

# COUNCIL Business Paper



**LISMORE**  
*City Council*

**NOVEMBER 21, 2000**



## **NOTICE OF COUNCIL MEETING**

An **ORDINARY MEETING** of LISMORE CITY COUNCIL will be held at the **Community Hall, Jiggi** on **TUESDAY, NOVEMBER 21, 2000**, at **6.30pm** and members of Council are requested to attend.

*Councillors are requested to attend at 6.00pm to meet local residents informally prior to the meeting.*

(Ken Gainger)  
**GENERAL MANAGER**

November 14, 2000

# **COUNCIL BUSINESS AGENDA**

21/11/00

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**MAYORAL MINUTE**

**Subject/File No: ACQUISITION OF LAND FROM RSL CLUB FOR MEMORIAL BATHS  
REBUILDING  
(P6768)**

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**Background:**

Council has been advised by the RSL Club that it is proceeding with another special meeting to seek approval to sell their bowling green and surrounds to allow rebuilding of the memorial baths. In order to remove any uncertainty as to whether Council's original agreement with the Club still remains, I make the following recommendation which signifies Council's intentions. It should be noted minor changes might have to be made, as planning for the project progresses.

**Comment from Manager - Finance & Administration**

As I understand, this recommendation is basically consistent with the details reported to Council at the August 8, 2000 meeting on this subject and therefore offers the same potential outcomes.

**Comment from Manager – Client Services**

The RSL Board have decided to hold another Special General Meeting to reconsider the land matters associated with the proposed Memorial Baths re-development following the defeat of the motion at the previous meeting by one vote. To go ahead with the new meeting the RSL requires that Council provide the same "meeting compensation" understanding, as was the case prior to the last special meeting (Item 1 of the General provisions listed below).

Advice has been sought on this matter from Council's solicitors and Council has no legal obligation to renew this understanding.

The recommendations below match, almost exactly, the features of the proposed Deed of Agreement outlined in the report to Council "Memorial Baths Redevelopment – Land Matters and Project Delivery Method", considered at its meeting of 8 August 2000. There is a minor change in the RSL's obligations (Item 1) and, of course, the deletion of the (soon to be) former Lismore Airport Terminal Building.

I also refer Councillor's to a comment in the report noted above:

" ... the RSL approached the author (Manager Client Services) with a proposal for modifying the design of the carpark to be constructed over the bowling green land. The RSL understand that any increases in cost associated with the new proposal would be borne by the RSL and that the number of new carparks available to be credited to the Memorial Baths Project would need to remain at 32."

In considering the recommendations, Councillors must decide whether to continue to pursue the RSL/Memorial Baths option or reconsider other Swimming Pool options such as the Travelling Show Site near the corner of Ballina Road and Diadem Street, the SCU joint venture or the Goonellabah Town Centre site. Clearly, opinion on the baths redevelopment within both Council and the RSL membership is split on a 50/50 basis. Councillors should consider whether or not this is a sound basis for an important decision and agreement. One thing is certain, any slip up in the project will attract stinging criticism of Council from both without and within.

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# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Acquisition Of Land From RSL Club For Memorial Baths Rebuilding

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### **Recommendation (MM01)**

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

**NOTICE OF MOTION**

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

**That Council investigate the possibility of appointing a Town Crier.**

**Comment:**

- The “Town Crier” is an old English appointment which has to some extent passed into history – unfortunately. Maybe it is something to look into again for the City of Lismore.
- The City of Parramatta has a Town Crier and at the Flood Mitigation Authorities Conference hosted by Parramatta early in the year the Town Crier was in full force at all events attached to the Conference. The system worked very well and I had the opportunity of talking to the gentleman in person and he told me that he had a fairly busy time with his duties.
- Councillors may also recall that during our TV hook-up with the town of Lismore in Waterford, there happened to be a Town Crier in the background in their promotional material.
- Let’s have a look at it. Incidentally, the Parramatta incumbent offered to come and talk to Council about his work. I have lost his card (at the last Council meeting) but he could be contacted at Parramatta City Council.

**COUNCILLOR** J F Crowther

**DATE** 8/11/00

**STAFF COMMENT BY GROUP MANAGER-CORPORATE & COMMUNITY SERVICES:**

The job of Town Crier can be traced back as far as 1066, when news of Britain’s first (and last) invasion by King William of Normandy was passed from town to town by individuals specifically employed to call out the King’s proclamation.

Oyez, Oyez (roughly translated as “hark” or “listen”) became a familiar call in town squares, markets and public meeting places all over Britain. Indeed the tradition of Town Crier still remains to this day throughout the world, with probably the most famous being in London, where the Town Crier is a member of the London Tourist Board.

Apart from weekly duties, he appears at many events throughout the year issuing proclamations at festivals, shows, parades and celebrations.

Any investigation should be co-ordinated by the Tourism Panel and consider such matters as perceived need/use, employment conditions (contract/part-time?), cost recovery, regional focus, etc.

**Subject/File No:** KADINA PARK PLAN OF MANAGEMENT  
(P517)

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

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

**Objective:** Council consider public submissions and adopt the Plan of Management.

**Management Plan Activity:** Community Services

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**Introduction:**

The exhibition and submission period for the Kadina Park Draft Plan of Management ended on October 30, 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. Copies of the Draft Plan of Management and Operational Management Strategy were previously forwarded to all Councillors for the August 29, 2000 meeting.

**Background:**

**Previous Council Resolution**

At the August 29, 2000 Council meeting it was resolved that –

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

**Exhibition of the Draft Plan of Management**

Following Council's endorsement of the Draft Plan of Management it was placed on exhibition and public submissions were invited over an 8-week period until October 30, 2000.

During this period, copies of the Draft Plan and Operational Management Strategy were made available for public viewing at Council's Administration Centre. Numerous advertisements notifying the community of the Draft Plan exhibition and submission period were placed in the Northern Star and Northern Rivers Echo. A personally addressed letter was also sent to those people that made submissions to the earlier Draft Plan to notify them of the exhibition and submission period.

**Key Features of the Plan**

The Plan of Management proposes to develop Kadina Park in a number of stages as a unique multi-purpose recreation area catering for people of all ages, particularly youth. The proposal is largely in response to the well-recognised shortage of recreation opportunities available in the local area and concern that this contributes to problems of anti-social behaviour.

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## Kadina Park Plan of Management

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A major strength of the proposal is that it integrates rather than segregates young people from the wider community by combining a mix of uses for a range of age groups and provides young people with a legitimate gathering place for both passive and active recreation.

The major features of the Plan include:

- a multi-purpose sports field,
- outdoor basketball/netball court/s,
- pedestrian/cycle paths,
- childrens playgrounds,
- a skate/rollerblade area,
- a contemporary teenage activity area,
- a mountain bike skills course,
- a multi-use hit wall,
- public toilets,
- picnic, barbecue and rest facilities,
- an athletics track,
- vehicle access and parking, and
- wildlife corridor, landscaping and shade provision.

These features are described and discussed in section 4 of the Draft Plan.

### **Summary of Submissions**

A total of 27 submissions were received before the closing date. Of these, 15 expressed concern and/or opposition to certain aspects of the Plan and the remaining 12 expressed support for the Plan.

Two petitions were also received. The first submission, containing 222 names, calls for Council to:

Not proceed with the development and the concentration of youth facilities on the Kadina Park site.

Develop Kadina park's steep areas with Koala food trees and develop the level areas for sport facilities/activities and passive recreation facilities including toilets and tourist information.

That Council, the community including the Rotary Club of Goonellabah and the Goonellabah Progress Association Inc develop the 3.7 hectares zoned recreation on the Goonellabah Town Centre site as a family park, around the footprint for the Goonellabah Aquatic and Leisure Centre site with provision for youth facilities as well, on the site.

The second petition containing 88 names opposes the proposed location of vehicle access and parking due to traffic safety concerns.

Copies of all the submissions and petitions are separately attached for your consideration.

### *Opposition to the Plan*

The main issues and concerns raised in the submissions/petitions and respective responses are discussed in the table below:

# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Kadina Park Plan of Management

| Issue/Concern  | Response   |
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| <p><b><i>Remove the Skatepark</i></b></p> <p>The proposed skatepark has been the subject of most opposition. The main reasons stated are:</p> <p>it will attract a 'bad element' to the area.</p> <p>This area may be used to take drugs and consume alcohol.</p> <p>it will encourage use of the area at night.</p> <p>It will be too noisy.</p> <p>It should not be located near a residential area.</p> <p>It should be located at the Goonellabah Town Centre site.</p> <p>Other surrounding Council's have abandoned plans to locate skateparks in residential areas.</p> | <p>The skatepark is a fundamental part of the original premise to provide positive activities for the area's youth. A skatepark was the second most requested facility in the survey of Kadina High School students (after a swimming pool) conducted in 1997. The popularity of skating has certainly not declined since that time with many skaters frequently using local carparks, roads and concrete paths as makeshift skateparks.</p> <p>The development of skateparks is always a contentious issue that creates strong debate in communities where they are planned. The facilities that have been most successful are those located in areas where opportunities for casual surveillance exist and where they have been integrated rather than segregated from other activities and user groups. Problems tend to occur most where facilities are isolated and little opportunity for casual surveillance exist. The proposed location in the northern part of the site towards Ballina Road provides good opportunities for casual surveillance. By integrating the skatepark with a range of other facilities that will attract many users of all ages it is suggested that opportunities for anti-social behaviour will be minimised.</p> <p>It is unreasonable to single out the proposed skatepark as an attraction for a 'bad element' or for drug and alcohol use. In fact, by providing opportunities to participate in positive and healthy activities the use of drugs and alcohol and the prevalence of anti-social behaviour may decline.</p> <p>Some of the management strategies that can be employed to deter night time use of the skatepark include signage, security patrols, penalties and possibly fencing to be locked at night.</p> <p>It must also be noted that the proposed skatepark is to be much smaller than the regional facility located in Heritage Park. It will cater for local skaters that currently utilise local carparks, driveways, paths and roads as makeshift skateparks. These local skaters will be invited to assist during the design of the facility to ensure the end product satisfies their needs and to foster pride and a sense of ownership.</p> <p>The issue of noise will be addressed as part of the development application process and may require landscape buffering between the skatepark and neighbouring residences or other noise attenuation measures to be employed. It is considered unlikely that this facility would create more noise than other proposed facilities such as the basketball court which has received no opposition. Noise from Ballina Road may also drown noise from this and other facilities to some extent.</p> <p>While it is recognised that problems may arise in relation to use of the skatepark from time to time, it is suggested that such problems can be effectively managed and controlled with the assistance of the Management Advisory Committee.</p> |

# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Kadina Park Plan of Management

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| <p><b><i>Remove the Mountain Bike Skills Course</i></b></p> <p>There is some concern that this facility will attract a 'bad element' to the area and that it should not be located in a residential area.</p>   | <p>The original concept included a traditional BMX track that would be used mostly by male youth. In response to earlier concerns expressed by some members of the community, this was replaced by a Mountain Bike Skills Course that would appeal to males and females of all ages and skill levels. A brochure that provides an example of the type of facility in mind is attached (see copy of Bikemania brochure).</p> <p>This facility is planned for the northern end of the park in a highly visible location close to Ballina Road. As with the skatepark, it is considered unreasonable to single out this facility as an attraction for a 'bad element'.</p>   |
| <p><b><i>Remove the Contemporary Teenage Activity Area</i></b></p> <p>There is some concern that this facility will attract a 'bad element' to the area and a congregation of youth.</p>  | <p>The original concept included a 'rage cage', an enclosed multi-use sports court designed by the 'Life be in it' program. There was considerable opposition to the 'rage cage' possibly because of the negative images conjured by the name. In response this facility has been replaced by a contemporary teenage activity area, which includes a range of playground equipment specifically designed for teenagers. A copy of a brochure that provides a sample of type of equipment in mind is separately attached.</p> <p>This area will also provide a 'hang out' space where teenagers can participate in active recreation and mix in an unstructured environment. The results of the survey of Kadina High School students in 1997 revealed that not all youth wished to participate in organised sport, yet they still sought active recreation in an unstructured environment. Females in particular were keen to have an area in which to 'hang out' that was stimulating with a range of activities, not necessarily structured, and where they felt some sense of ownership. As with the skatepark, local youth will be invited to assist in the design of the contemporary teenage activity area to ensure it meets their needs and to foster a sense of ownership and civic pride.</p> <p>This facility is also to be located toward the northern end of the site in a highly visible location. Signage, security patrols and penalties may be employed to deter use at night.</p> |
| <p><b><i>Locate youth facilities at the Goonellabah Town Centre site.</i></b></p> <p>Several submissions suggested that the youth focused facilities (skatepark, teenage activity area, mountain bike skills course) should be located at the Goonellabah Town Centre site and that Kadina Park be developed as a sportsground and/or passive park.</p> <p>A similar suggestion was also proposed in a petition containing 222 names, although the petition calls</p> | <p>The Goonellabah Town centre site has been earmarked for a new indoor sports and leisure centre and swimming pool. This development would take up most of the usable land at this site and would not leave sufficient land for the youth facilities proposed at Kadina Park.</p> <p>The same concerns raised about the youth facilities at Kadina Park would also apply to the Town Centre site. Kadina Park provides sufficient space to include a wide range of facilities catering for structured and unstructured activities for people of all ages. This is considered a major strength of the concept, as it will attract a variety of users that will assist in casual surveillance and supervision of the park. Security problems tend to occur more frequently in parks that are isolated and not highly visible.</p>  |

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## Kadina Park Plan of Management

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| <p>for the youth facilities to be positioned around the footprint for the Goonellabah Aquatic Centre.</p>  | <p>The Goonellabah Town Centre site does not offer the same opportunities for casual surveillance as Kadina Park as it is not visible from the road.</p> <p>The petition requests that the steep areas of Kadina Park be planted with Koala food trees and the level area by developed with sports facilities/activities and passive recreation facilities including toilets and tourist information. All of these elements are included in the proposed Plan, with the addition of several youth focused facilities. It is unreasonable to remove the youth facilities, especially when you consider that 40% of the Goonellabah population is aged below 25 and 25% are aged between 10 and 25 years. It is simply inequitable not to cater for youth at the Park.</p>   |
| <p><b><i>Opposition to the proposed vehicle access and parking.</i></b></p> <p>Concern that the proposed location of <b>vehicle access and parking</b> is inappropriate and unsafe. Direct access from Ballina Road was suggested as an alternative.</p> <p>Concern that the location of the parking area would provide an opportunity for 'undesirables' to 'check out' nearby homes.</p> | <p>The proposed location of access was selected with regard to the constraints of the site, future road plans and road safety. Following concerns raised by the community, the Traffic Advisory Committee were asked to review the proposed access and other possible alternatives. The committee recommended that the proposed access be relocated slightly to the north to stagger the intersection with Pineview Drive. The concept plan has been amended to reflect this. Access via Ballina Road was considered unsafe because of the close proximity to the large roundabout and the necessity for vehicles travelling from Lismore to cross lanes on the roundabout to access the park.</p> <p>The results of a recent traffic speed analysis in Kadina Street indicate that a high proportion of drivers significantly exceed the speed limit. Regardless of whether the development of the park proceeds, options for traffic calming (given the location of the school) need to be further explored and implemented. Development of the park will increase the priority of such actions as additional pedestrians and vehicles would be expected in the vicinity. This issue is discussed in more detail later in this report.</p> <p>There is scope within the plan to provide landscape screening and suitable fencing to address the concern about the car park providing opportunities for undesirables to check out adjacent homes. This will need to be adequately addressed as part of the development application process.</p> <p>Vehicle access to the park will not be available at night. A gate will be locked at dusk each day.</p> |
| <p><b><i>Need for Boundary Fencing</i></b></p> <p>A number of submissions expressed a strong need to provide a boundary fence between residential properties and the park for security and to prevent shortcutting through private property.</p>   | <p>Consultation undertaken during the preparation of the Plan indicated some difference of opinion in regard to the need, nature and character of boundary fencing. Some residents desired security fencing, others desired lower more aesthetic fencing, and some did not want fencing at all.</p> <p>Section 4.2.3 of the Plan states that 'the final need, nature and character of such a fence will be assessed following further consultation with adjoining property owners once the park is in operation'. This will allow land owners (including council) to assess the impact of the park before deciding the type of fencing required.</p>   |

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**Kadina Park Plan of Management**

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|  | The suggested action plan includes fencing as part of stage 3 of development. The timing can be brought forward if required. |
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## Kadina Park Plan of Management

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| <p><b><i>Develop Kadina Park as a Sportsground</i></b></p> <p>Suggestion that Kadina Park be developed as a sportsground rather than an activity park as it is the last flat area of land available for such a facility in Goonellabah.</p> | <p>While the need to cater for future growth in traditional sports is recognised, using Kadina Park for this purpose would be a band-aid solution that would not adequately solve long-term field shortage concerns. The amount of level land available at Kadina Park would at best provide only one addition senior size sportsfield. In fact a full size senior cricket field (minimum 64m radius from the pitch to boundary) would not fit at the site.</p> <p>A more strategic approach to the provision of sportsgrounds is required. A larger tract of land where several fields and joint usage can be achieved would certainly provide a better long-term solution. Vacant land directly to the north of Hepburn Park has already been earmarked for future sportsfield development as per the recently adopted Hepburn Park Plan of Management. The use of existing school sports fields should be explored to meet short to mid term shortages.</p> <p>The Lismore Recreation Needs Study adopted in 1998 suggested that the following areas be investigated for future sports reserves in the urban growth area:</p> <p style="padding-left: 40px;">Taylors Road Land<br/>Site at end of Invercauld and Skyline Road<br/>Expansion of Hepburn Park</p> <p>The Plan does include provision of a multi-purpose field measuring approximately 80m x 45m that would be suitable for a range of junior sports (eg. soccer, touch, rugby league and union, softball, hockey, tee-ball) as well as many informal sporting and recreational activities.</p> <p>The Plan includes a range of facilities that will appeal to all ages. A sportsground would only satisfy people that participate in specific sports. Furthermore, there would be little difference in the impact of the facility proposed, compared to that of a sporting field, with lights, involving training sessions during the week, at night and on the weekends.</p> |
| <p><b><i>The proposal is male dominant</i></b></p> <p>Suggestions that the proposed park facilities are male dominant.</p>  | <p>While it is fair to suggest that the skatepark will be used predominantly by males, this is only one of many facilities to be provided at the site. Some of the facilities that will equally cater for females include: basketball/netball courts, picnic/BBQ facilities, the mountain bike skills course, multi-use wall, pedestrian/cycle path, playgrounds and the contemporary teenage activity.</p> <p>As mentioned previously, the results of the survey with Kadina High School students revealed that females in particular were keen to have a stimulating area with a range of potential activities to 'hang out'.</p>  |
| <p><b><i>Validity of survey results questioned.</i></b></p> <p>A number of submissions questioned the validity of survey results that have been referred to in</p>  | <p>The community survey sent to over 4,000 Goonellabah residences was very clear. It was accompanied by a covering letter than provided instructions on how to complete the questionnaire and a copy of the proposed concept plan for the park. 800 surveys were returned representing a reasonable response rate of 20%.</p>  |

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## Kadina Park Plan of Management

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| <p>the Plan of Management.</p> <p>In particular, questions 1 and 2 of the community survey (see appendix 5b of the Plan) sent to about 4000 Goonellabah residences was criticised for misleading the community.</p>   | <p>Question 1 asked, "Do you support the development of a multi-purpose park with a focus on youth in the Goonellabah area?" 93% of respondents answered yes.</p> <p>Question 2 asked, "Do you support such a development at the Kadina Park location?" 87% of respondents answered yes.</p> <p>These results indicated very clear and overwhelming support for the proposed park. These questions were in no way misleading. The questionnaires did not ask if other sites would be preferred, simply because other sites were not being considered. The Goonellabah Town Centre is earmarked for an indoor leisure centre and the location of Hepburn Park is not suitable as it is too far from the main centre of population.</p>  |
| <p><b><i>Proposed facilities duplicated at Kadina High School</i></b></p> <p>Suggestion that some of the proposed facilities (multi-use sports field, athletics track, outdoor basketball/netball court and multi-use wall) are a duplication of what is available at Kadina High School.</p> | <p>The Enclosed Lands Act applies to land and facilities at Kadina High School. Under this legislation, out of hours use of school land and facilities must be approved by the school principal.</p> <p>The Principal of Kadina High School, Ms Toni Hughes has advised that informal and unsupervised use of school facilities is not permitted. However, the use of school facilities for structured and supervised activities is often approved. The Kadina High School sportsfields are used from time to time for organised community sports such as cricket and soccer.</p> <p>If Kadina Park was developed as a sportsground, as suggested in some submissions, rather than a multi-purpose recreation area, the issue of duplication of facilities would certainly be justified.</p>   |
| <p><b><i>Is the Proposal rational in an economic and social sense?</i></b></p> <p>One submission questions whether the proposal is rational in an economic and social sense given that there has been no estimate of usage.</p>   | <p>The proposal is rational in both social and economic perspectives. The park has the potential to provide many social benefits. It will provide a range of active and passive recreation opportunities for people of all ages. The personal and social benefits of recreation are well documented and include;</p> <ul style="list-style-type: none"> <li>Improved health and fitness</li> <li>Stress relief</li> <li>Happiness and enjoyment</li> <li>Improved self-concept</li> <li>Social interaction</li> <li>Volunteer opportunities</li> <li>Relaxation</li> <li>Family togetherness</li> </ul> <p>It is also important to note that 93% of respondents to surveys undertaken as part of the Lismore Recreation Needs Study rated the provision of parks as being very important and 54% of respondents suggested that they use parks regularly.</p> <p>Unlike swimming pools and other commercial recreation facilities, records of attendance at parks are rarely obtained. For this reason it is difficult to estimate the usage levels of the proposed park. However, based on the results of the Recreation Needs Study noted above and local population statistics, a rough estimate can be made</p> |

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## Kadina Park Plan of Management

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|   | <p>as follows;</p> <p>Goonellabah Population = 11,345<br/>         Regular park users (54% of population) = 6,131</p> <p>If regular park use is conservatively assumed to be just 1 visit per month, the annual usage for the park would equal <b>73,573 visits</b>.</p> <p>If regular park use is assumed to be just 1 visit per week, the annual usage would be <b>318,812</b>.</p> <p>From an economic perspective these figures weigh up very favourably against other major recreation facilities such as a new swimming pool. The capital cost of the park will be in the order of \$500,000 over several years and the ongoing maintenance cost is estimated to be approximately \$25,000 per year. When visitation levels are considered, this equates to a sound investment in public facilities, particularly in comparison to a new swimming pool that would require much higher capital and ongoing operational costs.</p> |
| <p><b>Opposition to pedestrian access via Mount Pleasant Court.</b></p> <p>Concern that proposed <b>pedestrian access</b> via Mount Pleasant Court would result in noise and security problems in the local neighbourhood, particularly at night.</p> | <p>Formal pedestrian access was proposed in an effort to improve access to the park for residents in surrounding streets and also to discourage shortcutting through adjoining residential properties. As night-time use of the park is not intended it was felt that this access should be closed at dusk to discourage night-time use of the park and use of the park as a thoroughfare. A gate, to be locked at night, will be installed when the pedestrian access is constructed.</p>   |

### Support for the Plan

As mentioned earlier, there were 12 submissions received in support of the Plan. Many of these referred to the current lack of recreation facilities in Goonellabah and the need to provide opportunities for youth in particular to participate in healthy and constructive activities. Several of the submissions suggested that they were growing tired of waiting for such a facility and urged the Council to proceed with development of the park as soon as possible.

The following list is a sample of quotes taken from submissions in support of the Plan.

"The sooner the whole project gets approved and underway the better."

"Goonellabah urgently needs a facility like this."

"My children would have used the facilities and probably still will if they get built and they certainly aren't 'undesirable' or a 'bad element'."

"Goonellabah has no facilities for our young people."

"I fully endorse the draft Plan as is and sincerely hope that it will be a full success for the youth and visitors for the whole of this area."

"The proposed Kadina Youth Activity Park is a brilliant idea."

"We can't wait for its completion. I know my family will make good use of it."

"The establishment of the Kadina Youth Activity Park would greatly enhance the sense of place and community for youth and the community at large".

"It is essential that local youth have a facility which will allow positive social interaction and promotion of healthy physical activity".

"We sincerely believe that Goonellabah and the surrounding areas will benefit from the development of the park. It could play an important part in stabilising the negative activities of some of the areas youth by giving them an area to constructively let off steam".

**Traffic Safety Issues**

In response to concerns about traffic safety and the proposed location of vehicle access and parking, traffic classifiers were used to analyse the volume and speed of traffic on Kadina Street between August 30, 2000 and September 11, 2000.

The results indicate that a high proportion of vehicles exceed the 50 km/hr (40km/hr during school zone times) speed limit. The average speed for all traffic (north and south bound) during the assessment period was 58.2 km/hr and the average volume was 1936 vehicles per 24 hour period. The 85<sup>th</sup> percentile speed was 69km/hr. The 85<sup>th</sup> percentile statistics are used to determine road safety design criteria. Copies of the statistics from the traffic speed and volume analysis are attached at the end of this report.

The results of the analysis clearly indicate that traffic speed in Kadina Street is a considerable problem that needs to be addressed. Regardless of whether the development of the park proceeds, options for traffic calming need to be further explored and implemented. Development of the park will increase the priority of such actions as additional pedestrians and vehicles would be expected in the vicinity.

It is suggested that further investigation into traffic calming options be undertaken with a view to adequately addressing this problem as part of the development application process for the park. Some of the potential options may include; signage, increased policing, speed humps, raised platforms, road narrowing points, chicanes, etc.

The proposed positioning of vehicle access and parking was selected with regard to the constraints of the site, future road plans and road safety. Following concerns raised by the community, the Traffic Advisory Committee reviewed the proposed access and other possible alternatives. At that time the committee recommended that the proposed access be relocated slightly to the north to stagger the intersection with Pineview Drive. The concept plan was amended to reflect this. Access via Ballina Road was considered unsafe because of the close proximity to the large roundabout and the necessity for vehicles travelling from Lismore to cross lanes on the roundabout to access the park.

While the proposed positioning of vehicle access is considered the best option, it will be necessary to implement suitable traffic calming measures in Kadina Street to ensure that the access is safe, particularly given the results of the traffic speed and volume analysis.

**Process Following Council Adoption of the Plan**

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

- Make a copy of the final Plan available for public inspection at Council's Administration Centre;
- Prepare a media release regarding Council's adoption of the Plan;
- Advertise Council's adoption of the Plan in Council's Public Notices;
- Prepare a Development Application for the initial stages of the Park's development;
- Establish the Kadina Park Management Advisory Committee as proposed within the Operational Management Strategy.

It is important to note that under provisions of the LGA 1993, if Council decides to change the draft plan, an amended draft plan must be prepared and a further exhibition and submission process will need to be undertaken before the amended plan can be adopted.

# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Kadina Park Plan of Management

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### Implementation and Budgetary Requirements

The objectives and performance targets for the park, and the means in which these will be achieved and assessed are included in section 4 of the Draft Plan. These have been separated into the park management and development issues to which they relate (eg. access and parking, passive recreation facilities, etc).

The park is intended to be developed in a number stages over several years as funding and/or other necessary resources become available. Suggested Action Plans for each stage/financial year are included in section 5 of the Draft Plan.

An estimate of total expenditure for all park components is in the order of \$500,000. A preliminary breakdown of the estimated costs is provided below.

| <b>Capital Items</b>               | <b>2000/2001</b> | <b>2001/2002</b> | <b>2002/2003</b> | <b>2003/2004</b> | <b>2004/2005</b> | <b>Total</b>   |
|------------------------------------|------------------|------------------|------------------|------------------|------------------|----------------|
| Multi-use Sports Field             | 20,000           |                  |                  |                  |                  |                |
| Basketball Court 1                 | 12,000           |                  |                  |                  | 12,000           |                |
| Access and Parking                 | 20,000           | 10,000           |                  |                  |                  |                |
| Amenities, Picnic & BBQ Facilities |                  | 20,000           | 15,000           | 10,000           | 10,000           |                |
| Bike/Pedestrian Bath               |                  | 55,000           |                  |                  |                  |                |
| Toilets                            |                  | 25,000           |                  |                  |                  |                |
| Signage                            | 1,000            | 3,000            | 3,000            |                  |                  |                |
| Teenage Activity Area              |                  | 20,000           | 15,000           |                  |                  |                |
| Playgrounds                        |                  | 15,000           | 15,000           |                  |                  |                |
| Skate Park                         |                  |                  | 30,000           |                  |                  |                |
| Multi-use Wall                     |                  |                  | 12,000           |                  |                  |                |
| Fencing/Barriers, etc              | 2,000            | 5,000            | 5,000            | 5,000            |                  |                |
| Mountain Bike Skills Course        |                  |                  |                  | 25,000           |                  |                |
| Athletics Track                    |                  |                  |                  |                  | 25,000           |                |
| Public Art                         |                  |                  | 5,000            |                  | 5,000            |                |
| Landscaping/Tree Planting          | 5,000            | 15,000           | 12,000           | 8,000            | 10,000           |                |
| Shade Structures                   |                  | 10,000           | 8,000            | 5,000            |                  |                |
| Misc                               | 5,000            | 5,000            | 5,000            | 5,000            | 5,000            |                |
| <b>Total</b>                       | <b>65,000</b>    | <b>183,000</b>   | <b>125,000</b>   | <b>58,000</b>    | <b>67,000</b>    | <b>498,000</b> |

The intention is to seek much of this from sources external to Council. Assuming Council support and approval is forthcoming, it is much easier to canvass a number of grant applications if the project is complete in terms of planning, consultation and legislative requirements. Goonellabah Rotary Club has a history of obtaining grant funding for other community projects.

Present funding for the project consists of:

|   |                 |
|---|-----------------|
| Department of Sport and Recreation Capital Assistance Grant | \$10,000        |
| Goonellabah Rotary Club Seed Funding                        | \$10,000        |
| LCC Urban Sportsground Fund                                 | \$10,000        |
| Section 94 Developer Contributions                          | \$13,000        |
| LCC 2000/2001 Budget Allocation                             | \$22,000        |
| <b>Total</b>  | <b>\$65,000</b> |

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# **LISMORE CITY COUNCIL - Meeting held November 21, 2000**

## **Kadina Park Plan of Management**

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Following adoption of the Plan, the Goonellabah Rotary Club in consultation with relevant Council Officers and the Management Advisory Committee will prepare a Development Application for stages 1 and 2. The detailed design and costing of each component will be developed at this stage.

The Development Application will require detailed assessment, public notification, submission opportunities and the setting of development consent conditions before construction can commence. This will provide an opportunity for further community input.

Development of the park will also incur increased ongoing costs to Council in terms of maintenance of grounds and facilities. An estimate of the annual expenditure on total park maintenance is in the order of \$25,000. However, maintenance costs are unlikely to reach this level for a number of years according to stages completed.

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

Comments were provided for the previous report on August 29, 2000 and do not need to be repeated.

### **Public Consultations**

Extensive community and internal consultation has occurred in relation to this project since 1996. Full details of the consultation process and results are contained in the Plan of Management and the Operational Management Strategy. The results of the exhibition and submission process and the main issues raised are discussed earlier in this report.

Consultation with relevant Council officers, the Public Lands Strategic Management Team, the Lismore District Sports Association, the Lismore Multi-Cultural Youth Council, the Traffic Advisory Committee and the Aboriginal Advisory Committee has also been conducted.

### **Conclusion**

The results of the exhibition and submission process show both strong support and opposition to the proposed Kadina Park development. The major issues and concerns are discussed in this report and copies of all submissions are separately attached for further consideration.

While some understandable concerns do exist, it is believed that any problems that do eventuate can be effectively managed and controlled with the assistance of the Management Advisory Committee. It is suggested that the community benefits to be derived from the Park far outweigh any problems that may occur from time to time.

### **Recommendation (COR54)**

That -

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.

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

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**Subject/File No:** DEVELOPMENT APPLICATION NO. 99/925 - 90 LOT SUBDIVISION, WARATAH WAY

**Prepared By:** Development Assessment Planner - Chris Soulsby

**Reason:** To enable Council to determine a development application.

**Objective:** The determination of an application for a 90 lot residential subdivision.

**Management Plan Activity:** Development Assessment

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### **Introduction**

The purpose of this report is to present a Development Application to Council for determination. The Application is for a "ninety (90) lot residential subdivision" as originally proposed by the applicant. There have been a number of alterations to the plans over the assessment period, and a final DA proposal is now set in detail below. Draft conditions of Development Consent were issued to the applicant on November 6, 2000. No response with respect to these conditions was received by Council within the time specified, this being by the close of business on November 9, 2000.

### **Background:**

The application was lodged on the December 16, 1999. Attachment 1 provides a chronology of events pertaining to the assessment of the application.

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

To be attached as a late addendum.

### **Public Consultations**

The application was exhibited for public comment in accordance with the requirements of Council Policy. Two (2) submissions were received as a result of the exhibition copies of which are provided in Attachment 2. A précis of the main points of objection is as follows:

Stormwater quality and quantity; and  
Road access; and  
Public interest.

The issues raised in these submissions are covered in the additional information presented by the applicant and can be adequately addressed by way of conditions of development consent.

## **1 PRECIS**

### **Applicant**

ASPECT North  
PO Box 1134  
**LISMORE 2480**

### **Zoning**

2(a) (RESIDENTIAL ZONE) and 6(a) (RECREATION ZONE)

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# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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### Location

The subject property is located at the end of Waratah Way, Goonellabah. Refer attachment 3.

### Key Issues

The key issues are urban design and public safety, density of development, impacts of adjoining agricultural uses threatened species and section 94 contributions.

## **2 DESCRIPTION OF THE PROPOSAL**

The land the subject of the development application is:

Lot B, DP 413649 - No. 20 WARATAH WAY GOONELLABAH

Owned by  
BARRO FAST PTY LTD

### Proposal

The applicant originally proposed to develop the land for the purposes of a ninety (90) lot residential subdivision. The number of lots has been reduced due to the inclusion of lots into a future development residue lot to be used for the buffer area to the macadamia plantation to the east. The terms of this Development Application as modified by the applicant in the final plan submitted to Council are to develop:

- 1) Seventy-seven (77) residential lots; and
- 2) One (1) residue (development lot) to contain the biological buffer; and
- 3) Create 2 areas of public reserve; and
- 4) Associated engineering works.

### **ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT - 79C(1)(a)(i) Any Environmental Planning Instruments (EPI)**

The following environmental planning instruments apply to the application:

1. Lismore City Local Environmental Plan 2000;
2. North Coast Regional Environmental Plan 1988 (as amended);
3. State Environmental Planning Policy No. 44 Koala Habitat.
4. State Environmental Planning Policy No. 55 Contaminated Land.

### **Lismore City Local Environmental Plan 2000**

The land is Zoned 2(a) - (*Residential*) and 6(a) - (*Recreation Zone*) under the provisions of the Lismore City Local Environmental Plan 2000. The development is permissible with consent in the 2(a) zone.

**Clause 20 Buffer zones to avoid potential land use conflicts** applies to the development. Clause 20 (2) states:

*“Despite any other provision of this plan, consent must not be granted to residential, rural residential or tourism development (including subdivision for those purposes), unless it has been demonstrated, to the satisfaction of the consent authority, that the proposed development will be compatible with any existing specified land uses in the locality and with surrounding established development”.*

Intensive horticulture is a specified land use in Clause 20 (3). On the property immediately to the east of the subject land there is an existing macadamia plantation. This use of the land is considered to be intensive horticulture, and for the purpose of the LEP accordingly this clause

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applies. This clause in the LEP acts as a prohibition if Council is not satisfied that the proposed development will be compatible with any existing specified land uses in the locality and with surrounding established development. Such a prohibition prevents the use of a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 or a staged consent pursuant to Section 80(4) of the Act.

To satisfy Council that the proposed development will be compatible with the existing adjoining development the applicant has proposed a 30m buffer from the macadamia plantation. Development control plan 27 Buffer Areas requires a 150m buffer or an 80m buffer that incorporates a 30m biological buffer. The biological buffer consists of trees and shrubs of varying heights to capture spray drift. It is considered that no development should occur within the 150m buffer area (as required by the DCP) until such time as the biological buffer is established, and is of a suitable height and density to prevent spray drift. This means that lots 1, 2, 3, 18, 19, 20, 21, 70, 71, 72, 73, 74, 75 and 77 could not be developed until the biological buffer is established. This is not a major impediment to the development, rather it merely requires alteration to the staging pattern of the development. Conditions requiring the establishment of the biological buffer and a report to indicate that the trees in the biological buffer have reached a height and density to prevent spray drift would allow these lots to be developed at the appropriate time.

There is one existing dwelling, located at No. 18 Waratah Way, that does not comply with the buffer standards in the DCP. There is an existing biological buffer of 30m in width and an additional 30m of cleared area between the closest point of the dwelling and the north western corner of the macadamia plantation. The biological component complies with the DCP but there is a 20m deficiency in the secondary component of the buffer. The area of private open space for this dwelling is located within the buffer area and clearly does not comply with the DCP. This is a variation that relates to one dwelling and is not considered sufficient justification to allow further variations. If Council wishes to determine that this would set precedence for modification of the standards in the DCP, consideration should be given to the issue of liability. That is, "should a poor decision made previously that placed a single dwelling in a position that presents a risk of chemical spray drift be used to justify the placement of additional dwellings in an area where there is a risk of being contaminated by spray drift?". Application of the precautionary principal would indicate that this is not appropriate. Further, if Council knowingly allows more dwellings to be placed in a location that may be subject to spray drift, Council may be liable (either wholly or proportionally) for damages caused to those residents.

The applicant has incorporated a number of lots (originally numbered 80 to 90) into a development lot to be retained and developed once the macadamias on the adjoining land are removed to allow subdivision of that land (DA 95/22 for 231 lots). The 30m biological buffer would be established on this development lot as a condition of consent. The DCP requires that the buffer be a minimum of 80m. There are a number of lots that do not comply with this requirement. Proposed lots 15, 16 and 17 are within the 50m area of the buffer. The DCP makes provision in Clause 1.6 for variation of the buffer areas. The DCP requires that the applicant address a range of issues to vary the buffer. Details of these matters were requested of the applicant in a meeting with the Mayor. The applicant then provided information on prevailing winds and topography. The applicant also argues that because the owner proposes to connect three (3) lots from the preceding development (Nos 14, 16 and 18 Waratah Way) to the gravity sewer this is also justification for the modification. There is no link in planning terms between connecting lots to sewer and prevention of spray drift. This argument should be rejected outright on this basis as being irrelevant consideration. The topography and prevailing winds when combined with the biological buffer, when established, may make development of lots 15, 16 and 17 feasible but this would be dependent on a report by a suitably qualified person to indicate that the biological buffer was performing adequately. Such a report is proposed in the recommended conditions of consent. Council could consider the development of these three (3) lots at a later date in a separate DA if and when the biological buffer may be found to be functioning adequately.

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On this basis it is considered that the 80m buffer required by the DCP should effectively apply, to mitigate against the external impacts of the operation of the macadamia farm to the east. Lots 15,16 and 17 should be incorporated into the development lot as a condition of consent. This will satisfy the requirement of DCP 27 and Clause 20.

**Clause 51 Subdivision of land in Zones Nos 2(a) and 2(v)** of the L.E.P applies to the development and states:

- (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:*
  - (a) *the consent authority has had regard to the matters relating to environmental impact specified in Schedule 5, and*
  - (b) *if the land is within Zone No 2(a), each separate lot of land created by the subdivision has an area of not less than 400 square metres, and*
  - (c) *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.*

The applicant submitted a Statement of Environmental Effects with the Development Application (refer item 3 in the chronology) that indicated that the matters in Schedule 5 (then Schedule 3) to satisfy Clause 51(2)(a) would be forthcoming. Council received this information on 13/07/00 (refer item 24 of the chronology). The applicant's assessment of the matters in Schedule 5 are available from the Development Assessment Planner if any Councillor requires the information.

Schedule 5 is provided as an attachment. All of the relevant matters raised in Schedule 5 are discussed in detail elsewhere in this report.

The proposal complies with clause 51(2)(b) as no lot proposed to be created has an area of less than 400m<sup>2</sup>.

There is adequate provision of water and electricity services available to the development.

Council's Asset Manager (Business and Enterprise Group) has indicated that there is sufficient sewer capacity to cater for the development. The applicant will be required as a condition of recommended consent to provide the requisite sewer infrastructure, and payment of levies under the provision of Section 26 of the Water Supplies Authorities Act.

The applicant has proposed a stormwater strategy involving both quantity and quality control to contain and treat stormwater runoff from the development prior to disposal into Tucki Tucki Creek. This strategy involves artificial wetlands for nutrient stripping in a detention basin, and an additional storage area for quantity control in the basin. This concept was developed after some consultation with Council's planning staff. Council's Environmental Health Officer has indicated that for safety reasons wet basins are not appropriate. Alternative solutions such as first flush diversion basins were discussed with the Development Engineer. It is proposed to impose performance based conditions in accordance with Council's adopted Stormwater Management Plan "For Quality Control of Urban Stormwater" dated June, 2000. The conditions provide for sedimentation control during the construction phase, and long term nutrient control after completion of the development, to protect the creek system.

**Clause 54 Urban Dual Occupancy**

The applicant was required to consider Clause 54 at the time when there was a shortage of sewer capacity for the development. The applicant presented a solution that was not acceptable to Council's planning officers. As it has been determined that there is adequate sewer capacity there

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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is no need to consider the applicant's proposal to nominate all lots for dual occupancy in stages six, seven and eight and having single dwellings only in stages one to five.

#### **North Coast Regional Environmental Plan 1988**

Clause 43 (1) of the REP requires that the Council shall not grant consent to a subdivision unless the Council is satisfied that the density of dwellings has been maximised without adversely affecting the environment.

There are a range of lot sizes provided in the plans for the development. The lots range in size from 700m<sup>2</sup> to 2540m<sup>2</sup> with the majority of lots being between 800m<sup>2</sup> and 1100m<sup>2</sup> with an average area of 941m<sup>2</sup>. There are a total of 76 lots in the development the density of the development will be approximately 7.36 lots per hectare. It should be recognised that there is a gravity sewer constraint on the land. This constraint eliminates an area of 2(a) land from being used for residential purposes thereby lowering the density. Further, two lots are required to be deleted to comply with DCP 28 (Note: this is discussed in detail below). The layout of the development and the size of lots does not maximise the density. Alternative designs could be utilised to increase the density of the development, solutions would include reduction of the average lot size to increase the number of lots. The applicant has adequately demonstrated that there will not be an adverse impact on the environment. Considering that some of the lots may be utilised for dual occupancy and medium density development, this may raise the density to approximately nine to ten dwellings per hectare; this estimate does not include the land that cannot be gravity sewered and the lots to be deleted to comply with DCP 28. Appropriate densities for an efficient use of the limited resource being residential land are in the range twelve to fifteen dwellings per hectare. On this basis it is not considered that the density has been maximised without adversely affecting the environment.

Council may form the requisite opinion that the densities as proposed by the applicant are acceptable considering the constraints to gravity sewer and the access requirements to open space. If Council is not of the opinion that the constraints justify the reduction in density then the development application should be refused.

#### **State Environmental Planning Policy No. 44 Koala Habitat**

The initial flora and fauna assessment submitted did not adequately address the issue of koala habitat as required by SEPP 44. Additional information was requested. The revised SEPP 44 assessment adequately addressed the issues in the SEPP. There is no potential or core Koala habitat in the site or likely to be impacted upon by the development.

#### **State Environmental Planning Policy No. 55 Contaminated Land**

A soil contamination report presented by the applicant at the request of Council indicates that there is no residual contamination of the land.

#### **79C(1)(a)(ii) Any Draft EPI that is or has been placed on Exhibition**

There are three amendments to Lismore City Local Environmental Plan 2000 that have been exhibited, and these relate to:

- 1) Acid Sulphate Soils;
- 2) Heritage;
- 3) Public land reclassification;
- 4) East Point Shops.

None are of relevance to this development application.

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**79C(1)(a)(iii) Any Development Control Plan**

The following DCP's are relevant to the development application:

- 14 Residential Development;
- 17 Tree Preservation;
- 27 Buffer Areas;
- 28 Subdivision;
- 33 East Goonellabah
- 42 Crime Prevention Through Environmental Design;

**Development control plan 14 Residential Development**

This DCP provides the design guidelines for the residential buildings to be constructed on the lots created by this development. It is of relevance only for the predicted maximum densities of housing. It should be noted that the predicted maximum yield in density terms allowed by this DCP is unrealistic. Maximum density if all lots were utilised for medium density development and dual occupancy would be in the order of sixteen dwellings per hectare, this is neither desirable nor likely. There is no further need to consider this DCP.

**Development control plan 17 Tree Preservation**

This DCP will apply to the development to protect the remaining trees on the site excepting those within the areas to be developed for roads.

**Development control plan 27 Buffer Areas**

This has been addressed with respect to clause 20 of the Lismore City Local Environmental Plan 2000 and conditions 45 to 53.

**Development control plan 28 Subdivision**

This DCP controls all aspects of urban subdivision. Only those aspects where the development does not comply or performs poorly will be discussed. These are Section 6.2.6 Public Open Space and Section 6.5.2 Lot Layout.

**6.2.6 Public Open Space**

The objective of Section 6.2.6 Public Open Space is:

*To provide, where appropriate, public open space that meets user requirements for outdoor recreational and social activities and for landscaping that contributes to the identity and environmental health of the community.*

The relevant performance criteria that the development as proposed does not comply with is that:

*Public open space provides:*

*a clear relationship between public open space and adjoining land uses established by appropriate treatment including alignment fencing, landscaping, and issues of noise, security and surveillance; and*

*avoidance of continual lengths of solid fencing along open space areas for security, surveillance, aesthetic and maintenance reasons.*

and the accepted compliance with these performance criteria is that:

*Parks are located so that at least 50% of their perimeter length has a direct frontage to a public road and near facilities such as community facilities, sports fields shops etc.*

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## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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The development as proposed does not meet the performance criteria or accepted method of compliance. The area of 6(a) land that is on the land the subject of the development is an area of open space that the D.C.P applies to. Part of this 6(a) land is urban bushland as indicated on the 1993 planning map and part of the land is cleared open space to form part of the link park in the Tucki Tucki Creek system. It is considered that requiring strict compliance with the 50% requirement is unreasonable in the circumstances of this case. This is because Council has imposed the location and shape of this open space on the developer effectively as a design constraint. The location of the 6(a) land at one end of the lot to be developed and its elongated shape would make strict compliance cost prohibitive for the developer. The developer would have to construct a large amount of single fronted road on which there would be no financial return.

It is well recognised that it is poor planning and urban design practice to allow open space backing onto rear fences. This results in rubbish and garden waste being dumped into Council's reserve. No passive surveillance from passing pedestrians or motorists and little or no passive surveillance over back fences. There is a perception that once in this area a person's activities cannot be observed thus making this an unsafe place. This design effectively engenders an ideal location for crime or anti-social behaviour to occur.

There are locations where access is required to the open space for both pedestrians and maintenance vehicles and to provide a failure path for stormwater overflows. It is proposed to enlarge these access points by deletion of lots 35 and 36 and to reduce the areas of lots 75 and 76. This would still not comply with the numerical standard but it is considered that deletion of these lots would achieve the performance criteria with respect to surveillance and security. Deletion of these lots would allow a large arc of vision into the reserve. This (coupled with the lot the applicant deleted near the street proposed to be called Platypus Place) would allow enough passive surveillance to improve the safety of the reserve. It is important that there is the potential for persons to be seen by both the passers-by and for there to be the perception of being overseen. This can be achieved by having a dwelling fronting those enlarged access points (that is dwellings on the opposite side of Waratah Way and Kookaburra Terrace). It should be noted that this is not an ideal solution but rather it is merely an acceptable modification to a design that does not comply with Council's DCP.

On this basis it is proposed to delete lots 35 and 35 and reduce the size of lots 75 and 76. Once these lots are deleted they would be required to be incorporated into the reserve and dedicated to Council. As discussed below, dedication of land requires an offset against Section 94 contributions. Council is advised that as the deletion of these lots is for a valid planning purpose, that is compliance with a DCP, and if there is an appropriate offset against S94 contributions such a condition may be lawfully imposed. At the Councillors briefing of 1/8/00 the issue of market value compensation was raised and the example of the Toongarah subdivision cited as a precedent. Legal advice was requested of Council's solicitors on this matter. Councillors are advised that the situation in Toongarah was factually different from this development. The payment of market value in that circumstance was not done with respect to offset against contributions, rather it was done as part of an agreement to resolve protracted legal proceedings.

Council's solicitors advise that whilst any condition is subject to challenge, this issue would be effected on a question of fact rather than a question of law if challenged. The three tests of reasonableness would be utilised to ascertain if the condition requiring deletion of the lots is a valid planning condition. This test is discussed in greater detail below. The value utilised in the offset of the contributions does not have to be the market value, rather it has to be in accordance with the contributions plan. The offsetting of contributions is discussed in the economic implications.

If Council forms the opinion that the deletion of the lots does not adequately achieve the underlying objectives of the standard prescribed in the DCP then Councillors are advised that more lots may be deleted from the plan. This would necessitate amendment of the Section 94 conditions to reflect the additional value of land required to be dedicated to Council. Approval of the development

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without deletion of the lots is considered to be unacceptable as it is a significant variation to the DCP. This is the first major DA to be considered under this DCP. Approval of such a major variation would make future implementation of the DCP extremely difficult.

For the reasons expressed above the deletion of the lots to comply with the DCP is recommended and the proposed conditions of consent reflect this.

### **6.5.2 Lot Layout**

The main area of non-compliance is with respect to lot orientation. Poor lot orientation is not considered sufficient reason to refuse the application. As the lot orientation is fundamental to the whole development concept conditional changes cannot be implemented.

With respect to those other aspects of the DCP it is considered that the proposal generally complies.

### **D.C.P 33 East Goonellabah**

The main issues in this DCP pertain to street layouts and koala feed tree preservation. There is no designated street layout for this land. There are also no koala feed trees on the site. The DCP requires street layouts to be added to the DCP once developed. This is a matter that can be attended to post completion of the development if required.

### **DCP 42 - Crime Prevention Through Environmental Design**

The main issues pertaining to this DCP have been addressed in the assessment for DCP 28.

### **79C(1)(a)(iv) Any Matters Prescribed By The Regulations**

The regulations require that the NSW Coastal Policy be considered in the determination of this application. It is considered that the development as proposed when modified by conditions is not inconstant with the objective of the policy. A copy of the policy is available for Councillors if they wish to review the document.

### **79C(1)(b) The Likely Impacts of that Development, including Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality**

#### **Environmental Impacts**

The proposed development could have an impact on the hydrology of the Tucki Tucki Creek system. These impacts would be in the form of increased runoff and increased nutrient and sediment loads in the waters of the creek system. The stormwater issue has been discussed above under Clause 51. These matters pertaining to water quantity control and quality control can be adequately addressed by way of conditions of consent.

The applicant, at the request of Council's Planning Officers, submitted a Flora and Fauna report and eight part test under the Threatened Species Conservation Act 1995 as required by Sections 5A and 79B of the Environmental Planning and Assessment Act 1979. The report indicates that there is two threatened plant species found on the site. The Arrow Head vine (*Tinospora tinosporoides*) and the Veiny Laceflower (*Archidendron mullerianum*) were found on the site. These plants are located in the area Zoned 6(a) Open Space set aside for urban bushland. Providing that there is suitable management of the urban bushland through a process of weed eradication and protection of these plants there is unlikely to be a significant impact on these species.

#### **Economic Impacts**

There is an area of land that is zoned 6(a) Open Space that is in the ownership of the developer. There is a requirement that Council either acquire, rezone or require dedication of this land.

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Rezoning of this land in the short term is not a viable option given the negotiations to this date and processing of the DA.

The following documents apply to the dedication and or acquisition of this land:

1. Lismore City Local Environmental Plan 2000;
2. Lismore Contributions Plan 1999;
3. Environmental Planning and Assessment Act 1979;

Clause 70 of the Lismore City Local Environmental Plan 2000 applies to this land. The relevant sections of clause 70 are set out as follows:

**1 Acquisition of land**

- (1) *This clause applies to land within Zone No 5 or 6(a).*
- (2) *The owner of any land to which this clause applies zoned as specified in Column 1 of the Table to this subclause may, by notice in writing, require the body specified in Column 2 of the Table opposite that zoning to acquire that land.*

**Table**

| <b>Column 1</b>                      | <b>Column 2</b>                      |
|--------------------------------------|--------------------------------------|
| <i>Special Uses<br/>(Main Road)</i>  | <i>RTA</i>                           |
| <i>Special Uses<br/>(University)</i> | <i>Southern Cross<br/>University</i> |
| <i>Recreation<br/>Zone</i>           | <i>Council</i>                       |

- (3) *On receipt of such a notice, the Council or the Southern Cross University must acquire the land to which the notice relates.*
- (4) *The Council shall not be required to acquire land the subject of a notice referred to in subclause (2) where the land is required to be dedicated to the Council as a condition of development consent.*

This Clause pertains to the portion of the land to be dedicated that is Zoned 6(a). It should be noted that neither the owner nor the applicant has at this time served a notice to acquire in accordance with clause 70 on Council. It is arguable that the indication on the DA plans that Council is to acquire this land may form the basis of notice to acquire, this has not been pressed by the applicant or the owners. It is therefore assumed that this does not form a notice to acquire at this point in time.

Clause 70 (4) would allow Council to condition that the land be dedicated to Council as a condition of development consent. The power to require dedication as a condition of consent is fettered by the three tests for validity of a condition that are:

- (i) It must be for a planning purpose or relate to a planning purpose;
- (ii) It must fairly and reasonably relate to the subject development; and
- (iii) It must be such as a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed."

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(*Pyx Granite Co Ltd v Ministry of Housing & Local Government [1958] 1 QB 554 at 572*) (Note: this is commonly accepted planning law and is confirmed by Council's solicitors in the advice of 17 October 2000)

In this case the dedication of 6(a) land for urban bushland and the 6(a) land that is not urban bushland is considered to be for a valid planning purpose and therefore clearly meets the requirements of the first test. The condition would also satisfy the third test. Such a condition is proposed (see Condition #56)

The Department of Urban Affairs and Planning Section 94 Contribution Plans Manual indicates that section 94 is the sole source of power in the Environmental Planning and Assessment Act 1979 to require the dedication of land. On this basis consideration needs to be given to the S94 contribution plan to determine if the land to be dedicated as open space fairly and equitably relates to the amount of contributions to be paid by the developer. Whilst the 6(a) lands proximity to the subdivision relates it to the development, the amount of land to be dedicated creates an inequity. This inequity can be rectified by a cash payment to the developer from the S94 funds collected for this purpose, or offsetting other contributions by way of internal transfer of funds from the components of the S94 plan that is receiving a greater benefit from this development that it is entitled to. In this case the developer is dedicating more land to satisfy the Open Space East component of the S94 plan than the liability generated by the development. The following levies would normally apply for 74 lots. (A complete analysis has been prepared and presented to the General Manager, Group Manager Finance and Administration, Manager Finance and Manager Development Services). Any Councillors wanting further information should contact the Development Assessment Planner.

| Category                          | S94 Per Lot | Contribution  |
|-----------------------------------|-------------|---------------|
| Open Space Local (East)           | \$ 598.00   | \$ 44,252.00  |
| Open Space Citywide               | \$ 310.00   | \$ 22,940.00  |
| Urban Bushland                    | \$ 319.00   | \$ 23,606.00  |
| Street Trees                      | \$ 78.00    | \$ 5,772.00   |
| Community Facilities Local (East) | \$ 1,056.00 | \$ 78,144.00  |
| Community Facilities Citywide     | \$ 530.00   | \$ 39,220.00  |
| Arterial Roads East               | \$ 1,677.00 | \$ 124,098.00 |
| SES                               | \$ 18.00    | \$ 1,332.00   |
| Bushfire equipment                | \$ 71.00    | \$ 5,254.00   |
| Bushfire facilities               | \$ 18.00    | \$ 1,332.00   |
| Footpaths Goonellabah Trunk       | \$ 52.00    | \$ 3,848.00   |
| Footpaths Connector               | \$ 48.00    | \$ 3,552.00   |
| Footpaths Internal                | \$ 177.00   | \$ 13,098.00  |
| Cycleways Urban East Catchment    | \$ 15.00    | \$ 1,110.00   |
| Bus Shelters Urban catchment East | \$ 2.00     | \$ 148.00     |
| Total                             | \$ 4,969.00 | \$ 367,706.00 |

The value of the 6(a) land has been broken down into two components for the 6(a) land that is urban bushland and the remaining 6(a) land.

The calculations indicate that there is a shortfall in the amount of 6(a) Zoned (Urban bushland) to be dedicated as a condition of consent. The urban bushland component of the S94 plan indicates that the applicant would be required to pay Council \$23,606.38 if there was no land zoned 6(a) urban bushland on the property. Council would utilise this money to purchase and embellish other areas of urban bushland zoned 6(a). Council could theoretically purchase and embellish 4.1950ha of urban bushland with this monetary contribution. There is however 1.5450ha of urban bushland on this property, this represents a shortfall of 2.6500ha that Council could have acquired if the developer paid the full amount of the contribution. If this area of urban bushland were dedicated as

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a condition of consent without embellishment Council should offset the value of this land, in accordance with the contributions plan. The value of this land is \$8,694.10. On this basis the applicant would owe Council \$17,118.24 this equates to \$231.33 per lot to be created. The application of this levy is further discussed below.

From a planning perspective this is the optimal approach to this component. One of the main problems with this approach is that in accordance with the contributions plan there is only \$2,205.97 with which to embellish this land. This equates to \$1,427.81 per hectare. This is considered to be grossly inadequate for the purposes of eradication of the camphor laurel infestation and the establishment of preferred koala food trees. The land in its current form will pose a maintenance problem for Council's Parks and Recreation Department. There is no budget allocation for the short-term embellishment or longer term maintenance of this land. Whilst these issues are not relevant to the dedication of the land they are issues that Council as a whole should be aware of.

#### **The Remaining 6(a) Land and the Deleted Lots**

As can be seen the Open Space Local (East) component of the plan should be entitled to \$44,252.00. The value of land to be dedicated inclusive of the lots to be deleted has been calculated in accordance with the value of land ascribed to land acquisition in the works program. The value of this land is calculated at \$114,863.62.

When the Open Space Local (East) works program is broken down proportionally the land acquisition component of that plan is only entitled to \$ 13,209.55 and with the land dedication this represents an overpayment to this component of the plan by \$101,654.07. The remaining components (ie other parks in Goonellabah) of the Open Space Local (East) plan are owed by the land acquisition component of the Open Space Local (East) \$31,042.45, this can be paid by internal transfer. This then leaves a total of \$70,611.62 to be either repaid to the developer or transferred to other contribution plans and a reduced rate of contribution levied on the developer.

The applicant has indicated that reduced rate of contribution is an acceptable solution. On this basis it is proposed to reduce the Community Facilities Local (East) contribution from \$78,144.00 to \$7,532.38, this reduces the rate per ET from \$1,056.00 to \$101.79. An internal transfer of funds makes up the difference from the land acquisition component of the Open Space Local (East) plan to the Community Facilities Local (East).

This will ensure all components of the S94 plan are fulfilled, a land dedication and cash payment by the developer, and an internal transfer of funds from the components of the S94 plan that receives a greater benefit from the land dedication than it would be entitled to from this development. Such an offset in accordance with the contributions plan is acceptable and common practice in most local government areas.

#### **79C(1)(c) The Suitability of the Site for the Development**

Site suitability was considered at the time of zoning of the land for residential purposes. There are no significant environmental constraints on the site that would prevent its development as residential allotments. There is the issue of external impacts caused by the adjacent intensive horticulture. This issue has been discussed above but it should be noted that the long term suitability of the land to be used for residential purposes based on the information provided to date and in the absence of the macadamia plantation is not questioned. However in the short term due to the potential for spray drift part of the land is not suitable for development.

#### **79C(1)(d) Any Submissions made in Accordance with this Act or the Regulations**

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Council was not required by the Environmental Planning and Assessment Act 1979 or the Environmental Planning and Assessment Regulation 1994 to exhibit the development application. Accordingly there are no submissions.

#### **79C(1)(e) The Public Interest**

In accordance with Council's policy the DA was notified in the paper and the adjoining owners notified. Two submissions were received these have been addressed above. The other major issue affecting the public interest is spray drift from the intensive horticulture to the east of the site. This has been extensively discussed above. It is considered that it is not in the public interest to allow development that may be affected by chemical spray drift. Accordingly this is further justification for the imposition of conditions requiring compliance with D.C.P 27.

### **Referrals**

#### **External**

The NSW National Parks and Wildlife Service considered the application and advised as follows:

A formal search of the Aboriginal sites database be performed in consultation with the local Aboriginal community be undertaken.

The flora and fauna assessment undertaken by James Warren requires an '8-part test' of significance for the threatened species mentioned in the report.

Vegetation in the 6(a) Open Space Zone has not been adequately assessed.

No analysis under SEPP No. 44 (Koala Habitat Protection) has been undertaken.

These matters as raised by NPWS were rectified as part of the additional information as requested by Council (refer item 11 in the chronology)

#### **Internal and Committees**

The Public Transport Committee, Traffic Advisory Committee and the Public Lands Strategic Lands Management Committee all considered the application. The application was also referred to the Council's Environmental Health Officer, Building Surveyor, City Works Group, Business and Enterprise Group and the Development Assessment Panel. The comments and proposed conditions from all these referrals have been incorporated into the conditions of consent and the above report.

#### **Late Submission by the Applicant**

Draft conditions of development consent were forwarded to the applicant for review to enable the developer to make a submission for inclusion in this report. The submission was to outline the areas of disagreement with the proposed conditions of development consent. The applicant has indicated in writing that they do not wish the matter to be reported to Council and wish further negotiations. The developer's consultant Mr G Mienieke verbally indicated that the developer wished to review the proposed development and present a different plan. This report was prepared on the basis of inclusion of the applicant's comments to enable the Councillors to make an informed decision. The General Manager informed the applicant that as the report has been previously withdrawn from the business paper, the matter is to be presented for determination.

Council has put a significant amount of time and resources into the assessment of this development application. The application has been with Council for almost twelve months. Much of this time has been as a result of requests for additional information, changes in plans or negotiations with the applicant. Alterations to the plans would result in further ongoing assessment and re-evaluation of the project. Development applications fees to cover the costs of assessment have long since been expended. It is considered that for financial reasons and to restrict further processing time, if the applicant wishes to redesign the project the application should be withdrawn and resubmitted as a fresh DA. Alternatively, Council may resolve to determine the application, and

in that case the applicant may lodge a fresh DA with amended plans for a new assessment if they so desire.

## **CONCLUSION**

Having regard to all the issues as raised in the Section 79C assessment it is considered that the application as modified by the proposed conditions of consent could be approved by Council.

### **Recommendation (Pla 42)**

It is recommended that Council approve Development Application 99/925 subject to the following conditions:

#### **Conditions**

1 In granting this development consent, Council requires:

All proposed buildings be constructed in accordance with any amendment or modification outlined in these conditions

All proposed works be carried out in accordance with any amendment or modification outlined in these conditions

Any proposed use of buildings or land be in accordance with any amendment or modification outlined in these conditions

and be substantially in accordance with the stamped approved plan(s) No. A401/5C dated 13/10/00 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 If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs after July 1, 2000 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 to provide pedestrian access and an overland flow path to the stormwater basin in 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))*

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- 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 or Principal Certifying Authority 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 and 10.

**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 retain (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 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.*

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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**

**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))*

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- 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))*

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#### AMENITY

20 The construction of the subdivision shall not interfere with the amenity of the locality by reason of the emission 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.  
**AM2**

**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. **AM6**

**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 wetted 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). A separate application shall be submitted. **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.

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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.

Note: Road names to be confirmed as per condition number 26.

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 Road names proposed for the subdivision shall be submitted for Council approval prior to lodgement of the Subdivision Certificate. A suitable name for any new road/s shall be in accordance with Council's adopted policy. **RD4**

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

- 28 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))*

- 29 Full design plans of the proposed engineering works to satisfy condition(s) DG1, DG3, additional stormwater conditions, RD1, RD3, VA7, PD1, 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))*

- 30 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))*

- 31 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

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sewer  
stormwater  
telephone

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**

**32 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)*

**33 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)*

**34** 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**

**35** 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)).*

**36** 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))*

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

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

**GEOTECHNICAL**

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- 39 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**

- 40 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))*

- 41 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))*

- 42 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))*

- 43 Full design plans of the proposed engineering works to satisfy condition(s) 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))*

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- 44 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))*

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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- 45 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. **S64**

#### **BUFFERS**

- 46 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:
- Contain a variety of plantings of different growth habits planted in a random pattern; and
  - Include plantings of species with long thin and rough foliage; and
  - Plantings are to be at mature height at least 1.5 times the height of the adjoining macadamia plantation; and
  - 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.*

- 47 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.*

- 48 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;

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))*

- 49 A report by a suitably qualified person on the establishment of the biological canopy and 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.*

- 50 The subdivision certificate for Lots 1,2,3,18,19,20,21,70,71,72,73,74,75 and 77 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.

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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**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.

- 51 Lots 15, 16 and 17 shall be incorporated into the residue lot as indicated in red on the stamped approved plans.

**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.

- 52 The buffer plantings referred to in Conditions 45 and 47 on the residue lot as indicated in red on the stamped approved plans shall be maintained by the or 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.

- 53 No dwelling shall be erected on the residue lot residue lot as indicated in red on the stamped approved plans on which the buffer is sited.

**Reason:** To prevent undesirable development tin the buffer area.

- 54 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 and 51.

**Reason:** To notify any prospective purchasers of the limitations and restrictions imposed on the lot by this development consent.

#### STAGING

- 55 The development shall be staged from Kookaburra Terrace. Staging shall be in the following order:

- 1<sup>st</sup>) Stage 5 as indicated on the staging plan;
- 2<sup>nd</sup>) Stage 4 as indicated on the staging plan;
- 3<sup>rd</sup>) Stage 6 as indicated on the staging plan;
- 4<sup>th</sup>) Stage 3 as indicated on the staging plan;
- 5<sup>th</sup>) Stage 2 as indicated on the staging plan;
- 6<sup>th</sup>) Stage 1 as indicated on the staging plan;
- 7<sup>th</sup>) Stage 7 as indicated on the staging plan.

The order of staging may be varied upon compliance with Conditions 45, 47, 48,

**Reason:** To ensure that spray drift from the adjoining plantation does not adversely impact on the amenity, health and safety of the development.

#### TREE PRESERVATION

- 56 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**

57 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 65)

**Reason:** *To meet the anticipated demand for open space by residents of the development. (EPA Act Sec 94)*

58 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)*

59 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 65).

**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.*

60 Lots 75, 76 and 73 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 65).

**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.*

61 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.*

62 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.*

63 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.*

64 Timing of dedication of open space:

Lot 79 shall be dedicated upon release of the subdivision certificate for first (1<sup>st</sup>) stage as per Condition 42; and

Lot 80 and the lots to be incorporated into Lot 80 as required by Conditions 46 and 47 shall be dedicated at the release of the subdivision certificate for the fourth (4<sup>th</sup>) stage as per Condition 42.

If the order of staging is altered by compliance with Conditions 45, 47, 48 and 50 the dedication of the open space shall occur on release of the subdivision certificate be for Stage 5 as indicated on the staging plan for Lot 79 and upon release of the subdivision certificate for Stage 3 as indicated on the staging plan.

**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.*

- 65 All areas proposed to be dedicated shall be maintained by the developer at no cost to Council until dedication.

**Reason:** *To negate any maintenance burden on Council.*

#### **SECTION 94 CONTRIBUTIONS**

- 66 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 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. **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)*

## **INFORMATION TO APPLICANTS**

### **ADVISORY NOTES**

**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 Construction 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.

### **DATE FROM WHICH CONSENT OPERATES**

Section 83 of the Environmental Planning and Assessment Act provides that the consent shall become effective and operate from the date endorsed upon the notice, **except** in the case of designated development to which objections have been lodged, when the consent shall become effective 28 days after the consent is issued.

Where an appeal is lodged, either by the applicant or an objector in respect of designated development, the consent shall remain in deferment and not become effective until the appeal has been determined. The consent shall be void if, on appeal, the development is refused.

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## LISMORE CITY COUNCIL - Meeting held November 21, 2000

DA 99/925 – 90 Lot Subdivision, 20 Waratah Way

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### COMPLIANCE

The development shall be carried out in accordance with the application, and “approved plans” as may be attached to this consent, and as amended by the foregoing conditions. **All conditions** shall be complied with prior to occupation of the development and, where appropriate, during the operating life of the development.

### REVIEW OF DETERMINATION

Under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979, an applicant may request the Council to review a determination of the application. The request for a review must be made within twenty eight (28) days after the date of the determination.

### RIGHT OF APPEAL

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Where an appeal is made in the case of a designated development, each person who objected is required to be given notice of the appeal, and will have the right to be heard at that hearing.

Except in the case of designated development, there is no provision within the Act for a third party (objector) to appeal against the consent issued by the Council.

### LAPSING OF CONSENT

To ascertain the extent to which the consent is liable to lapse, refer to Section 95 of the Environmental Planning and Assessment Act, 1979.

Section 95 of the Environmental Planning and Assessment Act generally provides that development consent shall lapse after >three (3) years from the date of operation of this consent, unless building work, engineering or construction work relating to this development is commenced on the land.

### EXTENSION OF CONSENT

In accordance with Section 95A, upon receipt and consideration of written application to the Council, an extension of twelve (12) months may be granted should the consent be valid for a period of less than five (5) years. Written application (including reasons for requesting such extension) is to be submitted to Council at least one month prior to the consent notice expiry date. Council cannot approve any more than one (1) application for a twelve (12) month extension to any consent notice.

### NOTICE TO COMPLETE

Where development has been commenced, but the work not completed, Section 121B provides that the Council may issue an order requiring completion of the work within a specified time, being not less than twelve months.

### ADVICE TO APPLICANTS, OWNERS, BUILDINGS AND TRADESPERSONS

Please note the attached advice document. The details contained in the document are to be read in conjunction with and form part of this approval. Accordingly, it is important that you bring the relevant information to the attention of the appropriate personnel engaged in the project.

For and on behalf of Lismore City Council.

Matt Kelly  
**ACTING GROUP MANAGER-  
PLANNING & DEVELOPMENT**

per:

Copy to: Barro Fast Pty Ltd

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# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## LISMORE CITY COUNCIL

**DEVELOPMENT CONSENT NO:** 99/925  
**ADDRESS:** 20 Waratah Way, Goonellabah

### IMPORTANT TO NOTE

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

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 66, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

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

*\* Note: For discount see Lismore Contributions Plan 1999*

| Levy Area                                       | Account No. | No. of ET's | Cost Per ET as per plan | Reduced Rate after land dedication | Amount Payable |
|---|-------------|-------------|-------------------------|------------------------------------|----------------|
| <b>Open Space</b>                               |             |             |                         |                                    |                |
| Urban Catchment (East) - Local                  | 1643-3      | 74          | \$ 598                  | \$ -                               | \$ -           |
| - Citywide                                      | 1643-1      | 74          | \$ 310                  | \$ 310.00                          | \$ 22,940.00   |
| <b>Urban Bushland</b>                           |             |             |                         |                                    |                |
| Rest of Goonellabah/East<br>Lismore/Lis Heights | 1644-2      | 74          | \$ 319                  | \$ 231.32                          | \$ 17,117.86   |
| <b>Street Trees</b>                             |             |             |                         |                                    |                |
| Urban Catchment (East)                          | 1643-22     | 74          | \$ 78                   | \$ 78.00                           | \$ 5,772.00    |
| <b>Community Facilities</b>                     |             |             |                         |                                    |                |
| Urban Catchment (East) - Local                  | 1650-3      | 74          | \$ 1,056                | \$ 101.79                          | \$ 7,532.38    |
| - Citywide                                      | 1650-1      | 74          | \$ 530                  | \$ 530.00                          | \$ 39,220.00   |
| <b>Urban Roads</b>                              |             |             |                         |                                    |                |
| <b>Arterial Roads</b>                           |             |             |                         |                                    |                |
| Urban Catchment (East) res                      | 1655-3      | 74          | \$ 1,677                | \$ 1,677.00                        | \$ 124,098.00  |
| <b>SES</b>                                      |             |             |                         |                                    |                |
| All areas                                       | 1695-1      | 74          | \$ 18                   | \$ 18.00                           | \$ 1,332.00    |
| <b>Bushfire</b>                                 |             |             |                         |                                    |                |
| Equipment                                       | 1690-1      | 74          | \$ 71                   | \$ 71.00                           | \$ 5,254.00    |
| Facilities (Control Room)                       | 1690-6      | 74          | \$ 18                   | \$ 18.00                           | \$ 1,332.00    |
| <b>Footpaths</b>                                |             |             |                         |                                    |                |
| Goonellabah Trunk                               | 1680-4      | 74          | \$ 52                   | \$ 52.00                           | \$ 3,848.00    |
| Connector                                       | 1680-5      | 74          | \$ 48                   | \$ 48.00                           | \$ 3,552.00    |
| Internal  | 1680-9      | 74          | \$ 177                  | \$ 177.00                          | \$ 13,098.00   |
| <b>Cycleways</b>                                |             |             |                         |                                    |                |
| Urban East Catchment                            | 1680- 8     | 74          | \$ 15                   | \$ 15.00                           | \$ 1,110.00    |
| <b>Bus Shelters</b>                             |             |             |                         |                                    |                |
| Urban catchment East                            | 1683- 3     | 74          | \$ 2                    | \$ 2.00                            | \$ 148.00      |



**LISMORE CITY COUNCIL - Meeting held November 21, 2000**

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**LISMORE CITY COUNCIL**

**DEVELOPMENT CONSENT NO:** 99/925  
**ADDRESS:** 20 Waratah Way, Goonellabah

To be read in conjunction with advice of development consent.

The levies imposed by Note No. 1 are identified in this Schedule.

The rates and amounts shown against the various items are those current at the date of this notice. If these levies are not paid within twelve (12) months of the date of this consent these rates shall be increased annually from the date of this notice, in accordance with the percentage increase from the date of approval to the date of payment, as notified by the Building Price Index (Sydney).

The following Levies are charged under and amounts payable are set out below.

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| <b>Levy Area</b>   | <b>Account No.</b> | <b>No. of</b> | <b>Cost Per ET</b> | <b>Amount Payable</b> |
|--|--------------------|---------------|--------------------|-----------------------|
| <b>ET's</b>  |                    |               |                    |                       |
| Water and Sewerage Headworks Levies are charged under Division 2 of Part 3 of the Water Supply Authorities Act 1987 (as amended) of the Local Government Act 1993 and amounts payable are set out below. |                    |               |                    |                       |
| <b>Water Headworks</b>   |                    |               |                    |                       |
| <b>Urban Reservoir Zone</b>  |                    |               |                    |                       |
| Goonellabah<br>- Holland Street  | 8175-1             | 74            | 2213               | 163,762               |
| <b>Rous County Council</b>   |                    |               |                    |                       |
| All areas except Nimbin Per Allotment  | 9200-2             | 74            | 1257               | 93,018                |
| <b>Sewerage Headworks</b>  |                    |               |                    |                       |
| East Lismore      Goonellabah  | 7175-1             | 74            | 4175               | 308,950               |
| <b>Total</b>   |                    |               |                    | <b>\$563,730</b>      |

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**ET's CORRECT - WATER & SEWER SERVICES OFFICER** ..... **DATE** ...../...../.....

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

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

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

## Attachment 1

### Waratah Way Chronology of Events

1. **16/12/99** Letter from Council advising that Council could allocate a sewerage entitlement of 90 lots to this development.
2. **24/12/99** DA for 90 Lot Subdivision lodged with Council by Aspect North.
3. **04/01/00** Internal referrals
4. **06/01/00** Adjoining owners notification letters sent out.
5. **13/01/00** Notice placed in paper.
6. **13/01/00** Notification sign placed on property
7. **20/01/00** DA referred to NPWS.
8. **25/01/00** Facsimile from Client Services Project Engineer to Aspect North requesting more information on water and sewer plans.
9. **27/01/00** Two letters of objection lodged with Council.
10. **02/02/00** Letter of objection lodged with Council
11. **11/02/00** Letter from Council to Aspect North requesting further information on:
  - a. Soil contamination;
  - b. Koala habitat assessment for SEPP 44 and DCP 33;
  - c. Preservation of existing trees;
  - d. Consideration of the urban dual occupancy clause in the L.E.P;
  - e. Stormwater management;
  - f. Buffer distance to existing macadamia plantation;
  - g. Council's sun protection strategy in proposed public reserves;
  - h. Lack of Flora and Fauna study;
  - i. Details of access widths on battle axe lots;
  - j. Water and sewer information as requested by facsimile of 25/01/00.
12. **16/02/00** Traffic advisory committee considers DA.
13. **24/02/00** Letter from Aspect North to the Mayor to arrange a meeting to discuss Council's letter of 11/02/00.
14. **29/02/00** Meeting between Aspect North's Mr G Mieneke and Mr K Buckley and Cr Gates, Cr Hampton and Cr Suffolk and the Manager Planning Services Ms H Manning.
15. **Undated** Flora and Fauna report lodged with Council.
16. **15/03/00** Letter from Aspect North requesting clarification of the issues discussed at the meeting of 29/02/00.
17. **22/03/00** Letter from Council to Aspect North reiterating Council's request for further information of 11/02/00 and adding additional requirements for information on:
  - a. A site analysis as required by DCP 28 Subdivision;
  - b. Landscape context plan and public open space information as required by DCP 28 Subdivision;
  - c. The requirements of the Traffic Advisory Committee;
  - d. Public pathway requirements.
18. **26/04/00** Letter from NPWS regarding lack of information in the flora and fauna report.

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

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19. **11/05/00** Meeting between Aspect North Mr G Mieneke, Mr D Dey and Mr K Buckley and Council's Mr C Soulsby, Ms H Manning, Mr J Weeraratne, Mr B Benson and Mr S McElroy (consulting engineer) to discuss the requirements for the subdivision. Issues discussed:
    - a. Soil sampling;
    - b. Stormwater management;
    - c. Water and sewer (57 ET's available identified);
    - d. Urban dual occupancy;
    - e. Public transport;
    - f. Urban design and public safety in the open space areas;
    - g. Density of development;
    - h. Open space dedication;
    - i. Buffer area requirement;
    - j. Flora and fauna;
  20. **30/05/00** Letter from Council to Aspect North providing minutes of the meeting of 11/05/00 and requesting that the information outlined in the minutes be provided to Council.
  21. **22/06/00** Letter from Council to Aspect North advising that if the required information as requested previously is not presented within seven days the application may be determined by way of refusal.
  22. **28/06/00** Phone call from Mr G Mieneke requesting an extension of time by two weeks to get the information in.
  23. **28/06/00** Letter from Aspect North formalising the verbal request for an extension of time.
  24. **13/07/00** Aspect North submits part of the information required.
  25. **14/07/00** Phone call from Mr K Buckley of Aspect North to Ms H Manning requesting until 17/07/00 to get the remaining information to Council.
  26. **18/07/00** Remaining information submitted.
  27. **20/07/00** Facsimile from Mr G Mieneke re: 88B instrument for Benalup development.
  28. **21/07/00** Additional information circulated to internal staff for review.
  29. **21/07/00** Memo to Councillors for briefing session.
  30. **01/08/00** Councillor briefing for development in accordance with Council Policy 1.2.14.
  31. **08/08/00** Proposed open space dedication and acquisition presented to Public Lands Strategic Lands Management Committee in accordance with Council Policy 5.2.28.
  32. **08/08/00** Letter to Council's Solicitors regarding land acquisition.
  33. **09/08/00** Memo from Janaka Weeraratne confirming adequate sewer capacity to service the development.
  34. **16/08/00** Public Transport committee considers application.
  35. **03/10/00** Facsimile from Mr G Mieneke re: DAP meeting
  36. **04/10/00** Letter from Mr G Mieneke amending plans.
  37. **11/10/00** Meeting with Mayor, General Manager, Manager Planning Services and Development Assessment Planner and Mr G Mieneke of Aspect North and the owners of the property.
  38. **13/10/00** Letter from M G Mieneke further amending plans and presenting additional information following meeting of 11/10/00.
  39. **18/10/00** Legal advice received from Council's solicitors.
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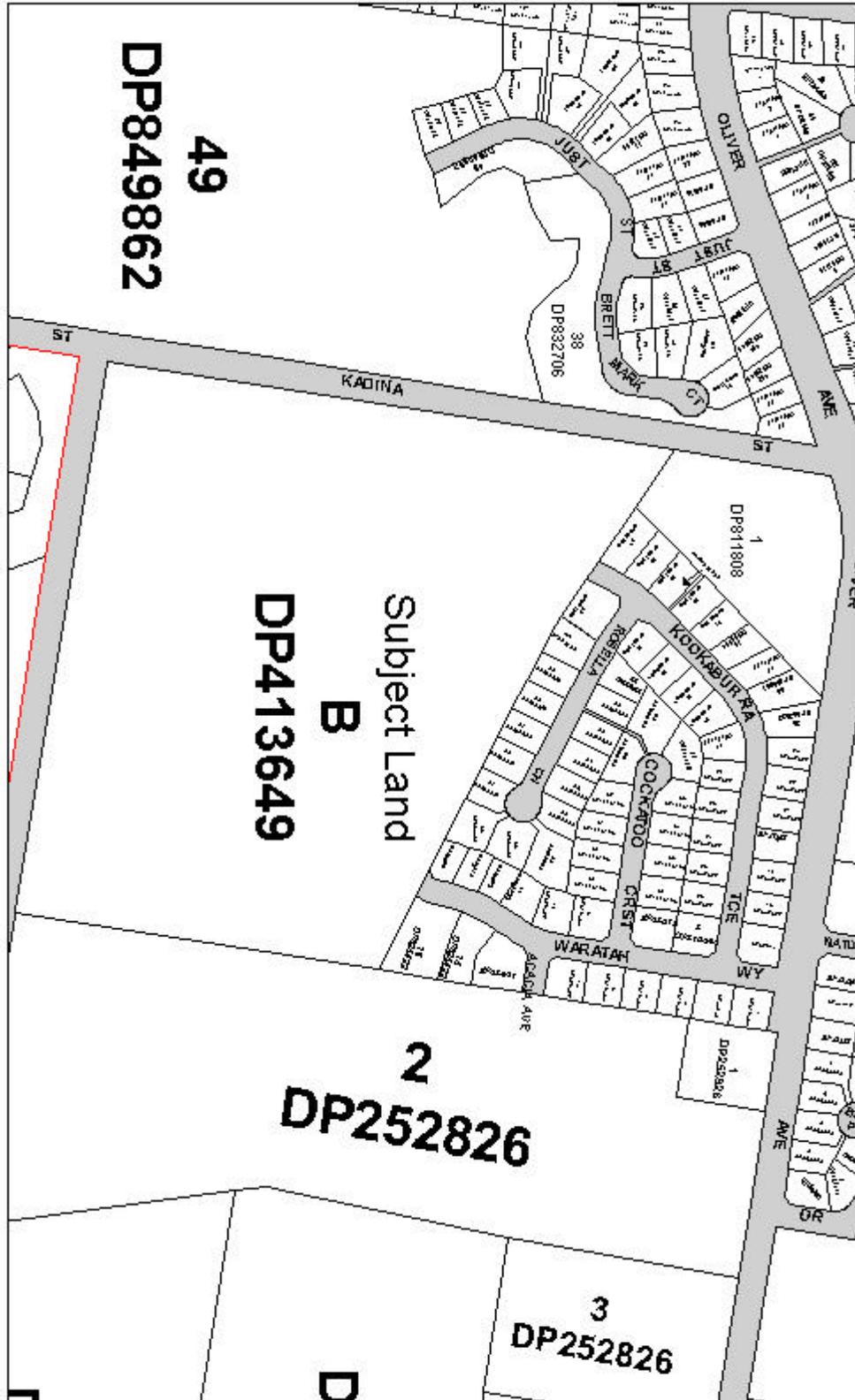
## **LISMORE CITY COUNCIL - Meeting held November 21, 2000**

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40. **23/10/00** Memo to General Manager from Development Assessment Planner concerning Section 94 contributions and land acquisition.
41. **24/10/00** Internal meeting with General Manager, Group Manager Finance and Administration, Manager Development Services and Development Assessment Planner.
42. **25/10/00** Internal referrals returned on additional information presented by Mr Mieneke on the 13/10/00.
43. **06/11/00** Draft conditions of development consent considered by the Development Assessment Panel.
44. **06/11/00** Draft conditions delivered to applicant for consideration.

Attachment 3

Locality Plan.



## LISMORE CITY COUNCIL - Meeting held November 21, 2000

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**Subject/File No:** DEVELOPMENT APPLICATION NO. 2000/511  
364C DUNOON ROAD, TULLERA  
(GM:MG:D00/511)

**Prepared By:** Environmental Health Officer and Building Surveyor – Geoff Moore

**Reason:** Compliance with Councillor Request that Development Application be determined by Council.

**Objective:** To determine Development Application 2000/511

**Management Plan Activity:** Building and Regulation

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### **Background:**

This Development Application would normally have been determined under delegated authority but pursuant to Council Policy No. 5.2.2, Councillors Chant, Hampton and Suffolk requested that it be referred to Council for consideration.

A Development Application has been lodged with Council for approval to erect a single storey brick dwelling with a metal roof at Lot 22, DP 788181, 364C Dunoon Road, Tullera. The property also has an alternate frontage to Houlden Road, but the preferred entry is from Dunoon road. The location of the property is shown on the attached site plan.

The land rises at a steep slope from the property boundaries to a ridge which crosses the 20ha property in a north-west to south-east direction. The proposed dwelling is to be constructed on the ridge at a distance of 188 metres from the eastern boundary which adjoins the piggery known as Deegan's Piggery.

The dwelling will be located approximately 250 metres from the wet weather effluent disposal area and approximately 360 metres from the effluent disposal storage dam of the piggery. This does not comply with the requirements of Development Control Plan (DCP) 27 – Buffer Areas as detailed in the Environmental Health Section Comments later in this report.

For the purposes of DCP 27 Deegan's Piggery is considered to be a small piggery and the recommended primary and secondary buffer areas are 300 metres and 600 metres respectively. Rural residential development is excluded from both the primary and secondary buffer areas. Single dwellings on agricultural holdings may be permitted in the secondary buffer (but generally not in the primary buffer) if no alternative suitable location is available. In this particular case, alternative sites, although with a less desirable aspect, are available outside the primary buffer area to locate the proposed dwelling.

The application is accompanied by a submission prepared by Aspect North, in support of the proposal which assesses the application in terms of Council's Local Environmental Plan, relevant Development Control Plans and the Regional Environmental Plan. The submission utilizes meteorological data and a judgement from the Land and Environment Court to assist in the justification of the proposal.

Also included, is a written undertaking from the piggery operator to give the owners/residents of the subject land twelve (12) hours notice of any effluent disposal on the wet weather disposal area, so that they have the opportunity to vacate their dwelling during disposal operation to avoid any odour. Alternatively, it will alert them to any possible odour should they decide to stay at home.

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

Not Required.

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**Public Consultations**

Not Required.

**Other Group Comments**

Not requested other than the Fire Control Officer who raises no objection, subject to the inclusion of appropriate conditions.

**Environmental Health Section Comments**

Clause 3.3 of DCP 27 requires the following buffer areas for “Piggeries” –

< than 500 pigs

- 300 metres (Primary Buffer area); and

- 600 metres (Secondary Buffer Area)

DCP 27 states “Buffers between piggeries and residential development should be of sufficient distance so that odours generated by piggeries do not cause undue loss of amenity to adjoining residents. The buffers relate to both piggeries and effluent disposal areas”.

Buffers are also a means of separating some forms of land use, such as piggeries and are aimed at reducing land use conflict. These conflicts can be real or perceived, either way the results are real and can affect important issues such as health, amenity, property values, social accord, lifestyle, safety and security.

The most appropriate means for reducing potential land use conflicts is to provide for a physical separation between incompatible land uses in the form of a buffer.

Clause 1.6 of DCP 27 allows departures from the DCP provided that the applicant demonstrates to Council's satisfaction that there is a clear case for variation of the standard, and that the objectives of the plan will be satisfied. The following matters have been addressed by the applicant and the following comments provided:-

(a) The extent, nature and intensity of the conflicting land use:

The applicant identifies that the piggery itself is outside the 300 metre buffer area. However, the irrigation field within the buffer area is utilised by trickle irrigation via a storage dam located within the buffer area. The applicant advises that this irrigation area is only utilised intermittently during the year, although pumping to the dam itself may take 4 months.

Council received serious odour complaints from the adjoining landowner to the north of the applicant's property less than twelve months ago. This in itself indicates that odours from the conflicting land use do occur. The complaints in this instance necessitated the involvement of staff from Council's Environmental Health Section, Department of Agriculture and the EPA.

(b) The operational characteristics of the land use:

Due to the high rainfall in this region of the north coast the storage dam and wet weather irrigation area within the buffer area will be utilised as frequently as is necessary from year to year. This in real terms will mean that some years will require more storage and irrigation than others.

The operational characteristics of the piggery are by nature odorous and Peter Deegan, the operator of the piggery in the Piggery Operation Agreement states:

*“However, I have advised the residents that they will get an odour from the piggery operation from time to time”.*

- (c) The external effects likely to be generated by the land use (eg odour)  
Odour has been a consequence of the adjoining land use. Piggeries by nature are odorous and on occasions other similar sized piggeries in the Council area have generated land use conflict.
- (d) Any topography features or vegetation which may act to reduce the likely impacts of the landuse

The proposed dwelling is located at an elevated height to the irrigation area and storage pond on the adjoining property. However, with the wind direction in the wetter months from the north-east to south-east direction, odour will be detected on the proposed site as has happened previously. There is only limited vegetative screening on site. The effectiveness of vegetation screenings for odour is considered to be negligible.

- (e) Prevailing wind conditions and any other climatic characteristics  
It is argued by the applicant that topography and wind direction will mitigate odours. It is stated within the report that the prevailing afternoon winds during the months October to April are predominantly from the south-east to the south-west. The submitted wind roses indicate that this is incorrect and is not the case with the wind direction at 3pm in October being north-east; November – north-east; December – north-east; January – north-east to south-east; February – south-east to north-east; March- south-east to north-east; April – south east. A major component of the wind in these wetter months blows directly across the storage and irrigation areas onto the proposed building site and not blown away from the site as suggested within the report.

#### Precedent Case

The applicant has provided a precedent case Byron Shire Council v Optic Pty Ltd in regard to variation of the buffer distance. In the case study, the buffer applied by Byron Council was 1 kilometre and the Court found that Council may vary the buffer distance.

In the application under consideration, the 300 metre buffer zone as applicable in Lismore City Council DCP 27 is substantially less and is considered to be the minimal standard to mitigate potential land use conflict.

#### **Conclusion**

The resources of Council's Environmental Health Section are increasingly being utilised to resolve land use planning conflicts. Odours from piggeries are one such conflict. The agricultural/urban interface is a growing concern, which threatens the viability of future primary production areas. Council, as a means of ensuring that this growing concern is mitigated as far as possible has adopted Development Control Plan No 27 – Buffer Areas.

Under the provisions of Section 79C of the Environmental Planning and Assessment Act, Council shall, amongst other matters, take into account the following:-

## **LISMORE CITY COUNCIL - Meeting held November 21, 2000**

### **Development Application 00/511 – 364C Dunoon Road, Tullera**

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- (i) Any Development Control Plan
- (ii) The suitability of the site for the development.

In this particular case DCP 27 has not been complied with and the reasoning to allow a departure to vary the buffer distance is considered to be unsatisfactory. Also there are alternative sites to construct the dwelling on the property outside the primary buffer area.

#### **Recommendation (Pla 41)**

That Development Application No. 2000/511 for the construction of a dwelling at Lot 22, DP 788181, No. 364C Dunoon Road, Tullera be determined by refusal as the proposal does not satisfy the minimum development standards required by Development Control Plan No. 27 – Buffer Areas.

**Subject/File No:** SPECIAL BUSINESS RATE VARIATION LEVY  
(S740)

**Prepared By:** Craig Kelly – Group Manager Business & Enterprise

**Reason:** Request of Council

**Objective:** To inform Council

**Management Plan Activity:** Economic development

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**Background:**

The Special Business Rate Variation Levy was an initiative of Lismore Unlimited Opportunities (LU). As part of the implementation of the Special Business Rate Variation Levy (SBRVL) a plan of management was to be prepared to direct the manner in which the money was spent and secondly a report was to be brought back to Council for each year evaluating how the money was spent.

The aim of the levy was to “ Ensure that Lismore remains the Capital of the Northern Rivers and the preferred destination to shop, visit and conduct business”.

The original plan proposed by Lismore Unlimited was delivered to Council in March 1999. This was placed on public exhibition and was subject to reasonable degree of scrutiny. The upshot of this process was a further public meeting of Lismore Unlimited members and a revised Plan of Management. This plan was put to the May 1999 meeting of Council and approved.

This interrupted start to the process has seen the evaluation effectively span a period of 19 months from November 1998 to 30 June 2000.

The evaluation of the expenditure of the SBRVL against the plan was undertaken independently by Ms Lois Kelly. The review was also subsequently reviewed by Mr Don Frater of the Northern Rivers Regional Development Board. A copy of this document without attachments is included as Appendix A.

**Manager - Finance & Administration Comments**

Not Required

**Public Consultations**

The Evaluation report was distributed to selected individuals for review. Please see written submission by Bill Sheaffe which is included as a separate attachment to this report.

**Other Group Comments**

**Manager – Economic Development Unit**

I have reviewed a copy of the “Evaluation of the Special Business Rate Variation Levy (SBRVL) Funds 1998-2000”, a very comprehensive statement and evaluation conducted independently of LU by Ms Lois Kelly and also independently reviewed by Mr Don Frater of the Northern Rivers Regional Development Board.

## Special Business Rate Variation Levy

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I have perused the claims made about the various events and find them to be in line with the general press reports and other documents available to me. Overall, the expenditure has given rise to a change in attitude among businesses towards collective promotion and positive activity within the CBD. As such, businesses contributing to the SBRVL have gained an advantage from their contribution.

The evaluation has been conducted as part of the approved Promotion Plan. I understand this is undergoing some revision in order to ensure it is in line with current strategic objectives of LU. This process of review will also help to ensure that stakeholders gain an ongoing participation in the evolution of the Promotion Plan.

In my view, the evaluation justifies the continuation of the SBRVL. The funds generated have the capacity to create further leveraging via other external grant opportunities and further capitalisation upon this mechanism is recommended.

### **Tourism Director**

Without the benefit of a specific, concise management plan document on which to base the objectives/purpose of each activity, it is very difficult to refute this evaluation. Although, it could be argued that the document carries little weight in its findings and it is obvious that each programme was not established with clear, measurable outcomes in mind. The evaluation therefore is a reflection of the base document that is the Promotions Plan.

LU have replicated last years format in presenting this coming years Promotions Plan where there are broad-based, fragmented objectives and inconsistencies which could easily lead to the same evaluation being reviewed next year. The Promotions Plan simply does not provide a good enough 'map' for the direction of the expenditure of the SBRVL. e.g. in this evaluation there is no discussion about the increase achieved in event attendance from one year to the next *due to the funding* provided and begs the question - yield versus numbers of people? The sales promotions are the same (how did the SBRVL improve business/image over previous years?) and the target markets for campaigns have not been clearly defined, even in a broad sense, which provides a very loose basis for assessing results achieved.

Again, I regretfully observe no mention of the LCC Events Strategy and very little in terms of raising the profile of Lismore in external markets.

This evaluation provides the review process that can assist in developing a clear and measurable plan for the forthcoming year that improves the appeal and integrity of Lismore as a shopping, business and tourism destination in partnership with other sectors and organisations that are pursuing that very same goal.

### **Conclusion**

As with all things new, there are things that can be done better and there is no doubt that the outcomes from future expenditure will be more effectively targeted. It is reasonable to take a view greater than 19 months on the SBRVL and on this basis the expected performance will be an improvement on this review period.

### **Recommendation (ENT01)**

It is recommended that:

- (a) the Special Rate Variation Levy be continued;
- (b) a further independent evaluation be conducted of the expenditure for the year 2000-2001;
- (c) a further report be brought back to Council once this evaluation is complete.

**Subject/File No:** DEDICATION OF A FOOTPATH THROUGH 148 BALLINA ROAD, GOONELLABAH, CONNECTING HILLCREST AVENUE & BALLINA ROAD.  
(AL:LC:P23396)

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

**Reason:** Section 377(1) of the Local Government Act 1993 provides that Council may not delegate “...*purchase, sale, exchange or surrender of land...*”

**Objective:** To seek Council resolution to dedicate the footpath and pay compensation to the landowners.

**Management Plan Activity:** Urban Roads

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**Background:**

Council has received letters from residents in the immediate vicinity and also the Goonellabah Progress Association, requesting that Council continue to adhere to its previous decision to ensure the development of a footpath joining Hillcrest Avenue and Ballina Road.

It has been Council’s intent to provide this footpath. Further to this, the development consent for the subdivision of land in Hillcrest Avenue requires the developer to construct the footpath at his cost for the entire length between Hillcrest Avenue and Ballina Road.

The only impediment to the construction of the footpath has been the land status of the footpath route. Lot 772 of DP835182 is freehold land owned by a third party. Although the allotment currently contains an easement to both drain water and provide for underground reticulation of power, it doesn’t contain any right of footway.

In order to tidy this matter up, Council staff have held discussions with Mr Gildo Pagotto, who is the owner of the land. Council has also obtained a market valuation for the acquisition of a strip of land 3 metres wide on the eastern boundary on Lot 772 DP 835182. The result of these discussions is an understanding that, subject to Council endorsement, we would acquire the 3 metre strip of land for a price of \$12,500. Council would be responsible for all reasonable legal and professional costs and the construction of a 6 foot high paling fence along the boundary with the balance of Lot 772. It is understood by Mr Pagotto that such agreement requires endorsement by Council resolution.

**Acting Manager - Finance & Administration Comments**

It is my understanding that the Manager Roads and Infrastructure has agreed to provide the necessary funding for this land purchase from within existing budgets. The majority of the funds will come from the 2000/01 footpath construction budget with other planned works deferred.

On the basis that this item is adequately funded, I concur with the recommendations.

**Public Consultations**

Council has received written submissions from residents in the area and the Goonellabah Progress Association.

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Dedication of a footpath through 146 Ballina Road, Goonellabah, connecting Hillcrest Avenue and Ballina Road

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### Other Group Comments

#### **Group Manager – City Works:**

Pedestrian access to the Goonellabah Primary School is very limited in the Hillcrest Avenue area. This path should provide a quick traffic-free access, particularly for School children and parents accessing the Primary School.

Unfortunately the path has an overall grade of approximately 1:5, (*ie, 1.0m rise for each 5.0m of path.*) This will almost certainly require the path to contain steps of some form and will reduce its accessibility for people with prams and strollers, as well as wheelchairs.

The Developer and Builder of the footpath should be required to design the footpath so that the grade problems are minimised, as well as ensuring the surface is constructed in such a manner that it does not become slippery in wet weather.

### Planning and Development Comments

#### Brief Background

1. The requirement for this pathway was the result of a specific public opinion survey, and resultant Council resolution on July 6, 1993. However for reasons which are unclear, the requirement for the pathway was not followed up when subsequent subdivision of 2 lots to Ballina Road was done in 1993, creating Lots 771 and 772 in DP 835182.
2. Notwithstanding this, when Council approved the second stage of the Hillcrest Avenue subdivision in March, 1996 (DA95/255 – 32 lots) a condition was imposed, as follows:
  13. *“The applicant or developer construct, at no cost to the Council, a 2.0 metre wide reinforced concrete or paving block or equivalent footpath in a pathway reserve, 2.0 metre wide, leading from Hillcrest Avenue to the southern and eastern boundary of Lot 114 to link with the future pedestrian access to Ballina Street. The developer shall also construct a 2 metre wide reinforced concrete or similar pathway from the south-eastern boundary of Lot 114 to Bruxner Highway. This cost may be offset in lieu of Section 94 levies following formal application to Council”.*
3. A Section 96 Amendment application seeking (among other items) to **delete** the condition requiring the pathway was rejected in May, 1999. A further Section 96 application to delete the pathway in July, 1999 was subsequently withdrawn, due to the fact that its determination could have delayed other items in the same amendment application.
4. In recent times Council has received letters from a resident of the estate, and from the Goonellabah progress Association, requesting that Council **ensure** the provision of the pathway, as per terms of the current consent.

#### Current Position

1. The current developer of the 3 final stages of “Stage XI” of this estate (Hillcrest Corporation Australia Pty Ltd) are anxious to have release of the first stage of 9 residential lots plus public reserve. The pathway occurs in this stage.

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Dedication of a footpath through 146 Ballina Road, Goonellabah, connecting Hillcrest Avenue and Ballina Road

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The consent conditions not only require the pathway to be provided and constructed (along the eastern boundary of proposed Lot 114), but also to meet the cost of construction of “a 2 metre wide reinforced concrete or similar pathway from the south-eastern boundary of Lot 114 to the Bruxner Highway” – this being the section through Lot 772, DP 835182, owned by EA and ML Pagotto, and the subject of this report.

2. Hillcrest Corporation has again made a written approach to Council seeking the deletion of the pathway altogether, based on reasons including the steepness of the land, the fact that part of the pathway is to traverse land not owned by the company (ie Pagotto’s land Lot 772) and querying who will be responsible for maintaining the pathway if built.
3. The position is quite clear – if Council adheres to the need for the pathway, acquisition of the strip of land in Lot 772 ***is imperative***, otherwise there would be a “pathway to nowhere”, dead-ending at the rear boundary of Lot 772.
4. Given the physical situation of access to the overall Hillcrest Avenue subdivision precinct, it is considered highly desirable that this proposed pedestrian link be required, in spite of its comparative gradient and the fact that not all age groups or, say, people with prams and strollers will be able to use it. Steps may be needed to be provided in the pavement construction design.
5. As the estates are more developed than in 1993 when the original survey was carried out, there would now appear to be a greater need for (and certainly there is an expressed interest in) the pathway being provided. If it is not provided in this application, there is no other opportunity to obtain a pedestrian link to the main road along the full length of Hillcrest Avenue. It is therefore strongly considered that the requirement for provision of the pathway as per Council’s earlier resolution of July 6, 1993 and subsequent Condition No. 13 of Development Consent 95/255 should remain.

### **Conclusion**

The dedication of this footpath and the payment of compensation to the landowners will bring this matter to a successful conclusion. By acquiring the land in this way the legal and associated costs of the acquisition will be minimised. The physical construction of the footpath is the responsibility of the developer of the subdivision in Hillcrest Avenue, and the Condition No 13 in their consent should not be deleted.

### **Recommendation GM34**

That

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.
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|----------------------------------|--|
| <b>Subject/File No:</b>          | BEST PRACTICE GUIDELINES FOR ACID SULFATE SOILS<br>(HM:MG:S714)  |
| <b>Prepared By:</b>              | Manager Planning Services – Helen Manning  |
| <b>Reason:</b>                   | To obtain Council's adoption of the Best Practice Guidelines for ASS   |
| <b>Objective:</b>                | To manage Acid Sulfate Soils in accordance with the guidelines of the State Government and of the NSW Sugar Industry |
| <b>Management Plan Activity:</b> | Strategic Planning   |

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### **Background:**

Council has prepared a draft LEP Amendment and a Development Control Plan for the management of Acid Sulfate Soils (ASS). These plans were based on models contained with the ASS Manual, prepared by the ASS Management Advisory Committee (ASSMAC). The DCP has been prepared and endorsed by Council, but does not come into effect until the LEP Amendment is approved by the Minister and gazetted. Ministerial approval and gazettal is imminent.

The draft plan generally requires Council consent for works which may affect ASS. However, the sugar industry has been pro-active in addressing the ASS issue and as a result there are provisions in the LEP which absolve the industry from obtaining consent **providing:**

A Production Area Entitlement with the NSW Sugar Milling Cooperative Ltd applies to the land when the works are carried out;

The works are carried out in accordance with a drainage management plan lodged with and endorsed by the NSW Sugar Milling Co-op. and the drainage management plan has been prepared in accordance with the Sugar Industry Best Practice Guidelines; and

The Sugar Industry Best Practice Guidelines have been approved by the Department of Urban Affairs and Planning in consultation with ASSMAC and the Department of Agriculture, and have been adopted by the Council.

DUAP has now supplied a copy of the Guidelines agreed by its Director-General. Council's adoption is sought so as to give effect to the provisions of the draft LEP for ASS.

### **Acid Sulfate Soils**

ASS contain iron sulfides in soils below the watertable, and while under the water do not cause a problem. When the iron sulfides are exposed to air by excavation or lowering of the watertable, they form sulfuric acid that can enter drainage systems and cause severe damage to drainage systems and river ecosystems and reduce agricultural productivity. Extensive tracts of low-lying coastal land in NSW and Queensland contain acid sulfate soils. They occur below many cane growing areas, are closest to the surface and are more likely to cause problems to the environment in low lying areas than on higher river levees.

In Lismore these soils affect approximately the southern third of the LGA.

### **The NSW Sugar Industry – Best Practice Guidelines for ASS**

A copy of the Guidelines is in the Attachment to the Business Paper for Councillors' information.

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## Best Practice Guidelines for Acid Sulfate Soils

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The Guidelines contain a commitment by the sugar industry to ensure that activities of its members do not contribute to or exacerbate acid sulfate runoff, and to adopt current best management practices in its farming operations. All members of the NSW Sugar Milling Co-op are signatories to a Memorandum of Agreement that individually confirms this commitment. The Co-op is able to refuse to accept or pay for cane from land not managed according to best practice. The Guidelines are to be reviewed annually.

Cane farmers are required to keep records of land forming, earthworks, drain construction and maintenance, applications of lime, details of any fish kills observed and the management of floodgates. These records are to be available for inspection by sugar industry or local government personnel.

The Guidelines make minimal imposition on Council. They require that 10 Production Area Entitlements for the Broadwater Mill be identified by the Councils involved (Lismore, Ballina and Richmond Valley) for audit by the Co-operative, the results to be sent to each Council. If an audit indicates problems, then the LEP allows Council to issue a notice to the landowner to cease the works or use or to obtain development consent.

The Guidelines do not apply to drainage union drains, new drains and earthworks in areas not subject to a sugar Production Area Entitlement. Any works in these areas will be subject to the full development assessment process outlined in the LEP and DCP.

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

Not required.

### **Public Consultations**

Not required

### **Other Group Comments**

#### **Environmental Health**

The introduction of Best Practice Guidelines for Acid Sulfate Soils by the Sugar Industry is welcomed. It is an example of industry taking responsibility and being accountable for its environmental management.

The self-auditing requirement in the Guideline (in regard to Acid Management Practises) of 30 Production Area Entitlements (PAE) each year ensures that the objectives of Best Practice are being undertaken by the industry.

Results of the annual audits will be issued to Council for our information.

The Guideline has only minimal impact on the resources of Council's Environmental Health Section and hands responsibility of best practice to the industry.

### **Conclusion**

Adoption of the Best Practice Guidelines by Council will assist in fulfilling the provisions of Council's acid sulfate soils planning controls.

### **Recommendation (Pla 40)**

That Council adopt the '*Best Practice Guidelines for Acid Sulfate Soils*' as prepared by the NSW Sugar Industry.

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**Subject/File No:** QUEEN VICTORIA JUBILEE FOUNTAIN RESTORATION  
(NM:VLC:P6816)

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

**Reason:** Councillor request.

**Objective:** To brief Council on requirements to restore the Queen Victoria fountain and to seek a further directive from Council.

**Management Plan Activity:** CBD

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### **Background**

Council, at its meeting of February 23, 1999, resolved as follows –

“That a report be provided to Council detailing what is required to restore the Jubilee Fountain to a drinking fountain in a prominent place, preferably in Spinks Park, with a view to providing funding for such a project in the 1999/2000 estimates.”

This report is in response to the above resolution. It has been an extremely difficult task to gather the information required, resulting in the lengthy delay of finalising this report.

### **Introduction**

The fountain was originally constructed late last Century to commemorate the historic reign of Queen Victoria. It was designed and installed as a public drinking fountain and originally stood at the intersection of Molesworth and Magellan Streets. It has since been moved into Spinks Park where it has subsequently been repositioned a number of times.

During its life the entire top half of the fountain has disappeared and is no longer used as a drinking fountain. It was made from marble and crafted by Andrews Bros who operated a masonry at Elizabeth Street, Sydney, at the time.

### **The Proposal**

Attempts to locate an original picture or authentic description of the fountain proved extremely difficult as no records had been kept either on file or by the Historical Society. It was considered quite important that a suitable photograph be located showing as much of the detail as possible to assist in the accurate restoration of the fountain. As the Historical Society did not have any one photograph of sufficient quality to depict the detail, an advertisement was placed in the “*Northern Star*” seeking public assistance, to no avail.

Therefore, it will be necessary to rely on enlarged photographs taken from some distance which, unfortunately, do not provide a clear view of all the ornate details of the fountain. This research has caused extensive delays with the project.

**Queen Victoria Jubilee Fountain Restoration**

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A number of photocopies of this photograph were taken and referred to the following monumental masons in July 1999 inviting tenders for the project –

Beckinsales of Lismore  
Monumental Masonry Pty Limited of Casino  
Italian Monuments - Andrews Memorials of Rookwood, Sydney (*Successor of Andrews Bros Masons that built the original fountain*).

After waiting some months for quotations to be provided, the three companies were approached; to be informed that the Sydney company would respond shortly, and the Casino company had decided to withdraw from the tender process.

The representative from Beckinsales indicated that the marble would need to be imported and he was awaiting a reply from their Italian supplier. After several more weeks and further discussion, a price was received from Beckinsales to carry out partial work on the fountain but could give no assurance of reproducing the ornate detail of the original stonemasonry.

To date, after several further enquiries, the Sydney company has failed to provide a price.

At the suggestion of M/s Annette Potts of the Historical Society, an approach was made to the National Trust which subsequently recommended a number of qualified Conservators. Of these, only two indicated an interest in the project; these being International Conservation Services Pty Limited of Sydney and Sydney Artefacts Conservation. Both groups are members of the Australian Institute for the Conservation of Cultural Material and have experience with fountain restoration.

The reports from both companies are attached to this report as Annexures 1 and 2 respectively.

**Funding**

The Conservators' reports reveal that the cost estimates far exceed Council's funding allocation.

There are a number of heritage grant programmes in place for this type of project. However, the success of such an application and the amount awarded can only be speculated upon at this time. This would be determined somewhat by the quality of the grant submission which in itself would be a specialised task.

Obviously the submissions received to date indicate that Council's current financial commitments may not be sufficient. Funding to date comprises the following –

- ♣ Council, at its meeting of February 1999 voted **\$5,000** towards this project from the 1999/00 budget (*these funds have been rolled over to the current budget*).
- ♣ The Civic Design Panel, at its meeting of August 9, 1999, voted to contribute **\$10,500** towards the restoration project (*this funding has also been rolled over to the current budget*).
- ♣ In addition the Civic Design Panel has recently resolved to contribute an additional **\$5,000** from the current budget.
- ♣ This results in a total budget from Council of **\$20,500**.

**Queen Victoria Jubilee Fountain Restoration**

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At its meeting of August 14, 2000, the Civic Design Panel resolved to engage the services of Sydney Artefacts Conservation to inspect both the fountain and associated documentation, and to provide a more accurate quotation for the restoration of the monument. This inspection occurred in October 2000 and was funded from the existing allocation of \$20,500.

It is recognised that the Conservator's fee for this service will increase the total cost of the project. However, it would appear that this is the best course of action to ensure as close a replica as possible for the restoration process. Given that this will increase the gap between the existing funding allocation and that required to complete the project, it is increasingly likely that Council will need to source external funding.

If Council wishes to seek external funding to make up the balance then this would require the submission of a number of quality grant applications to relevant sources to maximise the likelihood of obtaining the necessary funds. Competition for this type of funding is fierce and low quality submissions simply do not attract funding.

I believe that should Council wish to seek external sources of funding then an appropriately qualified/skilled Heritage Consultant be retained to carry out this task. To rely on existing staff resources to undertake this task may only jeopardise the chances of succeeding in securing funding and therefore would be false economy.

It should be noted at this point that there are two stages to this project; one is to ensure the restoration of the monument, and the other is to relocate the fountain to a designated location as a drinking fountain connected to the urban water supply.

Lismore Water has indicated that fees and charges to enable connection to the urban water supply could range from \$300-\$1,000 depending upon location and ground conditions. This is on the assumption that there will be no special requirements to modify the plumbing in order to connect to the fountain's plumbing system. In addition, the budget allocation will also need to cover the installation cost of the fountain at its ultimate location.

Whilst the restoration of the fountain is one issue, the ongoing maintenance and upkeep of the fountain must also be recognised.

Council's resolution calls for the fountain to be returned to Spinks Park. However, other significant heritage items located in Spinks Park such as the rotunda and items of public art have frequently been extensively damaged by vandals in recent times resulting in hefty repair costs. This has been difficult to manage within budget restrictions. There is the distinct possibility that the same fate will befall the fountain should its location not be of high visual prominence.

If Council remains firm with its desire for Spinks Park to be the final location for the fountain, it is suggested the fountain be positioned on the brick pavement of the Molesworth Street frontage, between the Art Gallery and Transit Centre. This site can easily be viewed from a number of directions and may also be covered by the new security cameras. This would greatly assist in reducing vandalism and damage costs.

Alternative locations would be at Magellan Street, either outside the former Post Office or Terania Shire building. Both locations should be within the vision range of the security cameras and would be close to a water main. However, this would result in the paving being lifted and cutting through the concrete sub-grade which would prove costly. The architecture of both buildings would be compatible with the fountain. Another possible location would be within Stocks Park adjacent to the City Hall.

**Queen Victoria Jubilee Fountain Restoration**

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**Summary**

At present Council has cumulative funding totalling \$20,500 to restore the fountain.

Cost estimates range between \$45,000-\$68,000 to carry out the works.

There is a need to enlist the services of a specialist Conservator to determine the type of restoration required.

If Council does not wish to contribute further funding, external sources need to be pursued. This may necessitate the retention of a specialist Heritage Consultant to produce acceptable grant applications.

In addition, the 'whole of life' costs associated with maintaining a monument of this nature need to be recognised; *ie, repairs to vandalism and graffiti, normal wear and tear to the fountain's plumbing, etc, as well as meter fees and water rates.*

A final location needs to be confirmed.

Given the circumstances outlined above, it is believed Council needs to consider this situation in its entirety and in doing so contemplate the 'whole of life' costs associated with keeping such a monument in good working order. Council needs to consider how such a structure will be maintained in the future and set aside adequate funds to do so.

**Manager - Finance & Administration Comments**

Based on the information provided, the total cost of undertaking the restoration of the Queen Victoria Fountain would be in the vicinity of \$53,000 to \$76,000; of which we have \$20,500 available. This includes –

- (a) the cost to restore the fountain will be between \$45,000 and \$68,000 (*of which we have \$20,500 available*)
- (b) enlisting the services of a specialist Conservator at (say) \$2,000
- (c) retention of a Heritage Consultant to prepare grant submissions at (say) \$1,000 (*which would be absolutely essential*)
- (d) the relocation and installation of the fountain in the preferred location at (say) \$3,000
- (e) an annual maintenance allocation of \$2,000.

I have no doubt that if Council wishes to restore the fountain to its previous grandeur, then it will be necessary to pursue the course of action recommended by the Manager - Parks & Recreation.

From a financial perspective, it would be absolutely essential that grant funds be received to offset these costs. Logically, only items (b) and (c) above should be undertaken at this time and the outcome of any grant applications known before the matter is reconsidered.

**Public Consultation**

**M/s Annette Potts - Richmond River Historical Society:**

The Richmond River Historical Society would like to see the Queen Victoria Jubilee Fountain restored to its original ornamental and useful state as a drinking fountain. The Society would also like to see it remain in a prominent position in Spinks Park.

From February 1898 the fountain was located at the intersection of Molesworth and Magellan Streets. Twenty years later it was relocated to Spinks Park, across from the former Post Office where it stood for many years in a garden setting. It was considered one of the main features of Spinks Park and is probably the district's oldest public monument.

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**Queen Victoria Jubilee Fountain Restoration**

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**Wendy Laird - Heritage Consultant for Lismore City Council:**

Whilst the location, detail and probable date of restoration of the fountain are at this time uncertain and most likely dependant on external funding, I recommend that all due care be exercised to prevent any further deterioration of the remaining material.

Laird and Associates will not be available to undertake the task of preparing a grant submission. However, should Council wish we will source details of appropriate Consultants capable of preparing grant submissions on Council's behalf. Any professionally prepared grant submission would be expected to include further research as to the original detail, etc, of similar structures throughout New South Wales. Lack of design detail information may result in an unsuccessful grant application.

**Other Group Comments** Not required

**Conclusion**

As Councillors will appreciate, there is not just the matter of restoring this monument; there is also the matters of installation and protecting the community's investment in this monument, as well as ensuring its upkeep in the future.

All of these issues add up to the one fairly significant project of the monument's restoration and its subsequent future. Council needs to ensure that any decisions made in relation to this proposal adequately address all the issues.

**Recommendation** (WOR29)

1. That 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.
2. That should the project proceed, the fountain be installed at a suitable location in Magellan Street, between the former Post Office and the old Terania Shire building; such position being in the range of the security cameras and located close to a water main.
3. That Council commit an additional \$2,000 per annum to maintain the fountain following its installation.

**Subject/File No:**       **SPORTING FIELDS – FEES AND CHARGES**  
(NM:VLC:S156)

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

**Reason:**                 To inform Councillors of recent changes to the administration of fees and charges for sporting fields.

**Objective:**              To gain Council endorsement.

**Management Plan Activity:**     Parks & Recreation

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**Background:**

In recent times there has been notable public discussion in relation to the levying of fees and charges for the hire of sports fields. Late last year the following report was compiled and presented to the LDSA Committee for its endorsement.

The Committee generally endorsed the report and the actions contained therein. However, the Committee did change the original recommendation that suggested charging Schools a 5% fee for the use of the grounds to, alternatively, Council accepting a bond from Schools for the use of the sports fields to cover the cost of litter control.

In hindsight, I would not recommend this course of action to Council as this would then become an administration nightmare in the collection of bonds; undertaking numerous inspections, and then arranging the refund of those bonds. This would add a lot of additional work to administration staff and prove quite costly. In summary, if this is the only option Council considers worth taking then I would recommend making no changes at all to the existing arrangements.

The report, as presented to the LDSA Committee at its December 1999 meeting, although slightly updated, is as follows -

**Report to LDSA Committee - Administration of Fees and Charges:**

When considering whether or not fees should have been altered for the hire of Council's sports grounds, I believe it would be pertinent to view the financial situation of the Recreation budget from a broad perspective. In order to provide Councillors with a detailed understanding of the wider budgetary issues I have provided the following information.

As with most of Council's Departments, the Recreation Budget is made up of an annual contribution (vote) from Council, less any income derived from the hiring of grounds. Therefore, this means that the amount of Council's contribution each year is determined largely by the amount of income received. It should be remembered that in the past three years the Council contribution (*ie, the amount of funds Council allocates for expenditure*), has, apart from minor increases, remained relatively static, whilst all the components such as wages, materials, oncost and plant costs, etc, rose - in some cases significantly.

In 1997/98 the income from sports ground hire was budgeted at \$71,500 in addition to income from other sources (*eg, TAFE lease, trust dividends, advertising and rental income, etc*), which was \$67,500. This compared with an expenditure budgeted at \$574,900.

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### Sporting Fields – Fees and Charges

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If you look at the raw figures of ground income only compared to expenses attributed to the maintenance of sportsgrounds and their assets, you will see that cost recovery for the provision of sporting fields was only 11.7%, a meagre figure when viewed in this light. Thus, income from these other sources was in effect making up a significant portion of the income budget. It could also be argued that income from other sources was assisting in propping up the sportsgrounds budget and subsidising the cost of ground hire.

It may be the case that this was arranged intentionally in order to keep the cost of ground hire to a minimum. However, from a strict management perspective this is a dangerous way to budget from year to year. In the event that this income was to decline or disappear then the ground maintenance budget would be in dire straits and this would lead to either a dramatic increase in fees; a dramatic reduction in service, or an extra contribution from Council. I do not believe any of these options are appealing, particularly the latter when you consider the problems Council faces with its road network; the need for a new aquatic facility; likely contribution to the flood levee system, and Crozier Oval to complete. It would be preferable to see the income from other sources put aside for strategic purposes and to see a more realistic but not excessive cost recovery from ground hire.

When looking at this situation the important thing to consider is what makes up the expenditure budget, as this is where the potential for problems can arise. The expenditure on ground maintenance budget comprises the cost of all materials, wages, stores, plant hire costs, oncost, and invoices from service providers and contractors.

As mentioned previously, costs to Council have been increasing. For example in 1995/96 plant costs were \$83,200; in 1998/99 they were \$111,000. Wages have increased at approximately 3.3% per annum, resulting in increases of \$24,000 over the same period and, finally, oncosts have increased from \$111,000 to \$157,000 in 1998/99. This effectively means that when faced with static Council allocations for expenditure (which has been the case for the past three years), that there was approximately \$40,000 less in the budget to work with from one year to the next.

In recent years while looking at these factors when compiling the annual Budget, it has left very few options other than to reduce service levels and staff or to increase income. It should be remembered though that any reduction in staff would also mean a reduction in service levels unless improvements in productivity and efficiency were made. Therefore, staff reductions were not a preferred option.

When considering this issue in its broader perspective, it would also be helpful to compare recent facts and figures. Therefore, the following information has been provided to inform Councillors of the policies, practices, arrangements and limitations with regard to the administration of fees and charges for sporting fields. I have attached (to be read in conjunction with this report), copies of the following for Councillors' benefit –

- Copy of previous fees and charges schedules from 1994/95 (Annexure 1).
- Copy of current fees and charges schedule 1999/2000 (Annexure 2).
- Copy of Council policy in relation to School Hirers (Annexure 3).
- Copy of Council policy in relation to Seasonal and Casual Hirers (Annexure 4).

When viewing the fees and charges schedule, you should be aware that over the years there has been numerous arrangements made with various sporting groups for the hire of sportsgrounds which now limit the amount of cost recovery that is able to be re-couped for the day-to-day sportsground maintenance works. These arrangements have not appeared in the fees and charges schedule in recent years. At the time the LDSA Committee determined these matters.

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### Sporting Fields – Fees and Charges

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It is important to note that Council practice is to recover only a percentage of the cost of sports field expenditure. However, the actual percentage has never been determined (*ie, 0%-50%*). For the last financial year, income from the hire of sportsgrounds was budgeted at less than 11% of expenses and with oncost, wages, materials, etc, increasing annually, the percentage recovered in real terms was diminishing, as a result of some of the abovementioned arrangements.

A typical example of some of these arrangements is the fact that there are some grounds where a sports club hires the ground seasonally and would normally play on a home and away basis. The LDSA policy on seasonal hire allows sports clubs unrestricted access to grounds based on the fact that the ground could be used every day if desired. This has meant that several sports clubs have in the past successfully negotiated to share seasonal hire fees when they share an oval with another club.

For example both Workers and Marist Bros Rugby League Clubs share the cost of seasonal hire for Oakes Oval. Therefore, instead of both Clubs paying the seasonal hire fee of (say) \$3,900, they share this cost and pay \$1,950 each. This has the effect of doubling the traffic on the sportsground but not increasing the income to put back into its maintenance, and, in the long-term, is not sustainable. This, however, is in keeping with policy. This same arrangement applies to Clifford Park with the Australian Rules Clubs. Such a policy makes it difficult to provide superior sportsgrounds given the other issues mentioned in this report. In recent times a shared seasonal fee has been introduced to cover these situations. This shared fee for Oakes Oval was set at 70% (\$2,750) of the seasonal fee and is still well below the full fee of \$3,900.

In addition, there is the Council policy of **not** charging Schools for the hire of sportsgrounds. It should be noted that *Schools are probably the largest single Hirer of Council-managed sportsgrounds* and require an enormous amount of cleaning after each event. In addition, the Schools have a habit of not booking the grounds which then interferes with the Department's maintenance schedules, making them somewhat inefficient and more costly. The Sportsgrounds Supervisor, Mr Laurie Cooper, estimates that School use of sportsgrounds has increased four-fold in the past ten (10) years.

Not only has this impacted on the cost of service provision within the Department, but has led to an uncomfortable situation at Riverview Park where it is estimated that approximately 15,000-20,000 students use the athletics facilities each season for School and Regional Athletics Carnivals, with no fewer than 26 Schools booking Riverview Park last season. In the instance of Riverview Park, Council charges a meagre \$45 fee for a School carnival. This fee does not even cover the cost of cleaning the amenities afterwards. In light of the above information, Council may wish to review its policy for School Hirers.

In addition, the amount of waste generated from these athletic carnivals and the costs associated with cleaning up after each event is restricting the amount of funds available to actually maintain and provide a reasonable sports facility. We have considered asking the users to remove their own waste but this is logistically hard to implement and to administer. I am attempting to address the matter of waste collection across the board with sports groups and spoke at the last LDSA Public Meeting (late 1999). However, it will take some years to address this problem entirely.

These are just some examples of the arrangements. There are others and it should be remembered that in the main they restrict income that could be used to offset expenditure and therefore reduce the need for Council to make increasing contributions each year to sportsground maintenance. In the present climate where Council's contributions are likely to remain static from one year to the next, increased revenue would enable the Department to maintain some standard in its sportsground maintenance and preparation programme. In recent times the level of service has been declining.

### Sporting Fields – Fees and Charges

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There are several reasons why the level of service has declined in recent times. They were referred too earlier in this report and primarily include escalating plant costs (due to under utilisation of plant); increased oncost (primarily Workers' Compensation premiums associated with employing staff), and increased wages (approximately 3.3% pa). In addition, other costs such as insurance premiums and materials have also increased. All of these increases and at the same time no increase in budget allocations (money to spend), has meant that in real terms the sportsground budget is decreasing.

Thus, under these circumstances, there were very few options available to maintain a reasonable level of service without substantial budget over-runs as experienced in 1997/98. These options were to firstly reduce service levels significantly; secondly, to increase income quite significantly or to finally become more efficient and reduce labour costs.

The option chosen was a mix of a minor increase in fees (therefore increasing income), as well as looking at ways to become more efficient. This option was favoured as it provided a sustainable approach that in the longer term could provide increased service levels other than just maintaining the existing levels.

The latter part of the plan involved integrating the grass cutting operations of the former Sports Trust with the former Parks & Reserves Section. This hopefully would streamline this major activity, resulting in reduced plant needs, less labour and oncosts, and some financial savings for Council. Whilst this plan is in its early days and allowing for the fact that we have experienced two very wet summers with very strong grass growth, it would appear as though we are on track to achieve these objectives which will result in improved service levels in the near future.

I should also point out that until this financial year, the rural sportsgrounds had never come under the control of the Sports Trust. This meant that there were significant sporting fields in the rural areas such as Sam Trimble Oval, Balzer Park, Tregeagle Oval, and Coronation Park, which had significant sporting facilities and were used heavily by seasonal hirers but were charged out at well below the cost of comparable sporting fields in the City area. This was due to the fact that they were managed by the Parks & Reserves Section, rather than the Sports Trust, and hence they were not charged out in line with the urban grounds.

This was an anomaly that I believed needed to be addressed. It was an unsustainable arrangement as the maintenance cost of these rural grounds was more than the grounds within the City limits because of the travelling distances involved. Furthermore, a lot of the users of these grounds were people living in the urban area.

In conjunction with the amalgamation of the Parks & Reserves Section and Sports Trust into the Parks & Recreation Department, I have given the control of these grounds to the Sportsgrounds Supervisor and have included them in the same schedule of fees as the urban grounds. This was an administrative problem that I believe needed addressing and has been rectified. Unfortunately, some user groups have seen this as an unacceptable price rise. It was more the rectification of an administrative error by Council.

In conclusion, I do not believe the increases in the fees and charges have been excessive as some may argue. In fact, the increased income earned during the last financial year prevented an over-expenditure for the third year in succession. All this at a time when a staff member retired, equating to staff reductions of 11%. In actual fact, it could be argued that the increases were necessary to firstly keep the Department afloat, and secondly, to reflect the real cost of service delivery.

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# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Sporting Fields – Fees and Charges

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One might ask why not compare what other Councils are charging for the use of sporting fields. In reply, I would add that it is sometimes misleading to make comparisons from a distance without knowing all of the facts.

You may recall an article in a Saturday Edition of the *'Northern Star'* around late August/early September, 1999, entitled "Grounds for Discontent". This article tried to compare the cost of sportsground fees between various Councils and painted a fairly bleak picture for Lismore. However, I was contacted by a member of a Ballina Sports Club who had read the article to report that the situation for Ballina, as stated in the article, was misleading.

This gentleman went on to say that Ballina Shire Council charged commercial rates and trade waste fees to the Clubhouses built on Council grounds. These charges could run into thousands of dollars and that this was a significant reason why the cost of sports field hire was notably cheaper in that Shire. This reinforced that unless all the intricate detailed information is known, it is not wise to simply compare fees.

In addition, the Parks Manager (Mr Stewart Bawley) from Tweed Shire Council visited Lismore in August 2000 as part of an information exchange arrangement. While discussing the issue of ground fees, Mr Bawley indicated that while the fees charged by Tweed Shire Council may be a little cheaper, they do not provide any line-marking services at all. The sports ground hirers are required to carry out their own line-marking. Line-marking is a significant cost associated with sporting field preparation.

Whilst the sporting field hire fees in Lismore may be at the upper end of the scale, clearly a better level of service is provided and consequently, better value for money.

In summary, demand for the use of Council's sports fields has increased markedly, increasing the costs associated with maintenance and cleaning thereafter. In addition, all costs associated with running the Sports Trust have increased, *eg, wages, oncosts, plant hire, materials, etc.* Yet until this year, expenditure budgets had remained static for two or three years running. Something had to be done to alleviate the situation otherwise there would have been a dramatic drop in the level of service.

I believe that the mix of a modest increase in fees and charges combined with improvements in productivity and efficiency, will prove to be the most sustainable option for Council.

**(The following recommendation is as it appeared in the report to the LDSA Committee at its December 1999 meeting, followed by the Committee's recommendation to Council).**

**Recommendation:**

1. That the Committee review its policy of not charging Schools for the hire of sports fields and give consideration to setting a nominal fee of say 5% as a fee charged to School hirers for use of Council-owned or managed sports facilities.
2. That the Committee determine what percentage of cost recovery (ie, 15% of total sportsground expenditure) they would like to see established as policy to assist management in the setting of fees and charges in the future.
3. That the Committee endorses the adopted changes referred to above.

## **LISMORE CITY COUNCIL - Meeting held November 21, 2000**

### **Sporting Fields – Fees and Charges**

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In hindsight and having had the opportunity to contemplate the latter recommendations, I could not support the implementation of a bond system for the hiring of grounds. The additional workload created with extra paperwork and administration procedures would require additional staff resources and given that this is unlikely to be granted, I would not like to burden the already overloaded staff with another complex procedure. This would simply take too great a toll on existing staff.

Alternatively Parks & Recreation Staff have worked diligently on reinforcing the conditions of hire, particularly Condition No. 5, which states that the ground hirer is responsible for leaving the ground in a clean and tidy state. Councillors may have noticed a recent media release and interview conducted supporting this issue. Given the circumstances, I believe that methodically enforcing the hire conditions is the best alternative.

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

The Parks & Recreation (P&R) Department is under increasing pressure to meet its budget expectations and deliver the required service levels to its customers. This is a common problem faced by Council generally. How we react to these circumstances is important.

The Manager - Parks & Recreation has approached this situation on a number of fronts with the key being sustainability. It is clear that the intention is to focus on the core activities relating to ground and asset maintenance, while changing practices/procedures for other activities which detrimentally impact on the ability to carry out the core activities. When this is coupled with modest fee increases and improvements to productivity and efficiency, it is likely that the service level will increase for sportsground users as greater resources will be available for that purpose.

With the implementation of these initiatives, there will be some 'pain' with the obvious being the increase in fees for users. If we want to provide adequate facilities, then either the sporting community or Council needs to increase its contribution. The reality is we are asking the users to contribute up to a maximum of 15% towards the total costs of ground and asset maintenance. While from a user pays perspective, a 15% contribution is not onerous, it will result in Council's contribution to P&R for sportsgrounds being maintained at manageable levels.

At the same time, productivity and efficiency improvements (which I understand is partly implemented and proving successful), and the methodical enforcing of all hire conditions will assist in the outcome being achieved.

**Public Consultations**     Not required

**Other Group Comments**     Not required

#### **Conclusion**

No doubt School users are by far the largest user of Council-owned/managed sporting fields, and consequently, they inflict the greatest 'wear and tear' on the facilities. Whilst it is accepted Council does not want to charge Schools for the hire of its facilities, it should be pointed out that such a position forces regular unequitable rises in fees to weekend users and also leads to an unsustainable situation of lack of adequate funding to provide adequate sports facilities.

**Sporting Fields – Fees and Charges**

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This in turn places sustained pressure on Council to increase its contribution to this service area and in turn restricts expenditure in other areas of Council's portfolio such as engineering infrastructure, planning services, community services, etc. Council only needs to feel comfortable with such a situation.

**Recommendation** (WOR28)

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/File No:** RENAMING THE NEIGHBOURHOOD PARK IN McDERMOTT AVENUE, GOONELLABAH (P6489)

**Prepared By:** Punita Boardman, Crime Prevention Development Officer

**Reason:** Requests to rename the park have been submitted by local residents in the area

**Objective:** That Council endorses the proposal to rename the park the “**Elders Memorial Park**” and that this intention be placed on public exhibition for a period of 28 days.

**Management Plan Activity:** Community Services

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### **Background:**

The Community Services section of Council has recently joined with residents and other local agencies in organising some community events in the local park in McDermott Avenue, Goonellabah.

The project aims at bringing together families who live in the area in order to promote community participation and civic pride. The focus is mainly on activities for children and young people and was launched with a very successful Family Fun Day that included a barbeque, sports events, balloons, face painting and information.

The Family Fun Day was also successful in raising local awareness on issues of safety, crime prevention and general community participation. The Parks and Recreation Department of Council was also involved in supporting the initiative. Councillor Merv King and State MP Thomas George attended on the day along with esteemed elders from the Bundjalung community.

Residents have also formed a group called ‘Friends of the Park’. It is envisaged that this group will fundraise in order to beautify the park and improve its amenity. They, in partnership with local services, propose to examine the possibilities of installing play equipment, shelter, water, etc to encourage the future use of the park.

The YWCA (Young Women’s Christian Association) has been instrumental in this project and will continue to be the primary contact with the residents’ group. Also, a number of State Government departments such as Health, Housing and Community Services are involved, along with Summerland Youth Service, local church groups and Council.

**One of the key issues, which have been discussed by this group over the past 6 weeks, is about a change of name for the park. Representatives from the Bundjalung community, including a number of elders, have categorically stated that the name is offensive to Aboriginal people and the translation would also offend non-Aboriginal people.**

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

No financial implications in renaming the park.

### **Public Consultations:**

A flyer advertising the proposal to change the name of the park was sent to 300 houses in the surrounding streets. An invitation to participate in a democratic process was extended to all residents. Residents were invited to attend a barbecue at the park on Thursday, 9 November and over 60 people chose to cast their vote.

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## LISMORE CITY COUNCIL - Meeting held November 21, 2000

### Renaming the Neighbourhood Park in McDermott Avenue, Goonellabah

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Two residents, Harold Knight and Helen Wardle, addressed the group. This process was facilitated by Council staff, in conjunction with other workers in the organising group.

Several names were proposed and an anonymous vote was conducted. The result of the consultation was to call the park the ***Elders Memorial Park***. The decision was a clear majority of approximately 2:1 with the *Kids Jarjum Park* receiving the second highest number of votes.

#### **Other Group Comments:**

Sought but not received.

#### **Conclusion:**

There have been a number of incidents of vandalism and anti-social behaviour occurring in this park over the years. A community development approach, which supports residents in caring for public spaces and facilities, also is to empower them to participate in processes such as this one. Public involvement will engender more community pride and ownership for the park and any development that may occur over time.

#### **Recommendation: (COR55)**

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.

# LISMORE CITY COUNCIL - Meeting held November 21, 2000

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**Subject/File No:** COUNCIL MEETINGS AND PUBLIC CONTACT FORUMS FOR 2001  
(GW/LM: S4)

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

**Reason:** Council policy

**Objective:** Determine schedule and meeting locations.

**Management Plan Activity:** Corporate Management

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## 1 Council Meeting Schedule

Council has resolved that commencing in 2001 its Ordinary Meetings will be held on the second Tuesday of each month. The first meeting of the year will be held on February 13, 2001.

## 2 Rural Meetings and Public Contact Forums

Council's Policy 1.2.7 of open government states Council will meet three times a year at village locations and will also conduct three Public Contact Forums at rural locations. Over the past 10 years Council has visited almost every Public Hall at least once, visits which are well received by local residents.

In the current year two rural Council meetings have been held, the first at Bexhill in February and the other at Keerrong in May. The third meeting for this year is tonight's meeting at Jiggi.

All three Public Contact Forums – Blue Knob, Ruthven and Repentance Creek – have been conducted, all with good attendance from local residents.

It is proposed that Council continue both practices in 2001 subject to reducing the number of rural meetings from three to two. This reduction in the number of rural meetings from three to two reflects the reduction in the number of ordinary Council meetings scheduled from 16 in 2000 to 11 in 2001. This variation will also require an amendment to Policy 1.2.7.

In this regard the following schedule of venues is suggested.

|                          |                                     |                                    |
|--------------------------|-------------------------------------|------------------------------------|
| a) Council Meetings      | May 8<br>November 13                | Coffee Camp<br>McLeans Ridges      |
| b) Public Contact Forums | March 19<br>June 18<br>September 17 | Wyrallah<br>Corndale<br>Goolmangar |

## 3 City Contact Forums

Earlier this year Council introduced the concept of City Contact Forums. Two are scheduled each year, with this year's being held at the East Lismore Bowling Club and the Goonellabah Community Centre.

Meeting dates and locations are detailed below:

|          |                             |
|----------|-----------------------------|
| April 16 | South Lismore Bowling Club  |
| July 16  | Goonellabah RSL Sports Club |

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# LISMORE CITY COUNCIL - Meeting held November 21, 2000

## Council Meetings and Public Contact Forums for 2001

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### Manager - Finance & Administration Comments

Not requested.

### Public Consultations

Not required.

### Other Group Comments

Not requested.

### Recommendation (COR51)

1 That the schedule of venues as outlined below be adopted.

|                          |                                     |   |
|--------------------------|-------------------------------------|---|
| a) Council Meetings      | May 8<br>November 13                | Coffee Camp<br>McLeans Ridges                             |
| b) Public Contact Forums | March 19<br>June 18<br>September 17 | Wyrallah<br>Corndale<br>Goolmangar                        |
| c) City Contact Forums   | April 16<br>July 16                 | South Lismore Bowling Club<br>Goonellabah RSL Sports Club |

2 That Policy 1.2.7 be amended to reflect the reduction in rural Council meetings from three to two.

## LISMORE CITY COUNCIL - Meeting held November 21, 2000

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

**Prepared By:** Financial Accountant, Graeme Blanch

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

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

**Management Plan Activity:** General Purposes Revenues

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### **Information:**

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

Council's total investment for September amounted to \$24,062,719.62 with an average interest return of 7.01%. Average interest rate at the same time last year was 4.53%. The current trend with interest rates seems to indicate the rate will remain at the current levels over the next few months.

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

Included in the body of the report.

### **Public Consultations:**

Not required.

### **Other Group Comments:**

Not requested.

### **Recommendation (COR53)**

That the report be received and noted.

**DOCUMENTS FOR SIGNING AND SEALING**

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

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

**Recommendation:**

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

**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.  
(00168600: S373)

**CONFIDENTIAL MATTERS - COMMITTEE OF THE WHOLE**

A Council may close the public only so much of its meeting as comprises the receipt or discussion of any of the following:-

- a) personnel matters concerning particular individuals;
- b) the personal hardship of any resident or ratepayer;
- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;
- d) commercial information of a confidential nature that would, if disclosed:
  - prejudice the commercial position of the person who supplied it, or
  - confer a commercial advantage on a competitor of the council, or
  - reveal a trade secret;
- e) information that would, if disclosed, prejudice the maintenance of law;
- f) matters affecting the security of the council, councillors, council staff or council property;
- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

**Recommendation:**

That the Council exclude members of the press and public from the meeting and move into Committee-of-the-Whole to consider the following matters:-

**Item 1: East Point Shopping Centre – (Deferred from meeting 31/10/00)**

***Grounds for Closure -***

***Section 10D(2):*** a) Section 10A (2)(g)

**Item 2: Sale of Land for Unpaid Rates**

***Grounds for Closure -***

***Section 10D(2):*** a) Section 10A (2)(a)

**Item 3: Wyrain Industrial Estate**

***Grounds for Closure -***

***Section 10D(2):*** a) Section 10A (2)(c)

**Item 4: Hensley Carpark**

***Grounds for Closure -***

***Section 10D(2):*** a) Section 10A (2)(c)

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE  
HELD AT SOUTHERN CROSS UNIVERSITY ON TUESDAY, OCTOBER 31, 2000 AT 6.05PM.**

**Present:** His Worship the Mayor, Councillor Gates; Councillors Baxter, Chant, Crowther, Hampton, Irwin, King, Roberts, Suffolk, Swientek and Tomlinson, together with the General Manager; Group Managers- City Works and Business & Enterprise; Manager-Planning Services, Manager-Client Services, Contract Officer, Assets Manager-Lismore Water and Administrative Services Manager.

285/00 **Apologies/**  
**Leave of**  
**Absence:** An apology for non-attendance on behalf of Councillor Gallen was received and accepted and leave of absence granted.  
Leave of absence was granted to Councillor Irwin from November 2-15, 2000.  
(Councillors Baxter/Hampton)

286/00 **Minutes:** The Minutes of the Ordinary Meeting held on October 10, 2000, were confirmed.  
(Councillors Crowther/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:-

**Ms Robyn Francis re Report – Section 64 Plan Review**

(See Minute No. 290/00)

Ms Francis advised the current proposal showed some improvement over what was exhibited, but raised issues of affordability, disputed the accuracy of comparison figures given for alternative water systems and claimed the high charges would stifle development.

(S744)

**Mr Barry Robinson re Report – Section 64 Plan Review**

(See Minute No. 290/00)

Mr Robinson declared a conflict/pecuniary interest in this matter. He disputed the accuracy of comparisons given with neighbouring councils and claimed the charges placed Lismore at a disadvantage compared to these neighbours.

(S744)

**Mr Maurice Gahan re Report – Provision for Airport Services**

(See Minute No. 291/00)

Mr Gahan emphasised the economic importance of the airport to the city. He stressed the need for the airport to be managed professionally to maximise its benefit to Lismore.

(T20005)

**CONDOLENCE:**

**Family of the Late James Edward Smith**

James Smith was the youngest son of Bundjalung Elder, Fay Smith and a member of the Wayiganna Aboriginal Advisory Committee.

## LISMORE CITY COUNCIL - Ordinary Meeting held October 31, 2000

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287/00 The Mayor moved that Council's expressions of sympathy be conveyed to the family of James Smith and the motion was carried with members standing and observing the customary moment's silence. (S75)

**NOTICE OF MOTION:**

**Denigration of Services to Region**

- 288/00 Formal notice having been given by Councillor Swientek it was **RESOLVED** that –
- 1 LCC write to The Hon Ian Causley, MP and the Attorney-General, The Hon Daryl Williams, MP and the Chief Justice expressing our grave concern about the silent denigration of services to this region and ask for an immediate review of this situation and full restoration of staff and services to Lismore's Family Law Court.
  - 2 Council contact Coffs Harbour City Council seeking their support for the reinstatement of counselling staff.
- (Councillors Swientek/Irwin) (00-15790: S378)

**SUSPENSION OF STANDING ORDERS:**

- 289/00 **RESOLVED** that standing orders be suspended and Council now deal with the undermentioned matters:-

Report – Section 64 Plan Review  
Report – Provision for Airport Management Services – T20005  
(Councillors Roberts/Irwin)

**Report – Section 64 Plan Review**

(Copy attached)

- 290/00 **RESOLVED** that the report be received and –
- 1 Council defer consideration of the current Draft S64 Plan and direct staff to:
    - a) prepare for consideration a formula based S64 charging regime for commercial/industrial developments that reflects the intentions outlined in the submissions;
    - b) detail the implications to Council of lost rate revenue should no development occur;
    - c) Review the S64 charges for villages, giving options;
    - d) examine the financial impact the water/wastewater scheme proposed for Nimbin would have if introduced in other villages;
    - e) provide the previously requested report detailing the impact of the reduction in S94 charges on development, Council revenue and provision of community facilities.
  - 2 A report on the above matters be presented to a Council workshop.
- (Councillors Roberts/Irwin) (S744)

**Report – Provision for Airport Management Services – T20005**

(Copy attached)

- 291/00 **RESOLVED** that the report be received and –
- 1 That Council resolve to contract with Ambidji Frontec Pty Ltd for a five year period, with a five year option, for the management of the Lismore Airport, with the review period being reduced to 2½ years.
  - 2 The Mayor and General Manager are authorised to execute the Contract on Council's behalf and attach the Common Seal of the Council.
  - 3 An exit clause be provided in the contract in case of the withdrawal of major airlines.
- (Councillors Crowther/King)  
**Voting Against:** Councillor Swientek.  
(T20005)

**RESUMPTION OF STANDING ORDERS:**

- 292/00 **RESOLVED** that standing orders be resumed.
-

(Councillors Irwin/Baxter)

**REPORTS:**

**Proposed Eastpoint Shopping Village – Traffic Arrangements**

(Copy attached)

293/00

**RESOLVED** that the report be received and Council defer consideration of this report until a legal opinion can be provided on the proposal outlined in the letter of October 31, 2000 from Somerville Laundry Lomax.

(Councillors Roberts/Irwin)

**Voting Against:** Councillor Swientek.

(S746)

**Section 64 Plan Review**

(See Minute No. 290/00)

**Provision for Airport Management Services – T20005**

(See Minute No. 291/00)

**Acquisition under the Voluntary Flood Prone Purchase Scheme – 7 & 7A Barrie Street, North Lismore**

(Copy attached)

294/00

**RESOLVED** that the report be received and –

- 1 Council authorise the General Manager or his delegate to negotiate the purchase of 7 & 7A Barrie Street under the Voluntary Flood Prone Acquisition Scheme subject to the availability of external funding support of at least 2/3 of the property price of \$75,000 plus legal and valuation expenses.
- 2 The General Manager and Mayor be authorised to sign and apply the Common Seal of the Council to the Contract of Sale and Property Transfers, as necessary.

(Councillors Roberts/Baxter) (P995,P996)

**Land Classification of Perradenya Sewer Pump Station Sites**

(Copy attached)

295/00

**RESOLVED** that the report be received and –

- 1 Proposed Lots 40 (“Perradenya Reservoir Site”), 41 and 42 (“Perradenya Pump Station Sites”) in the Plan of Subdivision of Lots 1, 2 and 3 of DP 836708 be classified as operational land.
- 2 The General Manager and Mayor be authorised to sign and apply the Common Seal of the Council to the Memorandum of Transfer for the above allotments, as necessary.

(Councillors Irwin/Swientek) (D98/7,D99/581)

**DCP No. 43 - Crime Prevention Through Environmental Design**

(Copy attached)

A MOTION WAS MOVED that the report be received and Council adopt the Development Control Plan on Crime Prevention through Environmental Design.

(Councillors Irwin/Chant)

AN AMENDMENT WAS MOVED that the report be received and –

- 1 Council adopt the Development Control Plan on Crime Prevention through Environmental Design.
- 2 The following statement be placed on the DCP in a prominent position:  
*This DCP No. 43 is for guidance only and Council reserves the right to approve development which may not comply.”*

(Councillors Gates/Suffolk)

On submission to the meeting the AMENDMENT was DEFEATED.

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

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

- 1 Council adopt the Development Control Plan on Crime Prevention through Environmental Design.
- 2 As an introduction or preamble to DCP 43 – *“That Lismore City Council realises the benefits to the community of facilitating the reduction of crime and hence proposes these guidelines for the welfare of the community and the greater long term financial benefits to this city and its developers.*

(Councillors Swientek/Roberts)

On submission to the meeting the FORESHADOWED AMENDMENT was DEFEATED.

**Voting Against:** Councillor Swientek.

296/00 **RESOLVED** that the report be received and Council adopt the Development Control Plan on Crime Prevention through Environmental Design.

(Councillors Irwin/Chant)

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

(S717)

**Request for Council Representative on NEWF Committee**

(Copy attached)

297/00 **RESOLVED** that the report be received and Councillor Baxter be elected to the NEWF Committee as Council’s elected representative.

(Councillors Irwin/Roberts) (S317)

**Water and Sewerage Projects**

(Copy attached)

298/00 **RESOLVED** that the report be received and

- 1 Council write to DLWC:
  - a) stating that the allocation this year is insufficient and seeking additional funds;
  - b) seeking guarantees on proposed funding allocations for the next three years.
- 2 Council write to the Local Government & Shires Associations outlining Council’s situation.
- 3 Council write to the Minister and Premier of NSW seeking funding guarantees.

(Councillors Roberts/Irwin) (S301,S387)

**September 2000 Quarterly Budget Review**

(Copy attached)

299/00 **RESOLVED** that the report be received and –

- 1 Council adopt the September 2000 Quarterly Budget Review Statement for General, Water and Sewerage Funds.
- 2 This information be submitted to Council’s auditor.

(Councillors Hampton/Crowther) (S755)

**Management Plan Review – Quarter ended September 2000**

(Copy attached)

300/00 **RESOLVED** that the report be received and noted and further, staff be commended on their performance during the period ended September 2000.

(Councillors Roberts/Irwin) (S4)

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**Financial Reports – 1999/2000**

(Copy attached)

- 301/00 **RESOLVED** that the report be received and Council present to the public the 1999/2000 Financial Statements.  
(Councillors Irwin/Hampton) (S726)

**Olympic Torch Relay – Various Matters**

(Copy attached)

- 302/00 **RESOLVED** that the report be received and –
- 1 That surplus funds relevant to Council's Olympic Torch Relay budget be allocated to the following projects:
    - a) a thank-you function for volunteers \$500.00
    - b) retention of the temporary footbridges and other venue improvements \$2,000.00
    - c) permanent cauldron housing works \$1,700.00
    - d) placement of a plaque/event history piece at the host venue, Mortimer Oval \$800.00
  - 2 The cauldron be temporarily housed at the Lismore Transit Centre with its ultimate home to be Council's aquatic facility (once this matter is determined).
  - 3 The allocation of Olympic banners be as follows:
    - a) set of 4 to the Historical Society,
    - b) set of 4 to Council for exhibition with the cauldron,
    - c) set of 3 to Lismore High School,
    - d) set of 3 to Wyrallah Road Primary School,
    - e) set of 4 to Council Chambers or foyer, and
    - f) 1 each to high schools – Woodlawn, Trinity, Blue Hills, Kadina and Richmond River.
  - 4 The Olympic Torch Relay Working Party be congratulated on the work they have done.  
(Councillors Roberts/King) (S727)

**Investments Held by Council as at 30/9/00**

(Copy attached)

- 303/00 **RESOLVED** that the report be received and noted.  
(Councillors Hampton/King) (S170)

**COMMITTEE RECOMMENDATIONS:**

**Traffic Advisory Committee 18/10/00**

(Copy attached)

- 304/00 **RESOLVED** that the minutes be received and the recommendations contained therein be adopted, excluding Clauses 2, 8 and 9.

**Clause 2 (TAC145/00) – South Lismore Progress & Development Association**

- 305/00 **RESOLVED** that the above works be undertaken and the writer be advised accordingly.  
(Councillors Roberts/Suffolk) (00-14446: S352,S146)

**Clause 8 (TAC151/00) – Vehicular Access from Sunrise Crescent onto Ballina Road, Goonellabah**

- 306/00 **RESOLVED** that a double white centre line be painted on Sunrise Crescent provided there was sufficient road width.  
(Councillors Irwin/King) (R6523)
-

**Clause 9 (TAC152/00) – Pedestrian Access at Roundabouts**

307/00 **RESOLVED** that priority be given to the installation of fencing and a pedestrian refuge at the intersection of Uralba and Brewster Streets.  
(Councillors Roberts/Irwin)

**Clause 9 (TAC153/00)**

308/00 **FURTHER RESOLVED** that Council's Design Services Section ensure that appropriate pedestrian and cyclist safety measures, which may include pedestrian fencing, be included in any roundabout design.  
(Councillors Roberts/Irwin)

309/00 **FURTHER RESOLVED** that the Design Section conduct a safety audit of landscaping vegetation used on the approaches to roundabouts and Councils Parks & Reserves Section carry out any required remedial action.  
(Councillors Roberts/Irwin)  
(R6058,R6007,S342) (S352)

**DOCUMENTS FOR SIGNING AND SEALING:**

310/00 **RESOLVED** that the following documents be executed under the Common Seal of Council:-

**Endorsement of Sketch Plan - S & F Newman – Lot 5, DP 875210**

Alteration to building envelope approved under delegated authority (DA00/486) in June this year at 7 Laureldale Road, Eltham.  
(00-15447: D00/486)

**Council Lease to Clunes Old School Association Inc.**

Lease of old school site at Clunes for period 1/7/2000 to 30/6/2005.  
(00-16029: P25787)

**Lease Agreement between Caddies Coffee Company Pty Ltd and Lismore City Council - Operation of Café - Lismore Airport Terminal**

Lease agreement between Caddies Coffee Company Pty Ltd and Lismore City Council for the operation of the Cafe at the Lismore Airport Terminal for a five year period with an option to extend for a further five years.  
(T20005)

**Agreement – Dedication of Land as Roadway – McAnelly & Sullivan**

Resumption of land at Greengate Road, Bexhill (Lots 22 and 23) for use as roadway.  
(See report to Council 8/8/00).  
(00-16367: P10923)  
(Councillors Roberts/Hampton)

**ADJOURNMENT:**

The meeting adjourned at 8.20pm to view a video link with Lismore, Ireland and resumed at 9.44pm.

**MATTER OF URGENCY:**

**Report – Redevelopment of Memorial Baths**

(Tabled) (Copy attached)

A MOTION WAS MOVED that this matter be admitted to the business paper as a matter of urgency.

(Councillors Tomlinson/Swientek)

**Motion be Put**

311/00 **RESOLVED** that the motion be put.  
(Councillor Roberts)

On submission to the meeting the MOTION was DEFEATED.

**Voting Against:** Councillors Roberts, King, Chant, Baxter, Hampton, Suffolk, Gates and Crowther.  
(P6768)

This concluded the business and the meeting terminated at 9.57 pm.

**CONFIRMED** this 21ST day of NOVEMBER, 2000 at which meeting the signature herein was subscribed.

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**MAYOR**

