has had an unshakeable belief that the development of the airport in its totality will bring immeasurable benefits to the City of Lismore.

Councillor Crowther has had a long term interest in the aviation industry, spending most of his working life as a pilot, including the running of a local air charter business until his retirement in 1992.

It is however, his efforts in first having the airport re-opened in 1960 after its closure during World War II, then having the runway upgraded to its current standard, and the terminal building constructed, that are to be recognised by this naming.

### **General Manager's Comment**

Councillor Crowther's contribution to the development of Lismore Airport over many years cannot be understated.

Whilst I am sure that he would not seek such recognition, the proposal to associate his name with the Executive Lounge at the new terminal building is a small yet fitting honour to bestow given John's tireless efforts and dedication to establish the "Lismore Regional Airport".

### **Manager - Finance & Administration Comments**

Not required.

### **Public Consultations**

Not required.

### **Other Group Comments**

Not requested.

### **Recommendation (COR57)**

That the executive lounge at the airport terminal be known as the John Crowther Executive Lounge, with suitable signage to be erected.

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## LISMORE CITY COUNCIL - Meeting held December 12, 2000

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**Subject/File No:** MEMBERSHIP OF FAR NORTH COAST COUNTY COUNCIL (FNCCC)  
(00-18017, S331)

**Prepared By:** Group Manager Corporate & Community Services

**Reason:** Amendment to the Constitution

**Objective:** Elect a new member to FNCCC

**Management Plan Activity:** Administration

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### **Background:**

In July the Department of Local Government informed Council about a public notification of a proposal to amend the constitution of the County Council by varying the number of persons that comprise the governing body from ten to seven i.e. one representative from each constituent council. Council had previously resolved to support the proposed amendment.

By way of proclamation in the Government Gazette on November 17, 2000 the above constitutional amendment became effective and the election of delegates by Council now becomes void. Thus, Council must now elect a new member to the FNCCC. The current delegates are Councillors King and Suffolk.

### **Manager - Finance & Administration Comments**

Not required.

### **Public Consultations**

Consultation held prior to the proclamation.

### **Other Group Comments**

Not required

### **Conclusion**

The amendment to the FNCCC constitution requires Council to elect a new delegate.

### **Recommendation**

That Councillor \_\_\_\_\_ be elected as a delegate to the Far North Coast County Council for the remainder of the Council term.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD NOVEMBER 15, 2000

AT 10.00 AM.

(WMacD:VLC:S352)

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**Present:** Bill Moorhouse (*Chairperson*), Councillor Mervyn King, M/s Bronwyn Mitchell on behalf of Thomas George, MP, Mike Baldwin (*Roads and Traffic Authority*), Snr Const Dave Sales (*Lismore Police*) and Mr Bill MacDonald (*Traffic and Law Enforcement Co-Ordinator*).

**Deputation:** Messrs John Brown and Robert Ford (Item No. 6) regarding the speed limit on Ballina Road in the vicinity of the Media Centre.

**Apologies:** Apologies for non-attendance on behalf of Mr Thomas George, MP, Councillors John Chant and Ken Gallen, Mr Chris Mallam and Mrs Wendy Johnson were received and accepted and leave of absence granted.

### **Minutes of Traffic Advisory Committee Meeting - October 18, 2000**

Members were advised that the Minutes of the meeting held on October 18, 2000 were adopted by Council at its meeting of October 31, 2000, excluding Item No. 9 (Pedestrian Access at Roundabouts).

The Committee noted Council's resolution in relation to this item.

(R6058,R6007,S342,S352)

**Disclosure of Interest:** Nil

### **Correspondence:**

1. **I Purdue;** drawing attention to the increasing number of people who use the lower, unformed section of Balmer Avenue, Lismore Heights, as a walking track and also the number of thefts from the homes at this location, and seeking the physical closure of the lower section of Balmer Avenue by two fences; one near the Baptist Church and the other at the end of the bitumen road.

The location had been inspected prior to the meeting and it was noted that there was no formed pathway as such, just a worn track made by regular use that followed a concrete drainage channel. It was the Committee's view that there was little it could do to stop people taking the "short cut" through the bush and that a substantial barrier would be required to physically close the reserve.

**TAC154/00** **RECOMMENDED** that the matter be referred to Council's Roads & Infrastructure Section for investigation to ascertain whether or not it considered any further action was required. (00-16030:R7101)

2. **Discover Chiropractic;** requesting a review of parking conditions at the eastern end of Conway Street (one-way section), adjacent to the roundabout at the intersection of Wyrallah Road and Ballina and Conway Streets.

The Committee was advised that the area had been inspected and it was found that there was insufficient road width for 45° angle parking to be legally installed even though it was being used as such at the moment by tradesmen working in the vicinity. Currently motorists were propping in the middle of the through lane in order to reverse into a parking space. It was suggested that if the area was signposted as parallel parking, a larger area could be used with the result that there would be little gained in introducing 45° angle parking due to the larger set-backs required.

**TAC155/00** **RECOMMENDED** that the area in question be signposted as parallel parking. (00-16744:S353)

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## MINUTES OF TRAFFIC ADVISORY COMMITTEE MEETING HELD NOVEMBER 15, 2000

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3. **Leo's Food Bar**; seeking the parking restrictions at Magellan Street in front of its premises be amended to read "**8.30-900 – 7 Days/Week**" due to the number of vehicles being parked for lengthy periods on weekends.  
It was noted that the existing signs read ¼hour parking 8.30am to 9.00pm. Snr Const Sales advised that whilst this was sufficient for Police to enforce, it would make it easier if the wording, "7 Days", was added to the bottom of the signs.
- TAC156/00 **RECOMMENDED** that the above wording be added to the existing signs  
(00-17195:R7319,S353)

### General Business

4. **Proposed "Officeworks" Building – No. 71 Carrington Street, Lismore**  
A plan of the proposal was tabled at the meeting. Unfortunately there was little accompanying documentation that provided additional information such as a traffic impact statement. It was noted that the driveway width off Molesworth Street had been reduced and it was considered that this should be a minimum of 6.0m. Whilst the Committee had no objection in principal to the proposal, it was felt that further information was required to allow a proper assessment.
- TAC157/00 **RECOMMENDED** that the above be noted. (P17903)
5. **Illegal Parking – Intersection of Dibbs and Uralba Streets, Lismore**  
A request had been received for permanent measures to be taken to deter motorists from parking their vehicles on the grass verge adjacent to the roundabout at the above intersection. Parked vehicles restrict sight visibility of oncoming vehicles when exiting nearby properties.  
Whilst there were parking restrictions along the kerb line, some motorists were parking their vehicles behind the kerb which had the potential to restrict vision for motorists exiting properties in the vicinity. It was suggested that the only way to remedy this dilemma was to install some type of physical barrier to stop motorists from using the area.
- TAC158/00 **RECOMMENDED** that this matter be referred to Council's Roads & Infrastructure Section for appropriate action. (R6058)

6. **Speed limit on Ballina Road (SH16) - Vicinity of Media Centre**  
Messrs John Brown and Robert Ford had requested to meet with the Committee to discuss reasons for Council's recent decision to extend the existing 60 kph speed limit to a point west of James Road and not out to Holland Street as was originally requested.  
Mr Baldwin outlined the steps taken to ascertain the correct speed limit and the criteria used. It was pointed out that there were other works planned that would significantly increase safety levels for residents who access the Highway in the location in question; including the remarking of the Highway to remove the existing overtaking lane to provide a protected right-turn bay for Hillview Drive, the Media Centre and Holland Street and in the longer term, a roundabout at the intersection of Holland Street and Ballina Road. Mr Baldwin indicated that the RTA may further consider extending the 60 kph limit on Ballina Road once the roundabout was installed.

# LISMORE CITY COUNCIL - Meeting held December 12, 2000

## MINUTES OF TRAFFIC ADVISORY COMMITTEE MEETING HELD NOVEMBER 15, 2000

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6. **Speed limit on Ballina Road (SH16) - Vicinity of Media Centre** (Cont'd)  
Messrs Brown and Ford indicated that a major concern for residents living on the southern side of the Highway was pedestrian access across the Highway to the Bus Stop or shops at Gumtree Mall. It was pointed out that in the shorter term a pedestrian refuge was proposed on Ballina Road in the vicinity of James Road, and in the longer term, a pedestrian underpass in the dip area in the vicinity of where the big fig tree once stood.  
After further general discussion, Messrs Brown and Ford thanked the Committee for the information provided and left the meeting.
- TAC159/00** **RECOMMENDED** that the above be noted. (R6408)
7. **Speeding Traffic along Richmond Hill Road**  
Mr MacDonald advised that a complaint had been received from a Residents Action Group regarding the excessive speeds of some motorists travelling along Richmond Hill Road.  
Snr Const Sales advised that Richmond Hill Road was one of the most heavily patrolled roads apart from the major roads and whilst speeds above the 60 kph limit were regularly detected, they were generally in the lower range. He advised that patrols would continue as often as resources allowed.
- TAC160/00** **RECOMMENDED** that the above be noted. (R1012)

This concluded the business and the meeting terminated at 11.15 am.

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CHAIRPERSON

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TRAFFIC & LAW  
ENFORCEMENT CO-ORDINATOR

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE JIGGI COMMUNITY HALL ON TUESDAY, NOVEMBER 21, 2000 AT 6.32PM.**

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

**Apologies/ Leave of Absence:** NIL

312/00 **Minutes:** The Minutes of the Ordinary Meeting held on October 31, 2000, were confirmed.  
(Councillors Baxter/King)

**PUBLIC ACCESS SESSION:**

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

**Stan Heywood re Mayoral Minute**

(See Minute No. 313/00)

Mr Heywood questioned the need for the new Memorial Baths and the probity of the RSL having a second vote.  
(P6768)

**Ross Mackey re Report – Kadina Park Plan of Management**

(See Minute No. 316/00)

Mr Mackey expressed concern at the impact of the youth using the skate park on local residents. He sought its deletion and an increase in the size of the proposed oval.  
(P517)

**Ryan Willoughby re Report – Kadina Park Plan of Management**

(See Minute No. 316/00)

Mr Willoughby spoke in support of the inclusion of the skate park in the context of the overall development. He spoke of the growing popularity of skate boarding and the benefits of providing purpose built facilities.  
(P517)

**Graham Meineke re Report – DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(See Minute No. 320/00)

Mr Meineke spoke in support of the development and raised a number of issues in respect of open space dedication and public reserves.  
(D99/925)

**Will Palmer re Report – DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(See Minute No. 320/00)

Mr Palmer advised that he owned a block in Waratah Way. He claimed this block was to be a corner block when future development occurred but the proposed plan did not allow this. He spoke of the adverse impact this would have on the property.

(D99/925)

**Graham Meineke re Report - DA00/511 – 364C Dunoon Road, Tullera**

(See Minute No. 321/00)

Mr Meineke requested a variation of the buffer zone to allow a residential building to be built, claiming no adverse impact from the adjoining piggery effluent disposal area.

(D00/511)

**Mr T O'Connor re Dedication of Footpath – through 148 Ballina Rd, Goonellabah**

(See Minute No. 322/00)

Mr O'Connor spoke in support of the footpath, highlighting the danger of pedestrian movement around Hillcrest Avenue to the Highway and the benefits such a footpath would bring to local residents.

(P23396)

**MAYORAL MINUTE:**

**Acquisition of Land from RSL Club for Memorial Baths Rebuilding**

(Copy attached)

A MOTION WAS MOVED that the report be received and Council endorse the following deed agreement with the returned Services League Club.

**If the RSL Club agrees to:-**

- 1 Transfer to Council part of the overall RSL allotment (Lot 1 of DP 749278) occupied by part of the Bowling Green and surrounds sufficient to provide for right of way detailed in item (4) below.
- 2 Transfer to Council the RSL carpark on the Eastern side of Victoria Street (Lots 2 & 3 of DP 781912).
- 3 Release RSL's objection to the closure of part of Market Street.
- 4 Provide reciprocal rights of way and reciprocal easement for the parking over the proposed carpark on part of the bowling green and surrounds, referred to in item (1), in favour of the Lismore City Bowling Club, Lismore Croquet Club and the public to allow two way traffic flow to their Clubs premises western side and Spinks Park.
- 5 Agree as owners of the various allotments to the lodgement of any necessary development applications for the project being the extension and redevelopment of the adjoining Memorial Baths.
- 6 Acknowledge Council cannot fetter its obligations as the development approval authority.

**In return, Council will (subject to the general provisions clause):-**

- 1 Develop a paved carpark with landscaping over part of the Bowling Green and surrounds.
- 2 Develop a paved carpark in Lots 2 and 3 DP 781912 as a staged future development.
- 3 Relocate the recycling drop off centre currently located in Victoria Street near Market Street.
- 4 Replace any water, sewerage, power and telephone services to the RSL which are affected by the development.

- 5 Pay to the RSL the amount of \$230,000 - 10% to be held in trust by the RSL's solicitor's on entering into this agreement and the balance is paid on conclusion of all matters required for settlement.

**General provisions:-**

- 1 The actioning of the deed of agreement is subject to the project going ahead. If the situation eventuates where the RSL calls a General Meeting of Members, then it resolves to proceed with the sale on the terms outlined in the deed and Council subsequently resolves not to proceed then Council agrees to pay compensation to the RSL, for itemised expenses involved in the calling of the meeting, up to a limit of \$5,000.
- 2 Each party will pay their own legal and other professional costs.
- 3 All amounts in the deed are GST exclusive.  
(Councillors Gates/Suffolk)

AN AMENDMENT WAS MOVED that –

- 1 Council defer consideration of this matter until an official response has been received from Consolidated Properties in relation to their offer on the Goonellabah Town Centre site.
- 2 Council further explore the joint venture offer for the site.  
(Councillors Swientek/Gallen)

On submission to the meeting the AMENDMENT was DEFEATED.

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

313/00

**RESOLVED** that the minute be received and Council endorse the following deed agreement with the Returned Services League Club.

**If the RSL Club agrees to:-**

- 1 Transfer to Council part of the overall RSL allotment (Lot 1 of DP 749278) occupied by part of the Bowling Green and surrounds sufficient to provide for right of way detailed in item (4) below.
- 2 Transfer to Council the RSL carpark on the Eastern side of Victoria Street (Lots 2 & 3 of DP 781912).
- 3 Release RSL's objection to the closure of part of Market Street.
- 4 Provide reciprocal rights of way and reciprocal easement for the parking over the proposed carpark on part of the bowling green and surrounds, referred to in item (1), in favour of the Lismore City Bowling Club, Lismore Croquet Club and the public to allow two way traffic flow to their Clubs premises western side and Spinks Park.
- 5 Agree as owners of the various allotments to the lodgement of any necessary development applications for the project being the extension and redevelopment of the adjoining Memorial Baths.
- 6 Acknowledge Council cannot fetter its obligations as the development approval authority.

**In return, Council will (subject to the general provisions clause):-**

- 1 Develop a paved carpark with landscaping over part of the Bowling Green and surrounds.
- 2 Develop a paved carpark in Lots 2 and 3 DP 781912 as a staged future development.
- 3 Relocate the recycling drop off centre currently located in Victoria Street near Market Street.
- 4 Replace any water, sewerage, power and telephone services to the RSL which are affected by the development.
- 5 Pay to the RSL the amount of \$230,000 - 10% to be held in trust by the RSL's solicitor's on entering into this agreement and the balance is paid on conclusion of all matters required for settlement.

**General provisions:-**

- 1 The actioning of the deed of agreement is subject to the project going ahead. If the situation eventuates where the RSL calls a General Meeting of Members, then it resolves to proceed with the sale on the terms outlined in the deed and Council subsequently resolves not to proceed then Council agrees to pay compensation to the RSL, for itemised expenses involved in the calling of the meeting, up to a limit of \$5,000.
- 2 Each party will pay their own legal and other professional costs.
- 3 All amounts in the deed are GST exclusive.

(Councillors Gates/Suffolk)

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

**Voting Against:** Councillors Irwin, Roberts, Tomlinson, Gallen, Swientek and Crowther.  
(P6768)

**NOTICE OF MOTION:**

**Town Crier**

(Copy attached)

314/00 Formal notice having been given by Councillor Crowther it was **RESOLVED** that Council investigate the possibility of appointing a Town Crier, including referral to Lismore Unlimited for comment.

(Councillors Crowther/Gallen)

**Voting Against:** Councillors Irwin, Roberts and Tomlinson.  
(00-16786: S73)

**SUSPENSION OF STANDING ORDERS:**

315/00 **RESOLVED** that standing orders be suspended and Council now deal with the undermentioned matters:-

- ◆ **Kadina Park Plan of Management**
- ◆ **DA99/925 – 90 Lot Subdivision, 20 Waratah Way**
- ◆ **DA00/511 – 364C Dunoon Road, Tullera**
- ◆ **Dedication of Footpath through 148 Ballina Road, Goonellabah**

(Councillors Roberts/Irwin)

**Kadina Park Plan of Management**

(Copy attached)

A MOTION WAS MOVED that the report be received and -

- 1 Council adopt the Kadina Park Plan of Management as per the Draft Plan,
- 2 Council adopt the Kadina Park Operational Management Strategy.
- 3 Options for traffic calming in Kadina Street be further explored and addressed as part of the development application process.

(Councillors Roberts/Irwin)

AN AMENDMENT WAS MOVED that the report be received and –

- 1 Council adopt the Kadina Park Plan of Management as per the Draft Plan,
- 2 Council adopt the Kadina Park Operational Management Strategy.
- 3 Prior to the implementation of the skate park/roller blade area, Council determine if this is a suitable facility for this residential area by observing behaviour and attitude of users and public liability concerns be investigated.
- 4 Options for traffic calming in Kadina Street be further explored and addressed as part of the development application process.

(Councillors King/Hampton)

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

**Voting Against:** Councillors Irwin, Roberts, Tomlinson and Crowther.

- 316/00 **RESOLVED** that the report be received and –
- 1 Council adopt the Kadina Park Plan of Management as per the Draft Plan,
  - 2 Council adopt the Kadina Park Operational Management Strategy.
  - 3 Prior to the implementation of the skate park/roller blade area, Council determine if this is a suitable facility for this residential area by observing behaviour and attitude of users and public liability concerns be investigated.
  - 4 Options for traffic calming in Kadina Street be further explored and addressed as part of the development application process.

(Councillors King/Hampton)

**Voting Against:** Councillors Irwin, Roberts, Tomlinson and Swientek.  
(P517)

**DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(Copy attached)

**PROCEDURAL MOTION:**

- 317/00 **RESOLVED** that standing orders be suspended to allow a question and answer session on the development application.  
(Councillors Roberts/Gallen)

**RESUMPTION OF STANDING ORDERS:**

- 318/00 **RESOLVED** that standing orders be resumed.  
(Councillors Irwin/King)

MOTION WAS MOVED that the report be received and Council approve Development Application 99/925 subject to the following conditions:

- 1 In granting this development consent, Council requires:
  - the development,
  - all roads/civil works,
  - lot boundaries, and
  - areas subject to any amendment or modification called for in the following conditionsbe substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.  
**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.  
**Reason:** *To cater for newly introduced GST provisions.*
- 3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.

*Reason:* To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.

**DRAINAGE**

- 4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans. Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. **DG1**

*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))

- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. **DG3**

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:
- all drainage lines have been located within the respective easements,
  - roadworks are in accordance with the approved design plan,
  - any other structures like retaining walls are located in accordance with the Construction Certificate,
  - all stormwater has been directed to a Council approved drainage system. **DG5**

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained. Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.

*Reason:* To maintain pre-development flows in the surrounding drainage system.

- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.

*Reason:* To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;
- 80% of average annual coarse sediment load retained (particles .5mm)
  - 50% retention of annual fine sediment load retained (particles .1mm)
  - 45% of average annual total phosphorus load retained
  - 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
  - 90% of annual hydrocarbon load to be retained.
- Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.
- Reason:** *To ensure compliance with the development approval.*
- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;
- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
  - Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).
- Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.
- Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:
- civil engineering works including retaining walls have been assessed as structurally adequate,
  - civil engineering works will not be affected by landslip either above or below the works,
  - civil engineering works will not be affected by subsidence either above or below the works, and
  - adequate drainage has been provided. **EW1**
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**
- Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**
- Reason:** *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**
-

**Note:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.

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

- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))

- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**

**Reason:** To preserve the appearance of the area. (EPA Act Sec 79C(b))

#### **AMENITY**

- 20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.

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

- 21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:

Monday to Friday - 7.00am to 6.00pm

Saturday - 8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**

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

- 22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**

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

- 23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**

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

- 24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**

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

#### **ADVERTISING SIGNS**

- 25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

#### **AD1**

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

#### **ROADS**

- 26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads to be built to Council's specification as determined by Council's Engineers with a 300mm minimum depth of pavement.

Stabilisation may be required when adverse subgrade conditions or permanent moisture problems are encountered.

In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

- Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.
- Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.
- Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a "works-as-executed" set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended). **VA1**

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

- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **RD2**

**NOTE:** Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

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

- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**

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

- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:
- water supply
  - sewer
  - stormwater
  - telephone
- These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**  
**Reason:** *To ensure adequate access to and from the development. (EPA Act Sec 79C(c))*

**PATHS**

- 31 **STAGE 1B as indicated on the staging plan**  
The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**  
**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 32 **STAGE 5A as indicated on the staging plan**  
The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**  
**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

**SUBDIVISION**

- 34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**  
**Reason:** *To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*
- 35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**  
**Reason:** *To comply with environmental planning instrument. (EPA Act Sec 79C(a))*
- 36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**  
**Reason:** *To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))*
- 37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**  
**Reason:** *To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))*

**GEOTECHNICAL**

- 38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**  
*Reason: To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

**WATER AND SEWER**

- 39 The proponent shall provide water works to service the development. The works shall include:
- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**  
*Reason: To provide adequate services for the development (EPA Act Sec 79C(c))*
- 40 The proponent shall provide sewerage reticulation to service the development. The works shall include:
- a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**  
*Reason: To provide adequate services for the development (EPA Act Sec 79C(c))*
- 41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.  
Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:
- a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,
  - b) to construct works to serve the development. **WS11**  
*Reason: To provide adequate services for the development (EPA Act Sec 79C(c))*
-

42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.

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

44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.

Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

#### **BUFFERS**

45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:

- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
- (b) Include plantings of species with long thin and rough foliage; and
- (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
- (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and

**Reason:** *To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.*

46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.

**Reason:** *To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.*

47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition 45. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans. Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

**Reason:** *To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))*

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

**Reason:** *To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.*

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift or suitable devices as approved by Council which will mitigate spray drift problems. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

**Reason:** *To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.*

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

#### **TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

#### **OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 55 Land shown as "proposed public reserve" shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).

**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*

56 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council's satisfaction prior to the release of the subdivision certificate.

**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*

57 All open space/public reserves to be dedicated to Council upon release of the subdivision certificate for Stage 1. A right-of-way is to be registered to give Council access to the dedicated open space.

**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*

58 All areas proposed to be dedicated shall be maintained by the proponent at no cost to Council until dedication.

**Reason:** *To negate any maintenance burden on Council.*

#### **SECTION 94 CONTRIBUTIONS**

59 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$367,706.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$246,354.24** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20, 000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

**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)*

- 60 A notation be provided to potential purchasers of the blocks of land which are in the buffer zone that they could be at risk of spray drift.

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$563,730** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987. The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.  
(Councillors Gates/Suffolk)

AN AMENDMENT WAS MOVED that the report be received and Council approve Development Application 99/925 subject to the following conditions:

- 1 In granting this development consent, Council requires:
  - the development,
  - all roads/civil works,
  - lot boundaries, and
  - areas subject to any amendment or modification called for in the following conditions be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.  
**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.  
**Reason:** *To cater for newly introduced GST provisions.*
- 3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.  
**Reason:** *To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.*

#### **DRAINAGE**

- 4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans. Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. **DG1**  
**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))*
- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. **DG3**

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan,
- any other structures like retaining walls are located in accordance with the Construction Certificate,
- all stormwater has been directed to a Council approved drainage system. **DG5**

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained.

Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.

**Reason:** To maintain pre-development flows in the surrounding drainage system.

- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;

- 80% of average annual coarse sediment load retained (particles .5mm)
- 50% retention of annual fine sediment load retained (particles .1mm)
- 45% of average annual total phosphorus load retained
- 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
- 90% of annual hydrocarbon load to be retained.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.

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

- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;

- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
- Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.

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

- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:
- civil engineering works including retaining walls have been assessed as structurally adequate,
  - civil engineering works will not be affected by landslip either above or below the works,
  - civil engineering works will not be affected by subsidence either above or below the works, and
  - adequate drainage has been provided. **EW1**
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**
- Reason:** To protect the environment. (EPA Act Sec 79C(b))
- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**
- Reason:** To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**
- NOTE:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))
- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**
- Reason:** To preserve the appearance of the area. (EPA Act Sec 79C(b))
- AMENITY**
- 20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.
- Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))
- 21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:  
Monday to Friday - 7.00am to 6.00pm  
Saturday - 8.00am to 1.00pm  
No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**
- Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))
- 22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**
-

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

- 23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**

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

- 24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**

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

#### **ADVERTISING SIGNS**

- 25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

#### **AD1**

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

#### **ROADS**

- 26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads shall be a minimum of 300mm depth pavement with a 150mm cement stabilised layer. In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.

Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.

Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.

Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.

Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a "works-as-executed" set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended). **VA1**

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

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- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **RD2**  
*Reason: To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a))*
- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access.  
Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**  
*Reason: To ensure the development is completed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*
- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:
- water supply
  - sewer
  - stormwater
  - telephone
- These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**  
*Reason: To ensure adequate access to and from the development. (EPA Act Sec 79C(c))*

#### **PATHS**

- 31 **STAGE 1B as indicated on the staging plan**  
The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**  
*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 32 **STAGE 5A as indicated on the staging plan**  
The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**  
*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

#### **SUBDIVISION**

- 34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**  
*Reason: To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*
- 35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**
-

- Reason:** To comply with environmental planning instrument. (EPA Act Sec 79C(a))*
- 36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**  
***Reason:** To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))*
- 37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**  
***Reason:** To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))*

**GEOTECHNICAL**

- 38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**  
***Reason:** To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

**WATER AND SEWER**

- 39 The proponent shall provide water works to service the development. The works shall include:
- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**  
***Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))*
- 40 The proponent shall provide sewerage reticulation to service the development. The works shall include:
- a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**  
***Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))*
- 41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.

Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:

- a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,
- b) to construct works to serve the development. **WS11**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.

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

- 44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.

Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

#### **BUFFERS**

- 45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:

- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
- (b) Include plantings of species with long thin and rough foliage; and
- (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
- (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and

**Reason:** *To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.*

- 46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.

**Reason:** *To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.*

- 47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition 45. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans.

Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council.

Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

**Reason:** *To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))*

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

**Reason:** *To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.*

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

**Reason:** *To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.*

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

**TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

**OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent.  
**(NOTE:** Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)  
**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 55 Land shown as “proposed public reserve” shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).  
**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*
- 56 Lots 35 and 36 shall be deleted from the plans. The area of these lots shall be incorporated into the areas of public reserve. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64).  
**Reason:** *To comply with the provisions of Development Control Plan 28 Subdivision with respect to Section 6.2.6 and with Development Control Plan 43 Crime Prevention Through Environmental Design.*
- 57 Lots 75 and 76 shall be reduced in size. The rear boundary shall be realigned in accordance with the stamped approved plans as amended in red. The area of these lots shall be incorporated into the areas of public reserve. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64).  
**Reason:** *To comply with the provisions of Development Control Plan 28 Subdivision with respect to Section 6.2.6 and with Development Control Plan 43 Crime Prevention Through Environmental Design.*
- 58 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council’s satisfaction prior to the release of the subdivision certificate.  
**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*
- 59 The developer shall provide a cleared area suitable for vehicular access at the rear of Lots 51, 52 and 53 to facilitate vehicle movement. Full details to be submitted to Council prior to the commencement of works.  
**Reason:** *To ensure access to the adjoining open space and to allow for maintenance.*
- 60 No trees are to be removed on Lots 52 and 53 without the prior consent of Council.  
**Reason:** *To preserve the bushland that will be on private land.*
- 61 Timing of dedication of open space:  
Lot 79 shall be dedicated upon release of the subdivision certificate for lots 50 and 51; and  
Lot 80 and the lots to be incorporated into Lot 80 as required by Conditions 57 and 58 shall be dedicated at the release of the subdivision certificate for lots 48 and 31 or lots 36 and 77 which ever occurs first.  
**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*
- 62 All areas proposed to be dedicated shall be maintained by the proponent at no cost to Council until dedication.  
**Reason:** *To negate any maintenance burden on Council.*
-

**SECTION 94 CONTRIBUTIONS**

63 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required.

Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$367,706.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$246,354.24** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

*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)*

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$563,730** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987. The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.  
(Councillors Irwin/Roberts)

**MOTION BE PUT:**

319/00 **RESOLVED** that the motion be put.  
(Councillor Suffolk)

**Voting Against:** Councillors Irwin and Tomlinson.

On submission to the meeting the AMENDMENT was DEFEATED.

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

320/00 **RESOLVED** that the report be received and Council approve Development Application 99/925 subject to the following conditions:

- 1 In granting this development consent, Council requires:
  - the development,
  - all roads/civil works,
  - lot boundaries, and
  - areas subject to any amendment or modification called for in the following conditions

be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

**Reason:** *To cater for newly introduced GST provisions.*

- 3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.

**Reason:** *To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.*

#### **DRAINAGE**

- 4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans.

Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. DG1

**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))*

- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. DG3

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan,
- any other structures like retaining walls are located in accordance with the Construction Certificate,

• all stormwater has been directed to a Council approved drainage system. DG5

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained.
-

Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.

**Reason:** *To maintain pre-development flows in the surrounding drainage system.*

- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.

**Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*

- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;

- 80% of average annual coarse sediment load retained (particles .5mm)
- 50% retention of annual fine sediment load retained (particles .1mm)
- 45% of average annual total phosphorus load retained
- 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
- 90% of annual hydrocarbon load to be retained.

**Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*

- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.

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

- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;

- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
- Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).

**Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*

- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.

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

- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:

- civil engineering works including retaining walls have been assessed as structurally adequate,
- civil engineering works will not be affected by landslip either above or below the works,
- civil engineering works will not be affected by subsidence either above or below the works, and
- adequate drainage has been provided. **EW1**

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

- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**

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

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- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**  
*Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**  
*Reason: To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**  
**Note:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.  
*Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))*
- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**  
*Reason: To preserve the appearance of the area. (EPA Act Sec 79C(b))*
- AMENITY**
- 20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:  
*Monday to Friday - 7.00am to 6.00pm*  
*Saturday - 8.00am to 1.00pm*  
No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**  
*Reason: To protect the environment. (EPA Act Sec 79C(b))*
- 24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**  
*Reason: To protect the environment. (EPA Act Sec 79C(b))*
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**ADVERTISING SIGNS**

- 25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

**AD1**

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

**ROADS**

- 26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads to be built to Council's specification as determined by Council's Engineers with a 300mm minimum depth of pavement. Stabilisation may be required when adverse subgrade conditions or permanent moisture problems are encountered. In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

- Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.
- Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.
- Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a "works-as-executed" set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended). **VA1**

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

- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **RD2**

**NOTE:** Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

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

- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**

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

- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:

- water supply
- sewer
- stormwater
- telephone

These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**

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

#### **PATHS**

- 31 **STAGE 1B as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 32 **STAGE 5A as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

#### **SUBDIVISION**

- 34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**

**Reason:** *To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*

- 35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**

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

- 36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**

***Reason:** To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))*

- 37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**

***Reason:** To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))*

**GEOTECHNICAL**

- 38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**

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

**WATER AND SEWER**

- 39 The proponent shall provide water works to service the development. The works shall include:

- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**

***Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))*

- 40 The proponent shall provide sewerage reticulation to service the development. The works shall include:

- a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**

***Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))*

- 41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.

Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:

- a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,
- b) to construct works to serve the development. **WS11**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.

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

- 44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.

Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

#### **BUFFERS**

- 45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:

- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
- (b) Include plantings of species with long thin and rough foliage; and
- (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
- (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and

**Reason:** *To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.*

- 46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.

**Reason:** *To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.*

- 47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition 45. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans. Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the

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satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

**Reason:** *To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))*

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

**Reason:** *To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.*

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift or suitable devices as approved by Council which will mitigate spray drift problems. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

**Reason:** *To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.*

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

#### **TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

#### **OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

55 Land shown as “*proposed public reserve*” shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).

**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*

56 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council’s satisfaction prior to the release of the subdivision certificate.

**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*

57 All open space/public reserves to be dedicated to Council upon release of the subdivision certificate for Stage 1. A right-of-way is to be registered to give Council access to the dedicated open space.

**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*

58 All areas proposed to be dedicated shall be maintained by the proponent at no cost to Council until dedication.

**Reason:** *To negate any maintenance burden on Council.*

#### **SECTION 94 CONTRIBUTIONS**

59 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$367,706.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$246,354.24** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20, 000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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 hereof, 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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

**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)*

- 60 A notation be provided to potential purchasers of the blocks of land which are in the buffer zone that they could be at risk of spray drift.

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$563,730** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987. The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.  
(Councillors Gates/Suffolk)

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

**Dissenting Vote:**

Councillors Irwin and Roberts. (D99/925)

**ADJOURNMENT:**

At this juncture (9.54pm) the meeting adjourned for supper to enable discussion with local residents in accordance with policy.

The meeting resumed at 10.15pm.

**DA00/511 - 364C Dunoon Road, Tullera**

(Copy attached)

321/00 **RESOLVED** that the report be received and the dwelling be approved subject to standard conditions.

(Councillors Hampton/Suffolk)

**Voting Against:** Councillors Irwin, Roberts, King and Tomlinson.

**Dissenting Vote:**

Councillor Irwin. (D00/511)

**Dedication of Footpath through 148 Ballina Road, Goonellabah**

(Copy attached)

322/00 **RESOLVED** that the report be received and –

- 1 Council adhere to the requirement for the provision of a footway between Hillcrest Avenue and Ballina Road, and the terms of Condition No 13 of DA 95/255 remain operative.
- 2 Land three (3) metres wide along eastern boundary of Lot 772 DP835182 be dedicated as footpath.
- 3 Compensation be paid to land owners for the agreed sum of \$12,500 and that all reasonable legal and professional costs be borne by Council.
- 4 That a six-foot paling fence be constructed along the boundary of the new dedicated footpath and the balance of Lot 772 at Councils cost.
- 5 That the General Manager be authorised to finalise, execute and apply the Common Seal of the Council to any necessary Deed of Agreement or Plan of Subdivision, associated with this matter.
- 6 The footpath be constructed with non-slip surface finish to overcome potential problems with moisture and leaves.

(Councillors Roberts/Irwin) (P23396)

**RESUMPTION OF STANDING ORDERS:**

323/00 **RESOLVED** that standing orders be resumed.

(Councillors Irwin/Baxter)

**REPORTS:**

**Kadina Park Plan of Management**

(See Minute No. 316/00)

**DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(See Minute No. 320/00)

**DA00/511 - 364C Dunoon Road, Tullera**

(See Minute No. 321/00)

**Special Business Rate Variation Levy**

(Copy attached)

- 324/00 **RESOLVED** that the report be received and –
- 1 The Special Rate Variation Levy be continued.
  - 2 The promotions plan include more specific information on the target market.
  - 3 The plan include more specific objectives that have measurable outcomes.
  - 4 An independent evaluation be conducted for the year 2000-2001 and a report be brought back to Council once the evaluation is complete.
  - 5 The promotions plan in future be presented to Council before the start of the financial year to which it relates.
  - 6 A report be brought to Council on the effectiveness of the position of the Events Co-ordinator.
- (Councillors Tomlinson/Irwin) (S740)

**Dedication of Footpath through 148 Ballina Road, Goonellabah**

(See Minute No. 322/00)

**Best Practice Guidelines for Acid Sulfate Soils**

(Copy attached)

- 325/00 **RESOLVED** that the report be received and Council adopt the '*Best Practice Guidelines for Acid Sulfate Soils*' as prepared by the NSW Sugar Industry.
- (Councillors Baxter/Hampton) (S714)

**Queen Victoria Jubilee Fountain Restoration**

(Copy attached)

- 326/00 **RESOLVED** that the report be received and Council seek external sources of funding to complete the Jubilee Fountain Restoration Project and Council enlist the services of a Heritage Consultant to prepare the various funding applications. Furthermore, funds to employ a Consultant be sourced from funding already allocated to this project. Should such applications prove unsuccessful, restoration be based on a sympathetic design and within the budget allocation.
- (Councillors Roberts/Irwin) (P6816)

**Sporting Fields Fees & Charges**

(Copy attached)

- 327/00 **RESOLVED** that the report be received and –
- 1 That no bonds be charged to Schools for the hiring of Council-managed sportsgrounds.
  - 2 That Council progressively work towards a 15% cost recovery percentage of all costs associated with sporting fields over the next three financial years, subject to lease monies being included in the costings.
  - 3 A report be brought back to Council on the cost of sports fields versus Parks & Recreation.
  - 4 Council review conditions of hire of sportsgrounds by various sporting bodies of Lismore.
- (Councillors Baxter/Swientek)
- Voting Against:** Councillors Irwin, Roberts and Tomlinson.  
(S156)

**Renaming Neighbourhood Park in McDermott Avenue**

(Copy attached)

- 328/00 **RESOLVED** that the report be received and –
- 1 That Council endorse the proposed name change for this park, to the ***Elders Memorial Park*** and that it be placed on public exhibition for a period of 28 days.

2 If no significant objections are received, then staff enact the decision.  
(Councillors Irwin/Roberts) (P6489)

**Council Meetings and Public Contact Forums 2001**

(Copy attached)

A MOTION WAS MOVED that the report be received and

1 Council retain its three weekly cycle for Council meetings.

2 A further report be submitted on meeting dates for 2001.

(Councillors Swientek/Irwin)

AN AMENDMENT WAS MOVED that the report be received and -

1 That the schedule of venues as outlined below be adopted.

- |                          |              |                             |
|--------------------------|--------------|-----------------------------|
| a) Council Meetings      | May 8        | Coffee Camp                 |
|                          | November 13  | McLeans Ridges              |
| b) Public Contact Forums | March 19     | Wyrallah                    |
|                          | June 18      | Corndale                    |
|                          | September 17 | Goolmangar                  |
| c) City Contact Forums   | April 16     | South Lismore Bowling Club  |
|                          | July 16      | Goonellabah RSL Sports Club |

2 That Policy 1.2.7 be amended to reflect the reduction in rural Council meetings from three to two.

(Councillors Roberts/Crowther)

On submission to the meeting the AMENDMENT was DEFEATED.

**Voting Against:** Councillors Irwin, King, Swientek, Gallen, Baxter, Chant and Suffolk.

329/00 **RESOLVED** that the report be received and –

1 Council retain its three weekly cycle for Council meetings.

2 A further report be submitted on meeting dates for 2001.

(Councillors Swientek/Irwin)

**Voting Against:** Councillors Roberts, Tomlinson, Hampton, Crowther and Gates.

**PROCEDURAL MOTION:**

330/00 **RESOLVED** that the matter be recommitted.

(Councillors Roberts/Crowther)

**Voting Against:** Councillors Irwin, King, Swientek, Baxter and Suffolk.

A MOTION WAS MOVED that the report be received and –

1 Council retain its three weekly cycle for Council meetings.

2 A further report be submitted on meeting dates for 2001.

(Councillors Swientek/Irwin)

AN AMENDMENT WAS MOVED that the report be received and –

1 That monthly meetings be held for a trial period of 6 months.

2 That the schedule of venues as outlined below be adopted.

- |                          |              |                             |
|--------------------------|--------------|-----------------------------|
| a) Council Meetings      | May 8        | Coffee Camp                 |
|                          | November 13  | McLeans Ridges              |
| b) Public Contact Forums | March 19     | Wyrallah                    |
|                          | June 18      | Corndale                    |
|                          | September 17 | Goolmangar                  |
| c) City Contact Forums   | April 16     | South Lismore Bowling Club  |
|                          | July 16      | Goonellabah RSL Sports Club |

3 That Policy 1.2.7 be amended to reflect the reduction in rural Council meetings from three to two.

(Councillors Hampton/Gallen)

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

**Voting Against:** Councillors Swientek and Baxter.

- 331/00 **RESOLVED** that the report be received and –
- 1 That monthly meetings be held for a trial period of 6 months.
  - 2 That the schedule of venues as outlined below be adopted.

a) Council Meetings	May 8	Coffee Camp
	November 13	McLeans Ridges
b) Public Contact Forums	March 19	Wyrallah
	June 18	Corndale
	September 17	Goolmangar
c) City Contact Forums	April 16	South Lismore Bowling Club
	July 16	Goonellabah RSL Sports Club
  - 3 That Policy 1.2.7 be amended to reflect the reduction in rural Council meetings from three to two.  
(Councillors Hampton/Gallen)
- Voting Against:** Councillor Swientek.  
(S4)

**Investments Held by Council as at 31/10/00**

(Copy attached)

- 332/00 **RESOLVED** that the report be received and noted.  
(Councillors Crowther/Irwin) (S170)

**CONTINUATION:**

- 333/00 **RESOLVED** that the time being 11.17pm the meeting continue to the end of the business paper.  
(Councillors Irwin/Baxter)

**DOCUMENTS FOR SIGNING AND SEALING:**

- 334/00 **RESOLVED** that the following documents be executed under the Common Seal of Council:-

**S88B Instrument and Memorandum of Transfer - Part Ross Street Road Closure**

Proposed transfer to Southern Cross University of part road for water main 5m wide.  
(00-15957: R7132)

**Application for Advance Review of Council's Overdraft Facilities**

Annual Review for period November 2000 to November 2001.  
(00-16860: S373)  
(Councillors Irwin/Hampton)

**MATTERS OF URGENCY:**

**Questions Without Notice**

- 335/00 **RESOLVED** that this matter be admitted to the business paper as a matter of urgency.  
(Councillors Crowther/Hampton)

- 336/00 **RESOLVED** that in view of the late hour, all questions without notice be submitted to the General Manager in writing.  
(Councillors Crowther/Hampton) (S43)

**LDSA Membership**

337/00 **RESOLVED** that this matter be admitted to the business paper as a matter of urgency.  
(Councillors Baxter/Hampton)

338/00 **RESOLVED** that the following people be appointed to the LDSA:  
*Tom Barnsley and I Carrington.*  
(Councillors Baxter/Swientek) (S375)

**CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE:**

A MOTION WAS MOVED that Council now exclude the press and public and meet in Committee of the Whole to consider the following matters:-

**Item 1: Proposed Eastpoint Shopping Village – Traffic Arrangements**

**Item 2: Sale of Land for Unpaid Rates**

**Item 3: Wyrain Industrial Estate**  
(Councillors Crowther/Hampton)

AN AMENDMENT WAS MOVED that Council now exclude the press and public and meet in Committee of the Whole to consider the following matters:-

**Item 1: Proposed Eastpoint Shopping Village – Traffic Arrangements**

**Item 2: Sale of Land for Unpaid Rates**

**Item 3: Wyrain Industrial Estate**

**Item 4: Hensley Carpark**  
(Councillors Gates/Baxter)

On submission to the meeting the AMENDMENT was DEFEATED.

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

339/00 **RESOLVED** that Council now exclude the press and public and meet in Committee of the Whole to consider the following matters:-

**Item 1: Proposed Eastpoint Shopping Village – Traffic Arrangements**

**Item 2: Sale of Land for Unpaid Rates**

**Item 3: Wyrain Industrial Estate**  
(Councillors Crowther/Hampton)

**Voting Against:** Councillors King, Baxter, Suffolk and Gates.

**Report – Hensley Carpark**

(Copy attached)

340/00 **RESOLVED** that the report be received and noted and no action be taken in respect of this carpark.  
(Councillors Crowther/Irwin) (P4295)

**RESUMPTION OF OPEN COUNCIL:**

When the Council had resumed its former sitting, the General Manager reported that Council, meeting in Committee of the Whole, had resolved to exclude the press and public during its consideration of the beforementioned matters to preserve the confidentiality of individuals, commercial advantage and legal proceedings

AND IT NOW RECOMMENDED

**Item 1:**

That consideration of this matter be deferred to the next meeting.

**Item 2:**

- 1 That in accordance with Section 713 of the Local Government Act 1993 (LGA), Council sell the following properties for unpaid rates, which the General Manager certifies as having outstanding rates for more than 5 years :-  
*Lismore Council Assessment Numbers:*  
4670,7297,9020,9219,12931,13160,14896,15256,15337,15419,16033,  
17119, 17261
- 2 That the General Manager, by delegated authority, determine the date of the sale subject to the provisions and timeframe set out in Section 715 (1)(a) of the Local Government Act 1993.
- 3 That the General Manager be authorised to accept an arrangement to pay the outstanding rates and charges and/or withdraw any assessment from the proposed sale at his discretion.
- 4 That the General Manager be authorised to determine the place of the sale and appoint an auctioneer to carry out the sale.
- 5 That the General Manager be authorised to execute under Common Seal of Council, the Contract and Memorandum of Transfer for any of the abovementioned properties sold to recoup unpaid rates.
- 6 Council write to each ratepayer advising of this decision but place a moratorium on any action until the New Year to allow for submissions to be made to Council; and any action required be taken without further referral to Council.

**Item 3:**

That Council decline Wyrain's offer and offer to assist in improving the financial viability of the Estate by fostering demand and where possible, the lowering of the development costs.

341/00 **RESOLVED** that the General Manager's report of Council meeting in Committee of the Whole be received and adopted.  
(Councillors Irwin/Baxter)  
**Voting Against:** Councillor Roberts.

**RESCISSION MOTIONS:**

The Group Manager-Corporate & Community Services advised Council that he had been handed a Notice of Rescission Motion signed by Councillors Swientek, Gallen and Tomlinson with respect to the resolution **Acquisition of Land from RSL Club for Memorial Baths Rebuilding** (Min. No. 313/00).

The Group Manager-Corporate & Community Services advised Council that he had been handed a Notice of Rescission Motion signed by Councillors Irwin, Gallen and Tomlinson with respect to the resolution **DA99/925 – 90 Lot Subdivision, 20 Waratah Way** (Min. No. 320/00).

The Group Manager-Corporate & Community Services advised Council that he had been handed a Notice of Rescission Motion signed by Councillors Irwin, Roberts and Tomlinson with respect to the resolution **DA00/511 – 364C Dunoon Road, Tullera** (Min. No. 321/00).

The Group Manager-Corporate & Community Services advised Council that these Rescission Motions would be considered at the next ordinary meeting of Council and that in the interim the Council resolutions referred to in the rescission motions could not be carried into effect until the rescission motions had been dealt with.

This concluded the business and the meeting terminated at 11.58 pm.

**CONFIRMED** this 12TH day of DECEMBER, 2000 at which meeting the signature herein was subscribed.

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**MAYOR**

**MINUTES OF THE SPECIAL MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, NOVEMBER 28, 2000 AT 6.03PM.**

**Present:** His Worship the Mayor, Councillor Gates; Councillors Baxter, Chant, Crowther, Gallen, Hampton, Irwin, King, Roberts, Suffolk, Swientek and Tomlinson, together with the Acting General Manager (Col Cooper); Group Managers-City Works, Business & Enterprise and Acting Group Manager-Planning & Development; Assets Manager-Water & Wastewater, Development Assessment Planner (Chris Soulsby), Manager-Client Services, Manager-Finance & Administration and Administrative Services Manager.

**Apologies/** NIL  
**Leave of**  
**Absence:**

**PUBLIC ACCESS SESSION:**

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

**Mr Stan Heywood re Rescission Motion - DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(See Minute Nos. 342-343/00)

Mr Heywood expressed shock that Council would lower the standard of road construction in subdivisions, given the condition of its existing road network and the fact that Council would be required to repair any failed roads.

**RESCISSION MOTIONS:**

**Acquisition of Land from RSL Club for Memorial Baths Rebuilding**

(Copy attached)

Formal notice having been given by Councillors Swientek, Gallen and Tomlinson it was MOVED that Council rescind the Mayoral Minute 21/11/00 (No. 313/00) regarding the purchase of RSL Club bowling green for expanding Lismore's aquatic facility.

(Councillors Swientek/Tomlinson)

On submission to the meeting the MOTION was DEFEATED.

**Voting Against:** Councillors King, Chant, Baxter, Hampton, Suffolk, Gates and Crowther. (P2693,P6768)

**DA99/925 – 90 Lot Subdivision, 20 Waratah Way**

(Copy attached)

342/00

Formal notice having been given by Councillors Irwin, Gallen and Tomlinson it was **RESOLVED** that Council's decision on the Waratah Way Subdivision be rescinded. (Min. No. 320/00)

(Councillors Irwin/Roberts)

A FORESHADOWED MOTION WAS MOVED that –

A Council grant delegated authority to the General Manager, subject to the concurrence of the Development Control Unit, 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.

- B Council, as the consent authority, approve Development Application 99/925 for the 90 lot residential subdivision of Lot B, DP 413649, known as 20 Waratah Way, Goonellabah, subject to the following conditions:
- 1 In granting this development consent, Council requires:
- the development,
  - all roads/civil works,
  - lot boundaries, and
  - areas subject to any amendment or modification called for in the following conditions be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.
- NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.
- Reason:** *To cater for newly introduced GST provisions.*
- 3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.
- Reason:** *To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.*

#### **DRAINAGE**

- 4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans. Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. **DG1**
- 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))*
- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. **DG3**

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:
- all drainage lines have been located within the respective easements,
  - roadworks are in accordance with the approved design plan,
  - any other structures like retaining walls are located in accordance with the Construction Certificate,
  - all stormwater has been directed to a Council approved drainage system. **DG5**

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained.

Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.

**Reason:** To maintain pre-development flows in the surrounding drainage system.

- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;

- 80% of average annual coarse sediment load retained (particles .5mm)
- 50% retention of annual fine sediment load retained (particles .1mm)
- 45% of average annual total phosphorus load retained
- 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
- 90% of annual hydrocarbon load to be retained.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.

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

- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;

- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
- Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.

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

- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:
- civil engineering works including retaining walls have been assessed as structurally adequate,
  - civil engineering works will not be affected by landslip either above or below the works,
  - civil engineering works will not be affected by subsidence either above or below the works, and
  - adequate drainage has been provided. **EW1**
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**
- Reason:** To protect the environment. (EPA Act Sec 79C(b))
- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**
- Reason:** To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**
- NOTE:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.
- Reason:** To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))
- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))
- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**
- Reason:** To preserve the appearance of the area. (EPA Act Sec 79C(b))
- AMENITY**
- 20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.
- Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))
- 21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:
- Monday to Friday - 7.00am to 6.00pm  
Saturday - 8.00am to 1.00pm
- No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**
- Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))
- 22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**
-

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

- 23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**

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

- 24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**

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

#### **ADVERTISING SIGNS**

- 25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

#### **AD1**

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

#### **ROADS**

- 26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads shall be a minimum of 300mm depth pavement with a 150mm cement stabilised layer. In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.

Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.

Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.

Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.

Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a "works-as-executed" set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended). **VA1**

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

- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **RD2**

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

- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access.

Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**

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

- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:

- water supply
- sewer
- stormwater
- telephone

These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**

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

#### **PATHS**

- 31 **STAGE 1B as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 32 **STAGE 5A as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

#### **SUBDIVISION**

- 34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**

*Reason: To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*

- 35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**

- Reason:** *To comply with environmental planning instrument. (EPA Act Sec 79C(a))*
- 36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**
- Reason:** *To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))*
- 37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**
- Reason:** *To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))*

**GEOTECHNICAL**

- 38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 “Residential Slabs and Footings”. Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**
- Reason:** *To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

**WATER AND SEWER**

- 39 The proponent shall provide water works to service the development. The works shall include:
- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a “works-as-executed” set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**
- Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*
- 40 The proponent shall provide sewerage reticulation to service the development. The works shall include:
- a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a “works-as-executed” set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**

- Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*
- 41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.  
Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:
- a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,
  - b) to construct works to serve the development. **WS11**
- Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*
- 42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**
- Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*
- 43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.
- Reason:** *To ensure adequate protection of utility services (EPA Act Sec 79C(b))*
- 44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.  
Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

**BUFFERS**

- 45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:
- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
  - (b) Include plantings of species with long thin and rough foliage; and
  - (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
  - (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and
- Reason:** *To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.*
- 46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.  
**Reason:** *To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.*
- 47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition **45**. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans.

Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council.

Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

**Reason:** *To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))*

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

**Reason:** *To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.*

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

**Reason:** *To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.*

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

#### **TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

**OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent.  
**(NOTE:** Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)  
**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*
- 55 Land shown as “proposed public reserve” shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).  
**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*
- 56 Lots 35 and 36 shall be deleted from the plans. The area of these lots shall be incorporated into the areas of public reserve. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64).  
**Reason:** *To comply with the provisions of Development Control Plan 28 Subdivision with respect to Section 6.2.6 and with Development Control Plan 43 Crime Prevention Through Environmental Design.*
- 57 Lots 75 and 76 shall be reduced in size. The rear boundary shall be realigned in accordance with the stamped approved plans as amended in red. The area of these lots shall be incorporated into the areas of public reserve. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64).  
**Reason:** *To comply with the provisions of Development Control Plan 28 Subdivision with respect to Section 6.2.6 and with Development Control Plan 43 Crime Prevention Through Environmental Design.*
- 58 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council’s satisfaction prior to the release of the subdivision certificate.  
**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*
- 59 The developer shall provide a cleared area suitable for vehicular access at the rear of Lots 51, 52 and 53 to facilitate vehicle movement. Full details to be submitted to Council prior to the commencement of works.  
**Reason:** *To ensure access to the adjoining open space and to allow for maintenance.*
- 60 No trees are to be removed on Lots 52 and 53 without the prior consent of Council.  
**Reason:** *To preserve the bushland that will be on private land.*
- 61 Timing of dedication of open space:  
Lot 79 shall be dedicated upon release of the subdivision certificate for lots 50 and 51; and  
Lot 80 and the lots to be incorporated into Lot 80 as required by Conditions 57 and 58 shall be dedicated at the release of the subdivision certificate for lots 48 and 31 or lots 36 and 77 which ever occurs first.  
**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*
- 62 All areas proposed to be dedicated shall be maintained by the proponent at no cost to Council until dedication.  
**Reason:** *To negate any maintenance burden on Council.*
-

**SECTION 94 CONTRIBUTIONS**

63 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required.

Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$367,706.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$246,354.24** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

*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)*

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$563,730** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987. The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.  
(Councillors Irwin/Gallen)

AN AMENDMENT WAS MOVED that -

A Council grant delegated authority to the General Manager, subject to the concurrence of the Development Control Unit, to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application, and any other changes necessitated to the conditions of consent by the motion of Councillors Gates and Suffolk, except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.

B Council, as the consent authority, approve Development Application 99/925 for the 90 lot residential subdivision of Lot B, DP 413649, known as 20 Waratah Way, Goonellabah, subject to the following conditions:

1 In granting this development consent, Council requires:

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

be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

**Reason:** *To cater for newly introduced GST provisions.*

- 3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.

**Reason:** *To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.*

#### **DRAINAGE**

- 4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans.

Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. DG1

**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))*

- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. **DG3**

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan,
- any other structures like retaining walls are located in accordance with the Construction Certificate,
- all stormwater has been directed to a Council approved drainage system. **DG5**

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained.  
Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.  
**Reason:** *To maintain pre-development flows in the surrounding drainage system.*
- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.  
**Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;
- 80% of average annual coarse sediment load retained (particles .5mm)
  - 50% retention of annual fine sediment load retained (particles .1mm)
  - 45% of average annual total phosphorus load retained
  - 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
  - 90% of annual hydrocarbon load to be retained.
- Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.  
**Reason:** *To ensure compliance with the development approval.*
- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;
- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
  - Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).
- Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.  
**Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:
- civil engineering works including retaining walls have been assessed as structurally adequate,
  - civil engineering works will not be affected by landslip either above or below the works,
  - civil engineering works will not be affected by subsidence either above or below the works, and
  - adequate drainage has been provided. **EW1**
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**  
**Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
-

- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**  
*Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**  
*Reason: To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**  
**Note:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.  
*Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))*
- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**  
*Reason: To preserve the appearance of the area. (EPA Act Sec 79C(b))*
- AMENITY**
- 20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:  
*Monday to Friday - 7.00am to 6.00pm*  
*Saturday - 8.00am to 1.00pm*  
No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**  
*Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))*
- 23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**  
*Reason: To protect the environment. (EPA Act Sec 79C(b))*
- 24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**  
*Reason: To protect the environment. (EPA Act Sec 79C(b))*
-

**ADVERTISING SIGNS**

- 25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

**AD1**

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

**ROADS**

- 26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads to be built to Council's specification as determined by Council's Engineers with a 300mm minimum depth of pavement. Stabilisation may be required when adverse subgrade conditions or permanent moisture problems are encountered. In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

- Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.
- Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.
- Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a "works-as-executed" set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council's Development, Design and Construction Manuals (as amended). **VA1**

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

- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **RD2**

**NOTE:** Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

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

- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council's Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**

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

- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:

- water supply
- sewer
- stormwater
- telephone

These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**

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

#### **PATHS**

- 31 **STAGE 1B as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 32 **STAGE 5A as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

#### **SUBDIVISION**

- 34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**

**Reason:** *To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*

- 35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**

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

- 36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**

**Reason:** To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))

- 37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**

**Reason:** To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))

**GEOTECHNICAL**

- 38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**

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

**WATER AND SEWER**

- 39 The proponent shall provide water works to service the development. The works shall include:

- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**

**Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))

- 40 The proponent shall provide sewerage reticulation to service the development. The works shall include:

- a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**

**Reason:** To provide adequate services for the development (EPA Act Sec 79C(c))

- 41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.

Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:

- a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,
- b) to construct works to serve the development. **WS11**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

- 43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.

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

- 44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.

Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

#### **BUFFERS**

- 45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:

- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
- (b) Include plantings of species with long thin and rough foliage; and
- (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
- (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and

**Reason:** *To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.*

- 46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.

**Reason:** *To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.*

- 47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition 45. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans. Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

**Reason:** *To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))*

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

**Reason:** *To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.*

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift or suitable devices as approved by Council which will mitigate spray drift problems. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

**Reason:** *To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.*

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

#### **TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

#### **OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

55 Land shown as “*proposed public reserve*” shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).

**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*

56 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council’s satisfaction prior to the release of the subdivision certificate.

**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*

57 All open space/public reserves to be dedicated to Council upon release of the subdivision certificate for Stage 1. A right-of-way is to be registered to give Council access to the dedicated open space.

**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*

58 The developer shall enter into a contract with Council to maintain the public reserves until:

*For Lot 79 – upon release of the subdivision certificate for Lots 50 and 51;*

*And*

*For Lot 80 – upon the release of the subdivision certificate for Lots 48 and 31 or Lots 36 and 77 whichever occurs first.*

The developer shall annually submit to Council evidence of public liability insurance to the value of \$10,000,000 while ever the developer is maintaining Council owned reserves.

**Reason:** *To negate any maintenance burden on Council.*

#### **SECTION 94 CONTRIBUTIONS**

59 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$377,644.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$293,597.45** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20, 000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

**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)*

60 A notation be provided to potential purchasers of the blocks of land which are in the buffer zone that they could be at risk of spray drift.

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$581,020** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987. The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.

(Councillors Gates/Suffolk)

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

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

343/00

**RESOLVED** that –

A Council grant delegated authority to the General Manager, subject to the concurrence of the Development Control Unit, to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application, and any other changes necessitated to the conditions of consent by the motion of Councillors Gates and Suffolk, except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.

B Council, as the consent authority, approve Development Application 99/925 for the 90 lot residential subdivision of Lot B, DP 413649, known as 20 Waratah Way, Goonellabah, subject to the following conditions:

1 In granting this development consent, Council requires:

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

be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 21/11/00 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 Where the provision of services or the construction of any infrastructure or any other thing required by this consent occurs and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

**NB:** GST means any tax levy charge or impost under the authority of any GST law (as defined by the GST Act) and includes GST within the meaning of the GST Act. The GST Act means a New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

**Reason:** *To cater for newly introduced GST provisions.*

3 The indicative road and lot layout to link with the subdivision on Lot 2 DP 252826, shall be altered to link correctly with the road layout as approved in DA 95/22, and provide pedestrian access and an overland flow path to the stormwater basin within the public reserve.

**Reason:** *To ensure that the road network links correctly and to provide for pedestrian access and a failure path for stormwater.*

**DRAINAGE**

4 Hard surface areas, landscaped areas, roof water and subsoil drainage systems shall be designed by a suitably qualified person experienced in Hydraulic design and submitted to the Council prior to release of the engineering design plans.

Drainage is to direct all water to a Council approved drainage system and shall capture discharge runoff from adjoining land and prevent discharge runoff onto adjoining properties. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended).. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. DG1

**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))

- 5 Measures shall be put in place to control stormwater 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. Details of sediment control measures and revegetation works shall be submitted to the Council for approval prior to the commencement of works. **DG3**

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

- 6 Prior to release of the Subdivision Certificate, a suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan,
- any other structures like retaining walls are located in accordance with the Construction Certificate,
- all stormwater has been directed to a Council approved drainage system. **DG5**

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

- 7 Stormwater first flush/retardation basins shall be designed for all catchment areas to prevent increases in flows from the site. The design of these systems shall ensure that the existing water quality of downstream areas is maintained.

Where retention ponds are to be provided they are to be designed in accordance with the recommended standards as tabled in Australian Rainfall and Runoff publication.

**Reason:** To maintain pre-development flows in the surrounding drainage system.

- 8 All stormwater management details must be submitted and approved by Council prior to the release of the engineering design plans and shall be in accordance with the performance criteria specified in Conditions 7,9,10 and 12.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 9 The stormwater management and the design standard for the **post construction phase** shall address the quantitative objectives listed below;

- 80% of average annual coarse sediment load retained (particles .5mm)
- 50% retention of annual fine sediment load retained (particles .1mm)
- 45% of average annual total phosphorus load retained
- 70% of average annual litter load greater than 5mm to be prevented from entering receiving waters.
- 90% of annual hydrocarbon load to be retained.

**Reason:** To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.

- 10 Details to be submitted and approved by Council prior to the commence of works of the monitoring of all proposed stormwater devices to comply with the performance criteria nominated in Condition 9.

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

- 11 The stormwater management and the design standard for the construction phase shall address the quantitative objectives listed below;
- Suspended solids concentrations not to exceed 50mg/L for all 5 day rainfall totals up to the 75<sup>th</sup> percentile rainfall event for Type D (Dispersible Soils) and Type F (Fine Soils).
  - Suspended solids concentration not to exceed 50mg/L for all flow events up to 25% of the 1 year ARI flow for Type C (Coarse Soils).
- Reason:** *To comply with the provisions of Lismore City Council's, Stormwater Management Plan "For Quality Control of Urban Stormwater" June, 2000.*
- 12 The stormwater management details to be submitted and approved by Council prior to the release of the engineering design plans shall also address the maintenance requirements of the proposed design and any public safety aspects of the proposed design.
- Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
- 13 Prior to release of the engineering design plans, certification from a practising qualified engineer experienced in soil mechanics is required verifying:
- civil engineering works including retaining walls have been assessed as structurally adequate,
  - civil engineering works will not be affected by landslip either above or below the works,
  - civil engineering works will not be affected by subsidence either above or below the works, and
  - adequate drainage has been provided. **EW1**
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 14 Fill material shall not encroach onto any adjoining land without the written consent of the owner of that land. **EW3**
- Reason:** *To protect the environment. (EPA Act Sec 79C(b))*
- 15 The slope of the fill batter shall not exceed 1:4. The batter shall be revegetated and maintained in a neat state. **EW4**
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 16 A qualified practising structural engineer shall provide the Council with a certificate of structural adequacy for any proposed retaining walls in the development, prior to release of the engineering design plans. **EW5**
- Reason:** *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*
- 17 Bulk earthworks shall not commence on site before the release of the engineering design plans. **EW6**
- Note:** Bulk earthworks inclusive of land reshaping and filling shall require engineering plans in accordance with this condition. These plans do not have to detail all engineering works proposed on the site.
- Reason:** *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*
- 18 Prior to the release of the Subdivision Certificate, a NATA registered geotechnical testing authority shall submit documentary evidence, certifying that the 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))*
- 19 Benching (ie cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a Development Application to build on the land. **EW7**
- Reason:** *To preserve the appearance of the area. (EPA Act Sec 79C(b))*
-

**AMENITY**

20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of vibration.

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

21 The hours of work for any noise generating activity of the proposed development are to be limited to the following time restrictions:

*Monday to Friday - 7.00am to 6.00pm*

*Saturday - 8.00am to 1.00pm*

No noise generating construction activities are to take place on Sundays or public holidays. **AM 2**

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

22 Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual. **AM 6**

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

23 A water truck designed to suppress dust from exposed surfaces, access roads and any stockpile of soil material shall be available at the site or in the immediate vicinity at all times during the construction phase. Exposed surfaces and access pads shall be regularly watered to suppress dust generation. **EN7**

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

24 In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the owner shall report the event to Council immediately it becomes known to the owner or the owner's agent. **EN11**

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

**ADVERTISING SIGNS**

25 All outdoor advertising material, signs or decorative materials (including flags or bunting) shall be approved by the Council prior to erection, in accordance with Development Control Plan No. 36 Outdoor Advertising Structures (as amended). In this regard, a separate development application shall be submitted to Council.

**AD1**

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

**ROADS**

26 The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with Council's Development, Design and Construction Manual (as amended). All roads to be built to Council's specification as determined by Council's Engineers with a 300mm minimum depth of pavement. Stabilisation may be required when adverse subgrade conditions or permanent moisture problems are encountered. In relation to the following works, the proponent shall pay Council's GST cost prior to the release of the Compliance Certificate. The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date of approval of completion of the work. Required roadworks include:

- Construction of the road indicated as Waratah Way to an urban, bitumen sealed road shape with a width of 11m between kerbs.
- Construction of the road indicated as Lorikeet Court to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Kookaburra Terrace to an urban, bitumen sealed road shape with a width of 9m between kerbs from the end of the existing pavement in Waratah Way to the western boundary of Lot 22.
- Construction of the road indicated as Grevillea Grove to an urban, bitumen sealed road shape with a width of 9m between kerbs.
- Construction of the road indicated as Platypus Place to an urban, bitumen sealed road shape with a width of 6m between kerbs.

All lot frontages within a stage shall be constructed to the above standards prior to the release of the subdivision certificate for that stage. A temporary gravel turning area shall be provided at the end of the constructed road for each stage.

An accredited certifier or practising qualified surveyor or engineer shall submit to the Principal Certifying Authority for approval prior to the release of the compliance certificate, a “works-as-executed” set of plans and construction certification. The compliance certificate for construction shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and Construction Certificate. **RD1**

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

- 27 Redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions shall be reinstated in accordance with Council’s Development, Design and Construction Manuals (as amended). **VA1**

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

- 28 Full design plans of the proposed engineering works to satisfy condition(s) 4, 5, 26, 29, and 30, shall be submitted to and approved of by **Council prior to the commencement of any works. Such plans shall be accompanied by an engineering plan checking fee** as adopted at the time of the relevant payment as indicated in Council’s Fees and Charges. **RD2**

**NOTE:** Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

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

- 29 The grade from the road pavement to each lot shall permit the construction of vehicular access in accordance with Council’s Design and Construction Specification (Vehicular Access). Engineering design working drawings shall provide evidence of the feasibility of lot access. Such drawings shall be submitted for Council approval prior to release of the **Construction Certificate. RD3**

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

- 30 The access shaft of Lots 75 and 76 in stage 7 as indicated on the staging plan shall be constructed in accordance with Council’s Development, Design and Construction Manuals (as amended). A **4.0 m** wide asphaltic concrete (25mm depth) sealed or equivalent surface shall be applied to the full length of the shaft commencing from the road pavement. Provision of the following services:

- water supply
- sewer
- stormwater
- telephone

These services shall be installed/conduits laid for the full length of the shaft, prior to construction. **VA7**

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

**PATHS**

- 31 **STAGE 1B as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Lorikeet Court to southern boundary of Lot 10 in accordance with Council’s Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

32 **STAGE 5A as indicated on the staging plan**

The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, leading from Grevillea Grove to southern boundary of Lot 10 in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

*Reason: To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

33 All pathways referred to in Condition 31 and 32 shall be dedicated to Council. Any dedication costs shall be the responsibility of the proponent.

**SUBDIVISION**

34 The proponent shall place allotment number identification **on the frontage kerb and gutter** to indicate the side boundaries and/or access shafts prior to release of the Subdivision Certificate. **SUB1**

*Reason: To provide visual identification of lot boundaries (EPA Act Sec 79C(e)).*

35 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges. **SUB2**

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

36 Prior to approval of the Subdivision Certificate, the proponent shall ensure the provision of telephone services is provided to all lots and including the full length of battle-axe handles. Written evidence from Telstra Australia shall be required confirming action has commenced and relevant payments have been made. **PU5**

*Reason: To ensure the provision of adequate services to the development. (EPA Act Sec 79C(b))*

37 Prior to approval of the Subdivision Certificate, written evidence from NorthPower shall be required confirming that NorthPower has provided electrical power to each lot, including the full length of battle-axe handles and that charges for the extension of electricity supply have been paid. **PU6**

*Reason: To ensure the provision of adequate services to the development.. (EPA Act Sec 79C(b))*

**GEOTECHNICAL**

38 Prior to the release of the Subdivision Certificate, a qualified practising Engineer, experienced in soil mechanics, shall submit documentary evidence in the form of a Geotechnical Investigation Report to the Principal Certifying Authority for approval, certifying that each allotment is suitable for building purposes and classifying each allotment in accordance with Australian Standard 2870 "Residential Slabs and Footings". Any allotment subject to further earthworks during the construction phase shall be identified in the Geotechnical Report. **BC9**

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

**WATER AND SEWER**

39 The proponent shall provide water works to service the development. The works shall include:

- a) A conventional water reticulation that comprises a water service to each allotment. Water reticulation works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent.

The proponent shall be responsible for the full cost of any associated water maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the works. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3A**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

40 The proponent shall provide sewerage reticulation to service the development. The works shall include:

a) A conventional gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment. Sewerage works shall be designed and constructed in accordance with Lismore City Council's adopted standards. Any costs shall be the responsibility of the proponent. The proponent shall be responsible for the full cost of any associated sewerage maintenance considered necessary by Lismore City Council's Manager-Water and Sewerage for a period of twelve months from the date of approval of the work. After satisfactory completion of this work, a practising qualified surveyor shall submit a "works-as-executed" set of 1:1000 transparency plans and plans in digital format (Autocad or similar) showing these works. **WS3B**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

41 Prior to issue of a Subdivision Certificate, the proponent must apply to Lismore City Council under s.24 of the Water Supply Authorities Act, 1987, and obtain from Lismore City Council a Certificate of Compliance under s.26 of the Water Supply Authorities Act 1987.

Following the making of an application under s.24 of the Water Supply Authorities Act, Lismore City Council under s.25 of the Water Supply Authorities Act, 1987, may require the proponent to do either or both of the following:

a) to pay a specific amount to the Lismore City Council by way of contribution towards the cost of such works as are specified in the notice, being existing works or projected works, or both,  
b) to construct works to serve the development. **WS11**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

42 Full design plans of the proposed engineering works to satisfy condition(s) 39, 40 and 41 shall be submitted to Lismore City Council. Such plans must be approved by the Manager-Water and Sewerage prior to the commencement of work. Construction of these works will need to be completed before a Certificate of Compliance is issued by Lismore City Council under s.26 of the Water Supply Authorities Act 1987. **WS12**

**Reason:** *To provide adequate services for the development (EPA Act Sec 79C(c))*

43 The proponent, at no cost to Council, is to dedicate an easement 3m wide over the proposed sewer main as directed by Council.

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

44 The applicant or developer shall pay to Council all Water and Sewerage Headworks Levies deemed necessary in by Council in accordance with Section 64 of the Local Government Act 1993, as detailed in the attached schedule. Such levies shall be paid prior to release of the subdivision certificate.

Where a subdivision is to be staged, then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage. **S64**

**BUFFERS**

- 45 The applicant shall plant a 30 metre wide biological buffer running the length of the eastern boundary of Lot B DP 413649. The plantings in the buffer shall:
- (a) Contain a variety of plantings of different growth habits planted in a random pattern; and
  - (b) Include plantings of species with long thin and rough foliage; and
  - (c) Plantings are to be at mature height of sufficient size to capture spray released up to 1.5 times the height of the trees in the adjoining macadamia plantation; and
  - (d) The density of plantings in the buffer should provide for a porosity of 0.5 (at least 50% of the screen should be airspace); and

*Reason:* To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.

- 46 There shall be an area of at least 10m of cleared space for fire protection to the nearest dwelling from the plantings in the buffer.

*Reason:* To minimise the fire hazard to any dwelling located adjacent to the buffer plantings.

- 47 A detailed landscaping plan including the buffer plantings (in duplicate) shall be submitted to the Principal Certifying Authority prior to release of the **Subdivision Certificate**. This plan shall give effect to the requirements of Condition 45. Landscaping plans shall be in accordance with Council's Landscaping Code and relevant Development Control Plans. Species identified in Council's Landscaping Code shall be planted wherever possible. Landscaping plans shall indicate:

- proposed location for planted shrubs and trees;
- location of plantings with respect to property boundaries;
- botanical name of shrubs and trees to be planted;
- mature height of trees to be planted;
- location of grassed areas;

The Principal Certifying Authority approved landscaping shall be completed prior to the release of the Subdivision Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval.

*Reason:* To ensure that appropriate landscaping is provided in the buffer area. (EPA Act Sec 79C(c))

- 48 A report by a suitably qualified person, shall be submitted upon the establishment of the biological canopy giving effect to Condition No. 45 verifying the effectiveness of the buffer must be submitted and approved by Council.

*Reason:* To ensure that biological buffer is functioning and has been maintained to protect the health and safety of the development.

- 49 The subdivision certificate for Lots 17, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75, 77 and 78 shall not be released until such time as the plantings in the biological buffer required by Condition 45 are established to a height and density to prevent spray drift or suitable devices as approved by Council which will mitigate spray drift problems. The report required by Condition 48 shall confirm that the biological buffer is functioning to prevent spray drift.

*Reason:* To comply with the provisions of Development Control Plan 27- Buffer Areas and to ensure the health and safety of the future residents of the development.

- 50 The buffer plantings referred to in Conditions 45 and 47 on the residue lot (Lot 78) shall be maintained by the owner of that lot at no cost to Council. Dead or damaged trees in the biological buffer shall be replaced by the developer or owner of that lot. The buffer shall be maintained by the developer or owner of the lot until the macadamia plantation on Lot 2, DP 252826 is removed.

**Reason:** *To ensure that the biological buffer is maintained to protect the health and safety of the development.*

**NOTE:** The plantings in the buffer are for the purpose of capturing spray drift from the adjoining plantation. Nothing in this consent shall be construed as preventing the removal of these trees to allow for future development subject to the provisions of the Tree Preservation Order and the Environmental Planning and Assessment Act 1979 once the adjoining plantation has been removed.

- 51 No dwelling shall be erected on the residue lot (Lot 78) except in the nominated building envelope as indicated the stamped approved plans. Such a dwelling shall not be erected until condition 48 has been satisfied.

**Reason:** *To prevent undesirable development in the buffer area.*

- 52 A restriction as to user pursuant to section 88B of the conveyancing act shall be imposed on the title of the residue lot to give effect to conditions 50, 51 and 52.

**Reason:** *To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.*

#### **TREE PRESERVATION**

- 53 Written consent from Council shall be obtained before any tree may be ring-barked, cut down, lopped, removed or damaged. **LN2**

**Reason:** *To conform to the provisions of the Tree Preservation Order, gazetted in accordance with Local Environmental Plan 1992 - (City of Lismore). (EPA Act Sec 79C(a))*

#### **OPEN SPACE**

- 54 Land shown as 6(a) Zone shall be dedicated as public reserves for **recreation and open space/urban bushland/habitat enhancement**. Any dedication costs shall be the responsibility of the proponent. (Note: Credit against the dedication of this land shall be given in accordance with the Lismore Contributions Plan 1999 refer Condition 64)

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

- 55 Land shown as "proposed public reserve" shall be accepted by the Council as public reserve. (Note: No credit against Section 94 Contributions will be given for this land as this land is surplus to the requirements for the open space needs of the subdivision).

**Reason:** *To allow the establishment of detention basins and access to the remaining open space (EPA Act Sec 79C)*

- 56 All land that is not urban bushland and to be created as public reserve shall be cleared of all surface rocks and slashed to Council's satisfaction prior to the release of the subdivision certificate.

**Reason:** *To ensure that the land is in a satisfactory condition to be utilised and maintained as open space.*

- 57 All open space/public reserves to be dedicated to Council upon release of the subdivision certificate for Stage 1. A right-of-way is to be registered to give Council access to the dedicated open space.

**Reason:** *To allow for equitable dedication of land to offset against the payment of contributions and to ensure that adequate road access is available to the open space.*

- 58 The developer shall enter into a contract with Council to maintain the public reserves until:

*For Lot 79 – upon release of the subdivision certificate for Lots 50 and 51;*

*And*

*For Lot 80 – upon the release of the subdivision certificate for Lots 48 and 31 or Lots 36 and 77 whichever occurs first.*

The developer shall annually submit to Council evidence of public liability insurance to the value of \$10,000,000 while ever the developer is maintaining Council owned reserves.

**Reason:** *To negate any maintenance burden on Council.*

**SECTION 94 CONTRIBUTIONS**

59 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore City Council S94 Contributions Plan 1994 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$377,644.00** represent the total liability under the provisions of the contribution plan. The value of the lands to be dedicated has been deducted from the total liability and the remaining contribution totalling **\$293,597.45** and the reduced rates of contribution are set out in the schedule for your information. Should the proponent wish to pay the Section 94 and Section 64 levies in one instalment, and the total contribution payable exceeds \$20, 000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the release of the Subdivision Certificate. |

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 percentage increase from the date of approval to the date of payment, as notified by the Consumer Price Index (Sydney).

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.

Where a development is to be staged then the relevant levies as required by the number of lots to be released under an individual subdivision certificate shall be paid prior to the release of the subdivision certificate for that stage.

**SL2A**

**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)*

60 A notation be provided to potential purchasers of the blocks of land which are in the buffer zone that they could be at risk of spray drift.

**NOTE 1:** Water and/or Sewerage Headworks levies payable under the Water Supply Authorities Act 1987 totalling **\$581,020** will need to be paid to Council prior to Council issuing a Subdivision Certificate under s.26 of the Water Supply Authorities Act 1987.

The contributions set out in the schedule are exclusive of any GST (if any) and if the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs after July 1, 2000, 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.

**NOTE 2:** On completion of works and prior to issue of a compliance certificate under s.26 of the Water Supply Authorities Act 1987, Council will require a maintenance bond to be paid to Council.

**NOTE 3:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment act, 1979, are to be complied with:

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

**NOTE 4:** The applicant may apply to the Council or an Accredited Certifier for the issuing of a Construction Certificate and to be the Principal Certifying Authority to monitor compliance with the approval and issue any relevant documentary evidence or certificates.

**NOTE 5:** This development approval does not guarantee compliance with the Disability Discrimination Act and the developer should therefore investigate their liability under the Act. Council can assist developers by directing them to Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility (Part 1 is mandatory in the BCA).

**NOTE 6:** The conventional gravity sewer reticulation for this development is to also service the existing properties at 16 and 18 Waratah Way and 1 Acacia Avenue, as proposed by the Developer.

(Councillors Gates/Suffolk)

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

**Dissenting Vote:**

Councillor Irwin. (00-17572: D99/925)

**DA00/511 – 364C Dunoos Road, Tullera**

(Copy attached)

344/00

Formal notice having been given by Councillor Irwin, Roberts and Tomlinson it was **RESOLVED** that Council's decision on DA00/511 be rescinded. (Min. No. 321/00)  
(Councillors Irwin/Roberts)

A MOTION WAS MOVED that –

- 1 Based upon representations to Council it has been demonstrated to Council's satisfaction that the proposed development will be compatible with the existing land uses within the locality.
- 2 The application be approved subject to standard conditions.  
(Councillors Hampton/Suffolk)

**MOTION BE PUT:**

345/00 **RESOLVED** that the motion be put.  
(Councillor Suffolk)

**Voting Against:** Councillors Irwin, Roberts, King and Tomlinson.

346/00 **RESOLVED** that –

1 Based upon representations to Council it has been demonstrated to Council's satisfaction that the proposed development will be compatible with the existing land uses within the locality.

2 The application be approved subject to standard conditions.

(Councillors Hampton/Suffolk)

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

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

**Dissenting Vote:**

Councillors Irwin, Roberts and Gallen.

(00-17571: D00/511)

**CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE:**

347/00 **RESOLVED** that Council now exclude the press and public and meet in Committee of the Whole to consider the following matter:-

**Item 1: Proposed Eastpoint Shopping Village – Traffic Arrangements**

(Copy attached)

(Councillors Irwin/Roberts)

**Voting Against:** Councillor Swientek.

**RESUMPTION OF OPEN COUNCIL:**

When the Council had resumed its former sitting, the Acting General Manager reported that Council, meeting in Committee of the Whole, had resolved to exclude the press and public during its consideration of the beforementioned matters to preserve the confidentiality of legal proceedings

AND IT NOW RECOMMENDED

**Item 1:**

That because of the legal advice received, Council resolve that it not proceed with draft LEP Amendment No. 3 for the proposed Eastpoint Shopping Village.

348/00 **RESOLVED** that the Acting General Manager's report of Council meeting in Committee of the Whole be received and adopted.

(Councillors Swientek/Baxter)

**Voting Against:** Councillors Irwin, Roberts, Tomlinson, Chant and Crowther.

**RESCISSION MOTION:**

The Acting General Manager advised Council that he had been handed a Notice of Rescission Motion signed by Councillors Irwin, Roberts and Tomlinson with respect to the resolution **Proposed Eastpoint Shopping Village – Traffic Arrangements** (Min. No. 348/00).

The Acting General Manager advised Council that this Rescission Motion would be considered at the next ordinary meeting of Council.

This concluded the business and the meeting terminated at 7.56 pm.

**CONFIRMED** this 12TH day of DECEMBER, 2000 at which meeting the signature herein was subscribed.

\_\_\_\_\_  
**MAYOR**

