

## Ordinary Meeting

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An ORDINARY MEETING of LISMORE CITY COUNCIL will be held at the COUNCIL CHAMBERS, Oliver Avenue, GOONELLABAH on **TUESDAY, SEPTEMBER 13, 2005** and members of Council are requested to attend.

Lindsay Walker  
**Acting General Manager**

September 6, 2005



# Agenda

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## **Opening of Meeting and Prayer (Mayor)**

## **Apologies and Leave of Absence**

## **Confirmation of Minutes**

Ordinary meeting August 9, 2005

Extraordinary meeting August 23, 2005

## **Public Access Session**

Richard Doggett re DA05/382 – Industrial Shed, 51 Lockton Road

James Payne re DA05/381 – Pecan Nut Processing, 713 Boatharbour Road

Amber Hall/Anthony Parker/Heather Williams re Special Business Rate Variation Levy

## **Public Question Time**

## **Condolences**

## **Disclosure of Interest**

## **Mayoral Minutes**

## **Notice of Rescission Motions**

## **Notice of Motions**

## **Election of Deputy Mayor ..... 1**

## **Altering Order of Business**

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

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# Strategic Plan Summary

## Lismore regional city

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

## 1 ELECTION OF DEPUTY MAYOR

### 1.1 Method of Election of Deputy Mayor

The method of election is to be found in Schedule 3 of the Local Government (Elections) Regulation 1993. Relevant extracts of this Schedule are detailed below:-

#### Returning Officer

- 1) *The General Manager (or a person appointed by the General Manager) is the Returning Officer.*

#### Nomination

- 2) a) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
  - b) **The nomination is to be made in writing by 2 or more councillors** (one of whom may be the nominee). *The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
  - c) *The nomination is to be delivered or sent to the returning officer.*
  - d) *The returning officer is to announce the names of the nominees at the Council Meeting at which the election is to be held.*

#### Election

- 3) a) *If only one councillor is nominated, that councillor is elected.*
  - b) *If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.*
  - c) *The election is to be held at the Council meeting at which the Council resolves the method of voting.*
  - d) *In this clause:*  
*“ballot” has its normal meaning of secret ballot;*  
*“open voting” means voting by a show of hands or similar means.*

Previously this Council has determined that the election for Deputy Mayor would be by open voting.

#### Recommendation

That the method of election for Deputy Mayor be by open voting.

### 1.2 TERM OF DEPUTY MAYOR

#### Section 231

- 1) *The councillors may elect a person from among their number to be the deputy mayor.*
- 2) **The person may be elected for the mayoral term or a shorter term.**
- 3) *The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.*
- 4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

# Election of Deputy Mayor

From a practical viewpoint it is preferable that Council elect a deputy mayor. Council needs to determine the period of this appointment. It can be for the full term of this Council or for a lesser period.

Council resolved at its meeting held on April 20, 2004 that the initial appointment of the Deputy Mayor would be until September 2005 and thence annually from September to September. No change to this resolution is proposed.

## **Recommendation**

That the Council exercise its prerogative to determine the period of appointment for the deputy mayor.

## **1.3 Election of Deputy Mayor**

### **Policy No. 1.2.10**

Prior to any election, each candidate for the position of Deputy Mayor may give a short presentation outlining her/his reasons for standing, how s/he would operate as Deputy Mayor, what time commitment would be given and the skills s/he would have to offer. Each candidate may be asked questions from the floor about their candidacy.

### **Presentation**

### **Election**

## Report

<b>Subject</b>	Development Application No. 2005/382 to use Existing Rural Shed for Earthmoving Machinery and Equipment Storage and Depot – 51 Lockton Road
<b>File No</b>	D05/382
<b>Prepared by</b>	Projects Assessment Planner
<b>Reason</b>	Application has been “called in” for determination by full Council.
<b>Objective</b>	Determination of the application.
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Development Assessment

### Overview of Report

To seek permission to utilise an existing large rural shed erected on the site for the storage of earthmoving equipment and machinery.

### Background

The current proponents purchased the site in 2003 and since that time have erected a dwelling, and a large farm/machinery shed under DA04/308. The shed was approved, with conditions, including:

*“3 The building is only to be used to store or repair agricultural machinery or equipment and the garaging of private motor vehicles used on the particular land or to store agricultural produce grown or used on the particular land. The building must be used as a rural outbuilding only, ancillary to the agricultural use of the land and must not be used for residential, commercial or industrial purposes, without the prior approval of Council.”*

Since completion, it has clearly been used for a storage of earthmoving equipment, outside the terms of the consent, and hence a development application has been required.

There has already been considerable interaction between the current proponents and the next door property owners over the issue of access, and relocated right-of-carriageway through the south-west corner of No. 18 Browning Road.

### Proposal:

The applicant seeks Council approval to store their earthmoving equipment attached to their business within the large rural shed existing on the site.

### Applicant:

Newton Denny Chapelle, on behalf of L Marsh & H Butlin.

### Location:

51 Lockton Road, Bexhill, being Lot 32, DP 618958.

## Zoning:

Part 1(a) General Rural and part 1(r) Riverlands.

## Key Issues:

- Introduction of a “commercial” usage to the site.
- Potential affectation and local amenity.
- Access.

### 1. SITE/SITE HISTORY

The site is a 43.6 ha. Rural property between Bexhill and Numulgi. In recent times, there has been a new dwelling erected on the land and a large rural shed for farm machinery and hay storage.

### 2. SURROUNDING PROPERTIES & ENVIRONS

The area is reasonably closely settled rural environment, with much open area river flat grazing land (to Coopers Creek), and with a number of former “concessional” small allotments along Lockton Road. The higher land around the immediate hill section contains a “cluster” of about 6 rural small acreages. The Bexhill rural residential (1c) zone is across the valley, the closest house there being about 900m away.

### 3. PROPOSAL

The applicant seeks Council approval to store their earthmoving equipment within the large rural shed existing on the site.

### 4. PUBLIC NOTIFICATION

The application has been notified in accordance with required procedures. Results are:

- 11 separate households have objected, in a total of 23 letters and 18 signatories.
- A petition containing 54 signatures objecting to the proposal (includes 13 persons who have sent separate letters, and 41 others)
- A petition containing 48 signatories stating they have no problem with the proposal.

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

#### 5.1 Any Environmental Planning Instruments

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

Nil

##### 5.1.2 Regional Environmental Plan (REP)

No issues

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

Use is permissible in the dual rural zoning, however it is considered that the use is not a “Rural Industry” as defined, rather it is a hybrid between Light Industry and a Transport Depot. For this reason it is perceived to be a “depot for earthmoving and heavy equipment storage”.

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

Nil

**5.3 Any Development Control Plan**

DCP 18 – Off Street Parking – compliance  
DCP 26 – Industrial Standards – where relevant, complies.

**5.4 Any Matters Prescribed By The Regulations**

Nil

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

The impacts have become quite clear through the number of complaints/objections which have been received to the “unapproved” use of the shed for heavy equipment storage. The predominant impacts are those of noise and road/traffic issues; also visual and pollution concerns.

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

The zoning (rural) permits the use and the use is most appropriately located in either general rural or industrial zones. The zoning is not seen as an issue – in this case it is more the actual location within the zone, having regard to physical factors.

The specific property is 43.6 ha. In area, with most of the site being in flood affected 1(r) zone. The shed and the dwelling have been located within the much smaller flood-free 1(a) zoning section of the land. However there are 5 or 6 other rural dwellings within a 500 metre radius of the shed, with the closest dwelling (18 Browning Road about 120 metres away) being in visual contact with the rear of shed. Dwellings across the valley in the Bexhill 1(c) zone have direct view of the shed.

It is therefore the property (dwelling) at 18 Browning Road which is the most affected by the location of the shed, and any resultant effects arising from traffic and noise.

Whatever is the case, the shed has been approved and its presence is a fact of the situation.

The use of the site for heavy equipment storage is permissible in the zone and as such, must be assessed on its merits.

Council advises ALL purchasers at Sec. 149 Certificate stage that high impact uses can potentially occur in rural lands, and may be expected.

Objections aside, the application would be reasonable, and upgradings necessary can be sought by conditioning. The shed is already there, and the issue will now be exclusively over its use. If the application is not supported, reasons of refusal would have to be drawn from *potential* to affect amenity.

Up until now, the shed has been used for the purpose without conditions, checks and monitoring. It is considered that subject to relevant conditioning, the application could be approved.

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

Submissions following notification are summarised as follows:

- 11 separate households have submitted a total of 23 letters of objection, a total of 18 signatories.
- A petition with 54 names opposing the application containing 13 of the individual letter signatories and 41 other persons.
- A petition with 48 names supporting the application and stating that it has “no impact”.

Some of the residents have provided more than one submission. There are 4 objector households from within the immediate Lockton/Browning Roads locality; 5 are from Grace Road-Julieanne Place neighbourhood south across the Coopers Creek valley, and 2 are from other areas.

A summary of the objections includes:

- a) The shed is for agricultural equipment and storage of motor vehicles ancillary to the agricultural use of the land, not for earthmoving equipment.

**Comment:**

This is correct. However, if the current development application is approved, the change in use would be legal. The original condition of consent also advises that a development application (i.e. separate approval) is required.

- b) Earthmoving business is not in keeping with the country flavour of the area.

**Comment:**

The business is not outside the range of uses which could occur in any general rural zone, with Council approval. There is no guarantee at any time that a change in use or a new use can occur in rural locations.

- c) The application is for a rural industry, and this is clearly not such a use.

**Comment:**

Agreed. The use is more closely allied to light industry and/or transport depot, which are also permissible in the zone.

- d) Noise problems: Trucks/equipment start up as early as 4.45am. Trucks idle, forcing pollution into the air. Noise of trucks on the road. Can hear roar and rattle of machinery.

**Comment:**

Out of hours noise is not acceptable. Should approval be granted, normally acceptable hours of operation should apply.

- e) Condition of roads/access problems: Browning Road is not adequate to cater for the heavy trucks. The intersection with Lockton Road is dangerous, especially when large trucks have to use the whole width of Lockton Road.

Accident potential: The operators are not good drivers, heavy vehicles can cause accident potential on the roads.

**Comment:**

The condition of Browning Road and its junction with Lockton Road is not satisfactory in its current condition for larger and heavier traffic. If there is to be any approval for this development, commensurate upgrading conditions will need to be applied.

- f) The applicants have other access to their site (i.e. Lockton Road) and don't need to use Browning Road.

**Comment:**

An access to the shed (and house) from Lockton Road requires internal road construction over the low flood liable lands, and would need a creek crossing. Costs are the major factor in lieu of the existing access off Browning Road.

- g) The applicants have no concern for the flora/fauna of the area and have undertaken considerable habitat tree removal from their land. Loss of bird life has occurred, as well as certain animals.

**Comment:**

Approval to clear trees on rural properties is required from DIPNR. This is not an issue allied to the use of the shed.

- h) Numbers and types of vehicles on the site are misrepresented, grossly inaccurate.

**Comment:**

A revised list of vehicles resorting to the site has been requested from the applicants. These are 3 prime movers, 1 dozer, 1 4WD utility, 2 tip trucks, 2 excavators and 1 grader, and presumably any float used to move any of these items. The applicant is quite adamant that this is the full complement. If the development application is approved, suitable conditioning can be imposed to restrict the items to those as stated.

- i) Shed is huge and ugly, and the house is a two-storey monstrosity. Further land has been levelled for more buildings.

**Comment:**

The shed is approved, and whatever its use, its presence will not be changed. The land clearing has been for a horse track. There are no further applications for additional buildings.

- j) There is no waste water system which may cause pollution to the creek.

**Comment:**

The shed has no plumbing, no amenities requiring waste disposal. All stormwater is drained to the large natural depression below the shed site, which is not channelled into the creek. There is no evidence of any "polluted waters" which would emanate from the shed, but even if so, it does not drain into Coopers Creek.

- k) Shed is ugly from across the valley.

**Comment:**

The shed certainly has a visual presence from the Bexhill rural residential area. Whether the current application is approved or not, the shed will remain. If approved, conditions will at least include tree planting across the frontage, and completion of the shed with doors, which will in part alleviate this impact.

- l) Vehicles are serviced on site.

**Comment:**

Apart from routine running repairs, all vehicles and machinery are stated as being serviced and repaired off site. In any case, if approved, this could be made conditional.

- m) A number of other objections have been submitted, which are not really adaptive to the actual application, such as:

- There is a campaign of harassment and intimidation from the applicants.
- Illegal advertisements in the local newsletter.
- The statement of environmental effects is inaccurate as it is a "paid document".
- If approved, further sheds will be encouraged.
- Rats and other pests have increased since barn owls have disappeared following tree clearing on the property.
- Wildlife, including echidnas, peacocks and platypus have ceased since the current applicants have moved in.

**The Petition** containing 54 signatures is couched in similar terms as above and have been generally addressed as above.

**The Petition** in favour of the development and stating no adverse effects on the neighbourhood has been signed by 48 signatories.

**5.8 The Public Interest**

There is a public interest insofar as the “strategic” location of the access to earthmoving equipment in the locality.

**6. REFERRAL COMMENTS**

**6.1 Internal**

**6.1.1 Manager Finance & Administration Comments**

Not required.

**6.2 External**

No external referrals.

**7. CONCLUSIONS**

This application has been a difficult one to deal with and involves earlier complaints and issues between neighbours over access, right-of-carriageway, home construction and construction of the shed subject of this application.

There are positives and negatives from both perspectives. The shed already exists, so there’s no change to physical occupation or location. The proposed change of use of the shed is permissible. If conditions were placed on the proposed use which aim to alleviate some of the more contentious problems (hours, noise) and upgrade the road issues, then it should competently be able to be considered for approval.

Given the circumstances, approval is supported subject to conditions which have been developed by Council’s relevant technical departments.

**Recommendation (PLA16)**

A That Council grant delegated authority to the General Manager - subject to the concurrence of the Development Assessment Panel, to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.

B That Council, as the consent authority, approve Development Application 05/382 for the use of existing rural shed for earthmoving machinery and equipment storage.

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. 342 dated October 2003 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)*

**BUILDING**

2 Provide portable fire extinguisher/s, suitable to address the relevant risk, in accordance with AS2444. **FS5**

**Reason:** Required by Clause E1.6 Building Code of Australia.

- 3 Doors forming exits, paths of travel to exits and parts of exits must comply with the relevant provisions of Clause D2.19, D2.20 and D2.21, Building Code of Australia in respect of the type of door, direction of swing and method of latching. **E6**

**Reason:** Required by Section D of the Building Code of Australia.

- 4 That the essential fire or other safety measures listed in the attached schedule be installed in the building and are to be designed, installed and maintained in accordance with the relevant provisions of the Building Code of Australia or in accordance with such other standard as is specified in the attached schedule. **ES1**

**Reason:** Required by Clause 170 of the Environmental Planning and Assessment Regulation 2000.

- 5 That prior to the occupation of the building, the owner shall cause the Council to be furnished with a final fire safety certificate from a competent person in respect of each essential fire service or other safety measures. Such assessment must be carried out within the period of 3 months prior to the date on which the final safety certificate is issued. **ES2**

**Reason:** Required by Clause 80E of the Environmental Planning and Assessment Regulation 1998.

- 6 As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:
- (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades; and
  - (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building. **ES3**

**Reason:** Required by Clause 172 of the Environmental Planning and Assessment Regulation 2000.

**SCHEDULE OF ESSENTIAL FIRE OR OTHER SAFETY MEASURES**  
**DEVELOPMENT APPLICATION NO. 2005/382**

<b>Essential Fire or Other Safety Measures</b>	<b>Design Standard</b>	<b>Installation Standard</b>	<b>Maintenance Standard</b>
Portable Fire Extinguishers	AS1841 Portable Fire Extinguishers - Water Type AS1841.3 Portable Fire Extinguishers - Wet Chemical Type AS1841.4 Portable Fire Extinguishers - Foam Type AS1841.5 Portable Fire Extinguishers - Powder Type As1841.6 Portable Fire Extinguishers - Carbon Dioxide Type AS 1841.7 Portable Fire Extinguishers - Vaporising Liquid Type	AS 2444	AS 1851.1 - Maintenance of Fire Protection Equipment - Portable Fire Extinguishers.
Exit door, operation of latches	BCA Clause D2.21	BCA Clause D2.21	Maintained so as to conform to the original design and to perform at the level of the original installation.

**DRAINAGE**

7 Measures shall be put in place to control stormwater runoff from road construction works. These control measures shall be in place prior to the commencement of works and shall prevent soil erosion and the transport of sediment from the development site into either:

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

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

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

**ROADS**

8 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) prior to commencement of use. 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:

- A) Construction of Browning Road to a 7m gravel pavement on a 9m wide formation with a minimum gravel depth of 300mm, from the intersection with Lockton Road to the existing right of way servicing the proposed development.
- B) Construction of an intersection layout at the junction of Browning Rd and Lockton Road in accordance with AUSTRROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance and a desirable simple left turn treatment.

Prior to occupation, the applicant shall obtain a compliance certificate for the above works from Council. To obtain this compliance certificate a practising qualified surveyor or engineer shall submit to Council for approval, a "works-as-executed" set of plans and construction certification. The certification shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and approved design plans. **RD1**

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

9 Full design plans of the proposed engineering works to satisfy conditions 7 and 8, shall be submitted to and approved by Council prior to commencement of construction. Such plans shall be accompanied by the 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)) and to identify approved works in accordance with section 138 of the Roads Act*

10 The proponent shall provide a plan of management for the construction of all civil works outside the real property boundaries of the proposed development. The plan shall table scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community. Such plan shall include a Traffic Control Plan prepared by an RTA accredited person. This plan of management shall be lodged with Council prior to the commencement of works. All works shall comply with the Occupation Health and Safety Act. **RD6**

***Reason:** To ensure no conflict occurs between civil works and general public during construction.*

**VEHICULAR ACCESS**

11 Driveways, access aisles and parking areas shall be provided with a dust free or other approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended). **VA2**

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

12 All loading and unloading shall take place within the property boundaries, including the parking of

construction and private vehicles associated with the development. **VA3**

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

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

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

- 14 An all weather vehicular access shall be constructed and maintained from Browning Road to the proposed machinery shed in accordance with Council's Design and Construction Specification for Vehicular Access. **VA5**

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

## PLANNING

- 15 The northern and southern perimeter sides of the shed (including the apron area on the south side) to be planted with fast growing screen trees, within 40 days of the date of this consent. All trees to be maintained until properly established, and any dead or dying trees to be replaced.

A detailed landscaping plan (in duplicate) shall be submitted to the Principal Certifying Authority and approved **prior to release of the Occupation Certificate**. 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
- botanical name of shrubs and trees to be planted
- mature height of trees to be planted
- location of paved areas

Principal Certifying Authority approved landscaping shall be completed prior to the release of the Interim Occupation Certificate and maintained at all times to the satisfaction of Council. Trees identified for retention in the Development Application plans shall not be removed without separate Council approval. **LN1**

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

- 16 Operating hours of the business to be strictly between 7.00 am to 7.00 pm, Monday to Friday and 8.00am to 1.00pm Saturdays. No works or transporting of machinery, trucks or equipment to take place outside those hours. **AM1**

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

- 17 Only machinery and equipment owned by the applicant to use the site, which are 3 prime movers, 2 tip trucks, one dozer, two excavators, 1 grader, 1 4WD vehicle and necessary floats to transport these machines.

**Reason:** *To ensure that no additional machinery outside the specific business also uses the facility.*

- 18 No permanent employment of staff at the site, other than the operator and the operator's family to occur at any time.

**Reason:** *To restrict the operation to owner operated business only.*

- 19 Truck/vehicle speed limit on Browning Road and right-of-carriageway through Lot 31, DP 618958 not to exceed 30kph at any time.

**Reason:** *To ensure traffic safety and safety of animals.*

- 20 Installation of "Trucks Entering" signage on Lockton Road at both approaches to the Browning Road intersection.

**Reason:** *To assist with traffic safety on Lockton Road.*

- 21 Completion of the southern side wall of the existing shed by the installation of the doors to the

current openings.

**Reason:** *To ensure completion of shed and to improve visual impacts from properties to the south of the site.*

## ENVIRONMENTAL HEALTH

- 22 An impermeable bunded area shall be provided to contain oils and other possible pollutants. The bunded area shall have a holding capacity of 110% of the largest container.

**Reason:** *To protect the environment.*

- 23 The use and occupation of the premises must not give rise to offensive noise as defined by the Protection of the Environment Operations Act (1997) and the EPA Industrial Noise policy.

**Reason:** *To preserve the amenity of the area.*

- 24 The premises is not to be used for the repair and maintenance of machinery and equipment apart from minor works that do not impact on the amenity or environment of the area due to the generation of noise and waste.

**Reason:** *To protect the environment and amenity of the area.*

- 25 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Occupation Certificate is granted**. The rates and amounts applying at the date of this notice, totalling **\$11,673**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the **Occupation Certificate being granted**.

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

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

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

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

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

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

LISMORE CITY COUNCIL

**DEVELOPMENT CONSENT NO:** 05/382  
**ADDRESS:** 51 Lockton Road, Bexhill

**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. 25, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

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

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

Levy Area	Account No.	No. of ET's/m <sup>2</sup>	Cost Per ET/m <sup>2</sup>	Amount Payable
<b><i>Rural Roads</i></b>				
Lockton Road	90420401	1	\$2,747	\$2,747
Corndale Road	90380101	1	\$4,944	\$4,944
Numulgi Road	90421001	1	\$3,845	\$3,845
<b><i>SES</i></b>				
All areas	1695.1	1	56	\$56
<b><i>Rural Fire Service Plan</i></b>				
All areas	1690.1	1	80	\$80
<b><i>Total</i></b>				<b>\$11,673</b>

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

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

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

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

**COUNCIL USE ONLY**

**Cashier to Note:**

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

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

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

.....  
**FINANCIAL SERVICES OFFICER**

...../...../.....  
**DATE**

## Report

<b>Subject</b>	Special Business Rate Variation Levy – 2005-8 Three Year Strategic Plan
<b>File No</b>	S740
<b>Prepared by</b>	Manager – Finance
<b>Reason</b>	Lismore Unlimited Opportunities seeking endorsement of the 2005-8 Three Year Strategic Plan
<b>Objective</b>	Council approval for the Lismore Unlimited Opportunities to implement the 2005-8 Three Year Strategic Plan.
<b>Strategic Plan Link</b>	Economic Development
<b>Management Plan Activity</b>	Economic Development and Tourism

### Overview of Report

Lismore Unlimited Opportunities have prepared the 2005-8 Three Year Strategic Plan for the application of the Special Business Rate Variation Levy. The Special Business Rate Variation Levy will generate approximately \$309,900 during 2005/06 for expenditure as part of the CitySafe & promotion fund programmes.

The 2005-8 Three Year Strategic Plan has been developed in consultation with the business community through questionnaires, workshops and a final survey and includes the initiatives and projects to be implemented.

While supportive of that proposed, it is important that Council take the leadership role for the coordinated delivery of the Lismore Laneways project and continue negotiations to quantify and reduce the administration component included in the 2005-8 Three Year Strategic Plan.

### Background

Council rates all urban business (commercial, retail and industrial) properties at a slightly higher level to generate funds for the CitySafe program and promotion fund. This was approved in 1998 as a special rate variation and has since been called the 'Special Business Rate Variation Levy' (SBRVL). For 2005/06, this will generate \$132,700 and \$177,200 respectively. In addition, Council contribute \$83,500 towards the CitySafe program annually. Effectively, Council expends the majority of the CitySafe program funds due to having operational responsibilities for the Street Beat and CCTV network, while LUO administer the promotion fund.

Every three years, Lismore Unlimited Opportunities (LUO) prepares a three year strategic plan which outlines the initiatives and projects proposed. The purpose of this report is to present to Council the SBRVL 2005-08 Three Year Strategic Plan (Plan) and a copy is attached.

The Plan has been developed in consultation with the business community, including both property owners and business operators over a five month period. The process followed in adopting the recommended strategy is fully documented including results from questionnaires, workshops and survey. The outcome is an action plan which details the initiatives and projects recommended as well as their funding requirements and these are grouped into the following programmes :-

- Safety & Security
- Festivals & Events
- Greater CBD Revitalisation
- Skills Development & Training
- Marketing
- Annual Audit & Administration

The proposed programmes for the next three years are detailed on pages 14-16.

## Comments

While supportive of the proposed Plan, specific comment is made in regards to a) response rates from consultation, b) administration component and c) lead responsibilities on projects.

- a) Response rates from consultation – The approach taken by LUO to engage the business community in this process included a mailed questionnaire to all property owners and business operators, advertising and holding separate facilitated workshops for property owners and business operators, and finally a mailed survey to both property owners and business operators.

Considering there are 1,174 rateable properties as part of the SBRVL, and potentially just as many business operators who could be different to the property owner, the overall response rates may beg the question as to how representative are the proposed programmes.

Based on the results from the final survey, which was sent to all from Council as distinct from the questionnaire and workshops by LUO, the response rate showed a significant improvement. The recommended programmes have been generally adapted to reflect these results. As such, it could be interpreted as the Plan being reflective of the business community's interests.

- b) Administration component – The administration component included in the Plan is \$30,000 per annum. While it is defined as being administration, it is calculated based on project management principals typically set at 10% of total costs. After discussions between LUO and Council, and a review of LUO's three year future cash flow projections, it was confirmed that the administration component is effectively required to fund LUO's ongoing operations.

It is agreed that some component of the SBRVL should be for administration and as such, it is proposed that no specific changes are made to the Plan but management review the financial performance of LUO annually during the three year period with the objective to clearly quantify and reduce the administrative component.

- c) Lead responsibility on projects – There are a number of projects included in the Plan for which Council has significant responsibilities and ownership such as the Street Beat and CCTV projects under the Safety & Security programme, and the Lismore Laneways and Lismore Gateways projects under the Greater CBD Revitalisation programme.

In regards to the Street Beat and CCTV projects, as Council manages the service contracts and maintains the CCTV infrastructure, the responsibilities and ownership issues are readily addressed.

As to the Lismore Laneways project and to a lesser extent, the Lismore Gateway project, Council needs to take the lead responsibility to ensure a coordinated consultative approach with all stakeholders including the business community, on all potential issues including priority. In this way, the funding included in the Plan can be maximised. As a major stakeholder, LUO will be part of and heavily involved in this process.

## Other staff comments

Not required.

## Public consultation

LUO mailed questionnaires and coordinated separate facilitated workshops for property owners and business operators. Based on the outcome from these consultations and LUO, Council distributed a final survey to all property owners and business operators. The results from this survey have been generally used to prepare the Plan.

## Conclusion

Lismore Unlimited Opportunities have prepared the 2005-8 Three Year Strategic Plan for the Special Business Rate Variation Levy. It has been developed in consultation with the business community through questionnaires, workshops and a final survey and includes the initiatives and projects to be implemented.

While supportive of that proposed, it is important that Council take the leadership role for the coordinated delivery of the Lismore Laneways project and continue negotiations to quantify and reduce the administration component included in the 2005-8 Three Year Strategic Plan.

## Recommendation (GM01)

That Council -

- 1 Adopt the 2005-8 Three Year Strategic Plan.
- 2 Require Lismore Unlimited Opportunities to independently and annually audited and evaluate the application of the 2005-8 Three Year Strategic Plan SBRVL funds.
- 3 Advise Lismore Unlimited Opportunities that in regards to the Lismore Laneways project, Council has lead responsibilities and the expenditure of funds included in the 2005-8 Three Year Strategic Plan are to coordinated through the General Manager or his delegate.
- 4 Continue negotiations through the General Manager with Lismore Unlimited Opportunities on the level of the administration component in the 2005-8 Three Year Strategic Plan with the objective to quantify and reduce the amount over the life of this Plan.

## Report

<b>Subject</b>	Development Application No. 2005/534 to erect a Service Station together with associated driveways, landscaping, signage, earthworks and retaining walls at 99 – 105 Diadem Street, Lismore
<b>File No</b>	DA05/534
<b>Prepared by</b>	Projects Assessment Planner
<b>Reason</b>	Application has been 'called in' for full Council determination.
<b>Objective</b>	To determine the application.
<b>Strategic Plan Link</b>	Development Assessment
<b>Management Plan Activity</b>	Development Assessment

### Overview of Report

To erect a 4 pump 8 bay Service Station on three adjoining commercially zoned lots, with exit laneway combining with the adjacent Lismore Square driveway. (Petrol sales, pay point and Quick Stop Shop only, no workbays involved).

### Background

There are three small parcels of Commercially zoned land fronting Diadem Street which were part of the original Lismore Square rezoning, carried out in the late 1990's. The application proposes the commercial occupation of these three allotments. Aggregate area is 1,944m<sup>2</sup>.

The recently refused Service Station application (DA04/394) had posed a number of operational concerns to Council, nominally:

- Traffic management onto and off the two lot site was not acceptable;
- Turning circles for delivery vehicles extremely tight;
- Use of the delivery dock rampway by private vehicles unacceptable;
- Potential further conflicts when single commercial lot at 105 Diadem Street would be later developed;
- Reverse traffic flow was necessitated due to traffic management in Diadem Street;
- Inadequate on-site amenities – parking, landscaping etc. (available site area was only 1,299m<sup>2</sup>)

The current application, which utilises all three commercial lots (101, 103 and 105 Diadem Street) has alleviated these previous concerns, however concerns from adjacent residential area remain unchanged.

### Proposal:

To construct a Service Station on the land, consisting of 4 double sided pumps (8 filling bays) and attendant 'quick stop' pay point/shop of about 78m<sup>2</sup> Gross Flow Area (GFA), and driveway access, together with associated landscaping, signage and site works. (Plans attached)

**Applicant:**

Woolworths Ltd, per Petroleum Design and Management Pty Ltd, Sydney.

**Location:**

Lot 3 DP 575191, Lot 1 DP 779811, Lot 1 DP 779810 and Lot 2 DP 368623, being No's 99 – 105 Diadem Street, Lismore, respectively.

**Zoning:**

Business 3(a) – use is permissible.

**Key Issues:**

- New development of the land – introduction of first time Commercial use on the land opposite a residential area.
- Resident Objections – 10 letters of objection, plus a petition containing approx 225 signatures.
- Traffic management – co-ordinating with Lismore Square roadworks.
- Integration with Lismore Square now under construction.

**1. SITE/SITE HISTORY**

The three sites are vacant lots, which were once residential properties until the 1990's when the land was rezoned to Commercial, and dwellings removed.

**2. SURROUNDING PROPERTIES & ENVIRONS**

The site adjoins Richards Oval, and the extended Lismore Square Shopping Centre, now almost completed. Existing residences are located on the eastern side of Diadem Street, opposite the proposed site.

**3. PROPOSAL**

Stated above.

**4. PUBLIC NOTIFICATION**

10 letters of objection were received, plus a petition containing approx 225 signatures. Further analysis of these follow.

**5. ASSESSMENT UNDER SECTION 79C OF THE E.P. & A ACT -****5.1 Any Environmental Planning Instruments****5.1.1 State Environmental Planning Policies (SEPPS)***SEPP 33 Hazardous Goods Assessment*

The requirements of SEPP 33 are fully reported in a Multi-level Risk Assessment attached to the application. The development meets all requirements under Australian Standards.

**5.1.2 Regional Environmental Plan (REP)**

No issues.

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

Use is permissible in the zone (Business 3(a)).

Cl. 22 requires flood consideration (discussed in Development Control Plan 7 below).

Cl. 19 of the Model Provisions sets out requirements for Service Stations. The current application complies with the Model Provisions.

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

There are no draft EPI's which would affect the application.

### 5.3 Any Development Control Plan

#### **Development Control Plan No. 7 (Flood Prone Lands)**

Site is located within a “High Flood Risk” area (NB Diadem Street is the ‘boundary’ between High Flood Risk, and Flood Fringe area). Development Control Plan 7 requires that at least 25% of the gross floor area be above 1 in 100 year level; also that an emergency flood refuge above 1 in 500 year be included in the design. As the only “habitable” structure on the land will be the pay point/quick stop shop (of about 78m<sup>2</sup>) and the Service Station site will be consolidated into the adjacent Lismore Square site, suitable floor storage and emergency refuge will be more than adequately catered for within the extensive flood free areas in the immediately adjacent Centre. All underground tanks, pumps and equipment are automatically closed down and locked when floodwaters may threaten the site.

#### **Development Control Plan No. 18 (Off Street Parking)**

The Service Station does not have any work bays, nor eating areas. Council’s DCP requires 5/100m<sup>2</sup> GFA = 4 spaces only, there are 6 spaces provided which are additional to any queuing facilities. Parking thus complies with Council’s requirements.

### 5.4 Any Matters Prescribed By The Regulations

Nil

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

The obvious primary impact with the application are traffic issues, in conjunction with the resident – amenity issues, including noise, lighting, hours of use, and concerns about fumes, spills etc.

**Traffic** – The current application has overcome the ingress/egress/flow direction problems that were encountered with the previous two lot proposal. Use of all three lots has enabled an acceptable ‘clockwise’ flow, and median control in Diadem Street, and far greater “on site” traffic amenity.

The former use of the delivery dock ramp way has been deleted, delivery tankers now have a functional turning circle, and there will be no future problems posed with the former unknown use of the last commercial lot.

The Local Traffic Committee have been fully satisfied with traffic management for the current application.

It is estimated that the Service Station will generate some 50 customers per hour, with a peak generation of 80 customers per peak hour. Queuing facility is provided for at least 20 cars, and the traffic study attached to the application confidently states that no queue overhang will occur to affect Diadem Street traffic flows.

Traffic flows and installations have also been considered in conjunction with the Lismore Square Extensions, and full integration between the two developments has been effected.

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

The commercially zoned location is appropriate for the development. Lighting, hours, landscaping etc will need to be controlled with any acceptable development on the site.

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

As a result of public notification, there were 10 letters of objection lodged and a petition containing about 225 signatures. Six (6) of the submissions emanated from residents of Diadem Street generally opposite the proposed development site, with a further four (4) from residents living further afield. These are separately attached.

Objections are summarised as follows:

1. Traffic volumes and traffic noise unbearable 24 hours a day.

- Traffic will be 10m from bedroom window
- Diadem Street is a suburban street, not a major road
- Loss of access to property
- Loss of car parking at front of dwellings
- Parallel parking inconvenient for residents
- Loss of safety due to tanker movements, dangerous turning, there will be an accident
- Comparison with a service station in Taree claimed to have traffic problems

Comment: Diadem Street is designed to be a primary access thoroughfare to the Lismore Square, and the majority of traffic will be generated by that Centre. There will be an increase in traffic in the street, and for which realignment and redesigned geometry is required. Parking redesign/definition is a necessary part of the upgrading, but there will be continuity of the existing parallel parking on the eastern side of Diadem Street.

2 No pedestrian Crossings.

- Pedestrian access to residents houses more difficult.

Comment: There will be a new footpath along the western side of Diadem Street, right to Ballina Road, and linking with the footpath in Magellan and Diadem Streets. Further pedestrian support can be provided if the need becomes evident.

3 Noise pollution will occur – increased noise.

Comment: The application has been accompanied by a detailed noise assessment report, which generally concludes that expected noise levels will not have a significant impact upon residents across Diadem Street. The relevant conclusion from the report states:

*“The proposed service station has the potential to generate noise associated with the operation of mechanical plant and motor vehicles on the driveway. It also has the potential to increase road traffic noise in the area, particularly Diadem Street.*

*The assessment demonstrates that mechanical noise will comply with the appropriate criteria at both the nearby residences and the retail buildings without specific noise control measures. It is also likely that maximum and overall noise levels from driveway activity will comply with the appropriate criteria at the nearest residence across Diadem Street on the assumption that the existing background noise levels will increase slightly. Even if the background noise levels do not increase, the driveway maximum noise levels would exceed the appropriate sleep arousal criterion by only up to 3dBA.*

*It is not expected that annoyance or sleep arousal would result from operation of the proposed service station.”*

Council’s Environmental Health Surveyor has also assessed the report, and is satisfied with its analysis and conclusions.

4 Additional exhaust pollution. Tanker delivery (2 to 3 per week) will only occur within opening hours.

- Fumes will funnel along shop walls onto sporting fields.
- Smell from petrol fumes
- Health and chemical hazard

Comment: Car exhausts occur and will occur with or without the service station, this is a fact of life that we all live with in acceptance and use of the motor vehicle.

There will be no fumes from the service station, and when tankers unload (about 3 per week) all vapours are captured and returned to the tanker by modern vapour recovery system. This will be a modern installation, to latest standards of technology.

5 Unacceptable opening hours, lights will affect amenity.

Comment: It is agreed with objectors that midnight closure Mondays to Saturdays is too late, and will interfere with the residential amenity opposite. The current shops in the Square close generally around 5.30pm, with the Coles Supermarket being the only store open at night, up to midnight. It is considered that service station trading should cease by 11.00pm, with lights out at that time, and any approval should be conditioned accordingly.

6 Woolworths should purchase a service station at another location.

- A Service Station was not in the original square development
- Wrong zoning, little thought for planning
- More suitable sites available
- Should have a pay station only, not a 'shop'
- Hard to leave front doors open due to noise
- A quiet neighbourhood destroyed by inappropriate development
- There are 9 service stations already within 1km of the site
- Fuel storage tanks are an invitation to terrorist threat.

Comment: Whilst some of these are observations or opinions of objectors, they are not substantive as reasons for refusal.

7 With increase in City crime, the service station will assist in this increase, being open all hours.

- Late night opening will be an attraction for youth hangout
- Will be a meeting place for noisy people

Comment: The service station has a convenience retail outlet only. It is unlikely that it will have any attraction as a youth hangout; also there will be an effective supervision from the premises whilst it is open at night.

8 May be a fair bit of dishonesty between Lismore City Council and the Developers concerning what has been forwarded to the public.

Comment: Evidence of any dishonesty should be immediately brought forward. As regards information on the proposal, this has not only been exhibited in the correct manner, and has been available to any member of the public, but also additional information was disseminated via on-site meetings with residents. There has been NO withholding of any information at ANY time.

9 The service station will be a pedestrian hazard, particularly for children.

Comment: There will be no hazard for anybody created by this development.

10 Lack of space for parking, landscaping etc.

Comment: These factors were evident in the previous "two lot" proposal, but have been alleviated in the current, larger area proposal. Good landscaping (nearly 23% of the site) and adequate parking (6 spaces) are to be provided. Medians in front of the service station are also proposed to be landscaped.

- 11 Vibrations from traffic will shake/damage house
- Poor road surface

Comment: Diadem Street is being fully upgraded concurrent with the Lismore Square extensions. Road surface and alignment definition will be much improved. There is no evidence that traffic will damage houses any more than in any other area.

- 12 Petition
- The petition has been signed by approximately 225 persons, and, for those who have provided addresses, there is a considerable range of location. The petition advises:
- There are already 23 service stations in Lismore, and 8 within 500 metres of Lismore Square. Another service station is not in the public interest;
  - The service station development will impact upon their right to use and enjoy the land adjoining the development; and
  - It will have a detrimental impact on surrounding businesses and environment.

Comment: The number of service stations is not an issue for Council's determination. The great number of signatories do not live in proximity to the site and Square, it is not clear how the service station might impact upon their enjoyment of adjoining land. The service station may in fact have the opposite effect on surrounding businesses, and low impact on the "environment".

The impact on residents and residential amenity in the immediate proximity is more adequately and appropriately covered in the submissions from residents in close proximity, as identified above.

## 5.8 **The Public Interest**

A "public interest" may be seen as being served by having fuel sales adjacent to the (enlarged) Lismore Square Shopping facilities, and no doubt with discounted fuel being available.

## 6. **REFERRAL COMMENTS**

### 6.1 **Internal**

#### 6.1.1 **Manager Finance & Administration Comments**

If this development application is approved, Council will need to meet costs for the upgrading of kerb and gutter on the eastern side of Diadem Street. The cost of those works has been estimated at \$25,000.

#### 6.1.2 **Development Engineer**

The proposal lodged has addressed the traffic issues raised with regard to the previous application. The manoeuvring and circulation of vehicles for this proposal was developed in conjunction with Council's traffic consulting firm TTM Consulting Pty Ltd. They are of the opinion that the traffic manoeuvring and circulation of this proposal will function adequately.

The proposal has required the construction of a median and turning lanes within Diadem Street between McKenzie Street and the development. These works have been included as conditions of consent.

With regard to the calculation of a Section 94 Road Improvement Levy for the development two alternate methods of calculating a levy were examined.

The first option was to calculate a levy based on traffic generation from the site. This is the method identified within the plan for intensification or change of use. The levy calculated on this basis amounted to \$282,125.

The alternate option for calculating the levy is to use the generic commercial rate of \$37.06 per m<sup>2</sup> of gross floor area. This rate could then be applied to the area of the site occupied by the filling station. This would result in a levy of \$51,142.80.

The site has an existing credit of 3 ET's totalling \$13,875. The value of these ET's was deducted from the final figure.

It has been recommended that the road improvement levy be set at \$37,267.80, being \$51,142.80 minus \$13,875. This is considered to be a more appropriate figure than the figure calculated based on traffic generated from the site.

## 6.2 External

### Local Traffic Committee

The previous 2 lot application created traffic management problems for the Committee. Through the expansion of the service station onto 3 lots, these concerns have now been alleviated, and it was noted that although there were still concerns raised by residents opposite, the Committee considered that the traffic facilities as now proposed are appropriate and satisfactory.

## 7. CONCLUSIONS

In terms of location, zone and proximity to the adjacent Lismore Square Centre the site is strategically suited for use as a Service Station, and the application has been well presented by the applicant.

The utilisation of 3 lots in lieu of the previous two has overcome the site amenity and traffic management issues that were important adverse issues to the previous DA.

A considerable import of objection relates to the question "*Why don't Woolworths purchase one of the existing service stations in Lismore and convert it, rather than provide another one*". This is not an issue for Council, however it has been made clear that all other existing sites considered are inadequate to the applicant for reasons including size, traffic issues and flow, internal amenity, remediation needs, location and the like.

The only substantive reasons against this development are the concerns from adjacent and nearby residents, and it is certainly accepted that their current amenity (that is, with vacant land opposite) will be changed, but whether it will be to the composite extent of concerns expressed is doubtful. The majority of change is to occur in any case with the new Square extensions, with Diadem Street to be a primary access route, and much of the customer use of the service station will come from traffic already attracted to the shopping centre.

Primary impacts are expected to be change in noise levels from vehicles resorting to the service station, and to a lesser degree, lighting from night hours. At present, during all the construction works at the Square, on the service station site, and in Diadem Street, the locality is in 'construction mode' and may tend to give an adverse impression of the future, but when all is completed, roadworks done, landscaping installed etc, it is believed that the final product will not be the 'problem' it is currently perceived or feared to be.

A further major advantage of a '3 lot development' is the removal of the potential for the third and last commercially zoned lot (105 Diadem Street) to be separately developed with some form of typical development adjacent to shopping centres – fast foods, video shops and the like.

Having considered the issues attached to the application, it is recommended that it be approved, with conditions.

## Recommendation (PLA8)

- A That Council grant delegated authority to the General Manager - subject to the concurrence of the Development Assessment Panel, to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.
- B That Council, as the consent authority, approve Development Application 2005/534 for to erect a Service Station together with associated driveways, landscaping, signage, site earthworks, retaining walls and fencing at 99 – 105 Diadem Street, Lismore.
- 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) Nos:

DA01 to DA04	Issue A	dated 21/6/05
DA04a	Issue A	dated 21/6/05
DA05	Issue P	dated 24/6/05
DA06 to DA14	Issue A	dated 21/6/05
Project No. 03012 2480-M01 & M02		dated June 2005
Project NO PC001	Issue C	dated 21/6/05
Project NO PC003	Issue B	dated 21/6/05
Landscape Plans L01 & L02		dated 21/6/05

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)*

### BUILDING

- 2 Where the Construction Certificate Application is not lodged with Council, then a Section 68 Application under the Local Government Act shall be submitted to Council to:
- (a) Carry out water supply work.
  - (b) Carry out sewerage work.
  - (c) Carry out stormwater drainage work.
  - (d) Connect a private drain with a public drain.
  - (e) Connect a private sewer with a public sewer.

Details being submitted with the application. **I3a**

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

- 3 The external drainage lines are to be water charged and inspected by Council prior to the pipes being covered. Council requires at least 24 hours notice prior to the inspection.  
NOTE: The internal drainage line is to be certified by the plumber and/or drainer and a layout plan is to be submitted to Council prior to the pouring of concrete. **I4**

**Reason:** *To assess compliance with this approval.*

- 4 The building is not to be occupied until an Occupation Certificate is issued by the Principal Certifying Authority and in this regard all matters relating to this Development Consent are to be completed prior to the issue of the Occupation Certificate. **I5**

**Reason:** *To meet statutory requirements and to ensure compliance with this approval.*

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

- (a) That unauthorised access to the site is not permitted, and
- (b) Showing the name of the builder or person responsible for the site and a telephone number at which such person can be contacted outside working hours. **G1**

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

- 6 Provide a fence, hoarding or other measure to restrict public access to the site, when work is not in progress or the site is otherwise unoccupied. The fence is to be provided prior to any work commencing on site. **G1b**

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

- 7 Temporary toilet facilities must be provided on the site, prior to commencement of building work and must be maintained until permanent facilities are provided. **G5**

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

- 8 External lighting must be adjusted or hooded to prevent any nuisance to neighbouring property. **G23**

**Reason:** To ensure a reasonable level of amenity for adjoining properties.

- 9 The building must be clad in low-reflective material. **G29**

**Reason:** To minimise the reflectivity of the building and to ensure its compatibility with the landscape.

- 10 The roofing must have a low reflective finish. **G30a**

**Reason:** To minimise the reflectivity of the building and to ensure its compatibility with the landscape.

- 11 Retaining wall structures 1200 mm (1.2 m) or more in height must be of a design certified by a Practising Structural Engineer acceptable to Council. **G37**

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

- 12 Erosion and sediment control measures must be put in place and be maintained to prevent soil erosion and the transportation of sediment from the site into natural or constructed drainage lines or watercourses. Control measures are to remain in place until the site has been adequately revegetated or landscaped to prevent soil erosion.

**Note:** Inspections of the structural work will not be carried out and work may not proceed, until the sedimentation controls are in place. **S9**

**Reason:** To prevent erosion of materials from the site.

- 13 Details showing sediment control measures and revegetation or landscaping works, must be submitted and approved prior to any earthworks commencing. **S11**

**Reason:** To draw attention to the need for approval.

- 14 Downpipes must be connected to an approved stormwater drainage system as soon as the roof is sheeted and guttering fixed. **W1**

**Reason:** To reduce site erosion.

- 15 Provide 6/3 litre dual flush toilet suites to all water closets. **P3**

**Reason:** To conserve water.

- 16 Provide vacuum breaker devices to all external taps. **P6**

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

- 17 The surcharge gully must be a minimum of 75 mm. above the surrounding surface and a minimum of 150 mm. below the lowest ground floor level. **P10**

**Reason:** Required by NSW Code of Practice "Plumbing and Drainage".

- 18 Access for people with disabilities in accordance with AS1428.1 is to be provided to the main entrance of the building. **ha1**

*Reason: Required by Clause D3.2 of the Building Code of Australia.*

- 19 Facilities for the use of people with disabilities must be provided as specified in Clause F2.4 Building Code of Australia and shall be constructed to the requirements of AS 1428.1-1998 "Design for Access and Mobility". **Ha3**

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

- 20 Disabled toilet facilities must be unisex. **Ha7**

*Reason: Required by Policy 05.02.10 of the Lismore City Council.*

- 21 Approved baby change facilities must be provided within toilet facilities for people with disabilities and the facility must be provided with appropriate signage. **Ha8**

*Reason: Required by Policy 05.02.10 of the Lismore City Council.*

## ENVIRONMENTAL HEALTH

- 22 The use and occupation of the premises including all plant and equipment installed thereon must not give rise to any offensive noise and vibration within the meaning of the *Protection of the Environment Operations Act (1997)*.

*Reason: To preserve the amenity of the area*

- 23 All lighting must comply with the requirements of Australian Standard 4282; Control of the Obtrusive Effects of Outdoor Lighting, including any lighting to be used during curfew hours as defined within the Standard. In this respect a certificate from a specialist lighting consultant must be submitted to Council certifying that the site complies with AS 4282 prior to release of the Occupation/Interim Occupation Certificate.

*Reason: To preserve the amenity of the area*

- 24 Drainage from the covered forecourt area bounded by the canopy is to be directed to the sewer in accordance with any requirements from Lismore Water and Councils Environmental Health Unit.

*Reason: To protect the environment.*

- 25 Stormwater runoff from hardstand areas located outside the covered forecourt must meet the water quality objectives outlined in Table 16(2) of Councils Stormwater Management Plan prior to discharging to Councils stormwater system. In this respect details of the method of achieving the objectives must be submitted to Council and approved prior to release of Construction Certificate.

*Reason: To protect the environment.*

- 26 The proposal must meet the requirements of the Workcover Authority of NSW.

*Reason: To comply with occupational health and safety requirements.*

- 27 The premises is to be used for the sale of **pre-packaged foods only**. No cooking, sale of hot foods or open foods, or food preparation, is to take place within the premises. If it is intended that the operations will include food other than **pre-packaged foods**, prior approval from Council is required.

*Reason: To ensure compliance with AS 4674 - 2004 Design, construction and fit-out of food premises, the Food Act 2003, the Food Standards Code and associated legislation.*

## DRAINAGE

- 28 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 Principal

Certifying Authority prior to release of the Construction Certificate. Drainage is to direct all water to a suitable discharge point to prevent intensification of discharge runoff onto adjoining land. This system shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). All 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))*

## ROADS

29 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). 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 a kerb and gutter and associated sealed cement stabilised road pavement from the northern boundary of the property to a point 10 metres south of the southern boundary of the property.

Construction of 3.6 metre wide landscaped medians, signage and associated bitumen sealed cement stabilized road pavement in Diadem Street from McKenzie to a point 10 metres south of the southern boundary of the property incorporating 3 meter wide turning lanes and 3.5 metre wide through lanes in each direction, generally in accordance with Scott Carver Pty Ltd Drawing No. DA02 Issue A dated Jun 05.

Prior to the release of the Interim or Final Occupation Certificate the applicant shall obtain a compliance certificate for the above works from Council. To obtain this compliance certificate a practising qualified surveyor or engineer shall submit to Council for approval, a "works-as-executed" set of plans and construction certification. The certification shall certify that all roads, drainage and civil works required by this development consent and the approved design plans have been completed in accordance with Council's Development, Design and Construction Manual (as amended). **RD1**

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

30 Full design plans of the proposed engineering works to satisfy condition(s) 28, 29, 36 and 40 shall be submitted to and approved by Council prior to the issue of a Construction Certificate. Such plans shall be accompanied by the 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)) and to specify requirements for approval under section 138 of the Roads Act.*

31 The proponent shall provide a plan of management for the construction of all civil works outside the real property boundaries of the proposed development. The plan shall table scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community. Such plan shall include a Traffic Control Plan prepared by an RTA accredited person. This plan of management shall be lodged with Council prior to the commencement of works. All works shall comply with the Occupation Health and Safety Act. **RD6**

**Reason:** *To ensure no conflict occurs between civil works and general public during construction.*

## VEHICULAR ACCESS

32 Prior to the issue of an interim or final occupation certificate redundant road pavement, kerb and gutter or foot paving, including any existing entrances or other special provisions or damage arising from construction activities 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))*

33 Driveways, access aisles and parking areas shall be provided with a bitumen sealed or other approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended). **VA2**

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

- 34 All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development. **VA3**

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

- 35 The proponent shall ensure that at no time vehicles are to queue from the development onto the adjoining road reserve. It is the proponent's responsibility to provide adequate direction and instruction to vehicles to ensure compliance with this requirement at all times.

*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))*

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

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

- 37 Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction, in accordance with Council's Development Control Plan No. 18 - Off Street Carparking Requirements. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition. **VA6**

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

#### **CARPARKING**

- 38 Provision shall be made for six (6) carparking spaces with a bitumen sealed/paved or equivalent surface constructed and landscaped in accordance with the requirements of the Council's Development Control Plan No. 18 Off Street Carparking Requirements, Australian Standard AS2890.1 Parking Facilities – Offstreet Parking and Council's Development, Design and Construction Manuals (as amended). Documentary evidence to be submitted to the Principal Certifying Authority prior to the release of an Interim or Final Occupation Certificate. CP1

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

- 39 Carparking, as shown on the approved plan, shall be clearly marked on the ground and signage erected to clearly indicate off-street parking is available prior to the release of an Interim or Final Occupation Certificate. CP4

*Reason: To ensure the free flow of traffic and comply with traffic regulations. (EPA Act Sec 79C(c))*

#### **ACCESS**

- 40 The proponent shall construct a 2m wide reinforced concrete, paving block or equivalent footpath, for the full frontage of the land to Diadem Street in accordance with Council's Development, Design and Construction Manuals (as amended). Any costs shall be the responsibility of the proponent. **PA1**

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

- 41 The proponent shall reinstate any disturbed areas within the adjoining reserve to the satisfaction of Council's Manager Parks and Reserves prior to issue of an interim or final occupation certificate.

*Reason: To ensure activities relating to the development do not have an adverse impact on the condition of the adjoining reserve.*

#### **WATER & SEWER**

- 42 The water supply connection shall be designed, installed and maintained to prevent contaminants from being introduced into Lismore City Council's potable water supply system.

Full details of the proposed backflow method and cross connection controls shall be designed and installed in accordance with Australian Standard 3500.1 and submitted and approved prior to the **release of the Construction Certificate. WS4**

*Reason: Required by NSW Code of Practice "Plumbing and Drainage".*

- 43 The water supply service shall be sized in accordance with Australian Standard 3500.1 to service the whole development. **WS5**

**Reason:** *Required by NSW Code of Practice "Plumbing and Drainage".*

- 44 An application to discharge trade waste, including a plan that contains all details of the proposed trade waste installation, shall be submitted to Lismore City Council.

The trade waste application must be approved prior to the release of the Construction Certificate. Designs are to be in accordance with Australian Standard 3500, the NSW Code of Practice-Plumbing and Drainage and the Department of Energy, Utilities and Sustainability guidelines for the On-site Pre-treatment of Trade Waste Discharges to Sewer. **WS6A**

**Reason:** *To ensure adequate protection of utility services and to ensure compliance with the Trade Waste Approval. (EPA Act Sec 79C(b))*

- 45 All plumbing and drainage work associated with the Trade Waste installation are to be inspected and approved by Council's Water and Wastewater Section. A works-as-executed Drainage Diagram shall be submitted to Council on completion of works. **WS6B**

**Reason:** *To ensure adequate protection of utility services and to ensure compliance with the Trade Waste Approval. (EPA Act Sec 79C(b))*

## FLOOD

- 46 All sign materials below the adopted standard flood level of 12.37m (AHD) shall be flood compatible. **AD4**

**Reason:** *To preserve the amenity of the area and traffic safety. (EPA Act Sec 79C(b))*

- 47 A risk analysis report prepared by a structural engineer certifying the design criteria adopted for the building and its relative merits in each of the 1 in 500 year ARI and PMF events. Such report to be satisfactory to Council. Details to be provided with the Construction Certificate Application.

**Reason:** *To comply with Development Control Plan No. 7.*

- 48 All earth filling on the site to be sourced from on site, or from the preferred excavation area or from another area on the floodplain.

**Reason:** *To comply with Development Control Plan No. 7.*

## PLANNING

- 49 Hours of operation of the service station to be restricted from 6.00am to 11.00pm, Monday to Saturday and 7.00am to 10.00pm, Sundays and Public Holidays.

**Reason:** *To protect the amenity of the residential area opposite and adjacent to the site.*

- 50 Illuminated signage to be switched off concurrently with cessation of trading hours in Condition No. 49.

**Reason:** *To protect the amenity of the residential area opposite and adjacent to the site.*

- 51 Tanker delivery of fuels to take place only during the trading hours specified in Condition No. 49.

**Reason:** *To protect the amenity of the residential area opposite and adjacent to the site.*

- 52 Delivery tankers to stand wholly within the service station site whilst unloading and servicing the premises.

**Reason:** *To ensure traffic amenity and safety in Diadem Street.*

- 53 Consolidation into one allotment of following properties prior to issue of an Occupation Certificate:

Lot 2 DP 368623  
 Lot 2 DP 1085178  
 Lot 1 DP 1085178  
 Lot 100 DP 600498

**Reason:** *To ensure that the service station and its driveways are properly integrated with the Lismore Square Shopping Centre, and; to ensure compliance with Condition No. 8 of DA 2002/399.*

## LEVIES

54 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Construction Certificate is granted**. The rates and amounts applying at the date of this notice, totalling **\$37,268**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the **Construction Certificate being granted**.

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

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

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

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

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

**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:** An application fee is payable on the submission of a Trade Waste Application to Council. The current application fee can be obtained by contacting Council.

**NOTE 2:** A connection fee is payable on the connection of a dwelling to the water supply. The current connection fee can be obtained by contacting 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:** In accordance with clause 98(1) of the Environmental Planning and Assessment Regulation, it is a condition of Development Consent for development that involves any building work, that the work must be carried out in accordance with the requirements of the Building Code of Australia.

**NOTE 6:** If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs, and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

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

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

**NOTE 7:** 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).



## Report

<b>Subject</b>	Development Application No. 2005/381 – Rural Industry for Pecan Nut Processing at 713 Boatharbour Road, Eltham
<b>File No</b>	DA05/381
<b>Prepared by</b>	Snr Development Assessment Planner
<b>Reason</b>	Two Councillors exercised their right to require the matter to be report to Council.
<b>Objective</b>	To determine the Development Application.
<b>Strategic Plan Link</b>	Quality of Life/Economic Development
<b>Management Plan Activity</b>	Development Assessment

### Overview of Report

This report provides a detailed assessment of a Development Application for the establishment of a rural industry within an existing rural farm building used for the processing of pecan nuts. The rural industry component of the use of the shed results from the processing of pecan nuts not produced on the subject property. There has been significant resident objection to the proposal. The application currently before Council is recommended to be refused based on the inadequacy of Boatharbour Road in its current standard, to cater for additional traffic movements resulting from the importation of pecan nuts to the subject site.

### Proposal

The application currently before Council involves the use of an existing farm shed (used for the processing of pecan nuts from the subject property, and considered ancillary to the operations of the site) to be used for the processing of pecan nuts sourced from other pecan farms within the region.

The applicant has indicated that they intend to import approximately 32 tonnes of nut per annum, and this, in addition to the 8 tonnes they anticipate producing on their own farm, will result in 40 tonnes of pecans. The 32 tonnes of off site kernel will be transported to the site in loads of between 1 and 5 tonnes. The report further states that it is likely that deliveries will be concentrated over a 4-month period (subsequent to harvest). The applicant contends that such a small processing activity will only result in an additional 32 traffic movements per annum.

### Applicant

Hysarp Pty Ltd, 713 Boatharbour Road, Eltham

### Owner

J Rhodes and J Payne

### Zoning

General Rural 1(a) and Riverlands 1(r)

## Key Issues

The key issue associated with this development is:

- Road safety, capacity of Boatharbour Road to cater for the existing traffic movements.
- Reasonableness of imposing a condition for the applicant to upgrade Boatharbour Road to a satisfactory standard to cater for a development of this nature.

## Map 1 – Aerial Photo



## Map 2 – Locality Plan



## Background

### Site History

The subject property is known as Lot 41 DP 854198, being 713 Boatharbour Road, Eltham. The subject land is 35.91 hectares in area. Access to the existing house on the subject land is via a driveway exiting

Boatharbour Road on the southern side of the road. The access to the rural shed that is intended to be used for the processing of pecan nuts sourced from off site is from the northern side of Boatharbour Road.

Council via Development Application No. 2003/883 favourably considered the modification to an existing farm shed to incorporate drying facilities and pecan processing equipment, and the relocation and renovation of an old “Queenslander” style house to incorporate coffee roasting and drying and processing of pecan nuts. The coffee and nuts are produced on the subject land.

The Queenslander that was established on the land was to be used for the storage, roasting, packaging and dispatch of produce from the site. The approval of the rural industry specifically identified that no nut from off site is to be processed within the facility.

During the assessment of this application, the issue of the adequacy of Boatharbour Road in relation to the additional traffic movements was a key consideration. Council was of the opinion that Boatharbour Road, in its current form, is below minimum standard to cater for a development of this nature. Based on the imposition of a condition disallowing the importation of nut to the site and the low key nature of the on-site processing of products sourced from the site, the application didn't warrant refusal on the grounds of Boatharbour Road being below minimum standard.

On April 16, 2004, Council received an application from Hysarp Pty Ltd for the establishment of a 30-seat refreshment room (café) and minor alterations to an existing approved building associated with a rural industry. The application requested Council to favourably consider the establishment of a café within the existing Queenslander (approved by DA2003/883). The applicant identified the hours of operation of the facility as being from Wednesday to Fridays, 10.00am until 4.00pm. Council received a number of objections to this proposal on the grounds of traffic and amenity. Council's City Works Group carried out an assessment of the current standard of Boatharbour Road in relation to this application and subsequent traffic counts on the site, and comment in the following terms:

*“Boatharbour Road exists as a one lane, ie 3.5 metre wide sealed road between Camerons Road and the development. Traffic counts were taken on Boatharbour Road in the vicinity of the proposed development.*

*These counts showed daily vehicular movements ranging from 150 – 190. These figures are in excess of the Australian Standard for a one-lane road, ie 150 vehicles per day. To overcome this problem, the applicant proposed to restrict the opening hours of the development to outside of the peak traffic flows on the road. To do this, the hourly counts would need to be less than 10% of the daily volume, ie 15 vehicles per hour, would be the maximum for a one lane road.*

*The average hourly counts for each of the proposed opening days showed a range of 7 to 9.4 vehicles per hour for the proposed hours of opening, ie 10.00am to 3.00pm, Wednesday to Friday. If the proposed additional 5 trips per hour are added to these figures, the resulting trip generation will be 12 to 14.4. These figures are below the maximum figure extrapolated from the Austroads standards for a one lane road, and therefore the development will meet the standard for access if the opening hours are restricted from 10.00am to 3.00pm, Wednesday to Friday.”*

Based on the City Works Group's assessment of the application in relation to the impact the development would have on Boatharbour Road, and the low key nature of the proposed development, it was recommended that the development as proposed, be approved. Council issued development consent on July 20, 2004.

## Planning Issues

The proposed use of the onsite processing facility is permissible with consent, and could merely by its nature, be considered to be a small scale operation when comparing it with other nut processing facilities within the region. Council, during its assessment of previous applications, had continually informed the applicant that the major issue in relation to the development of their land for the purposes

of a rural tourist facility and a rural industry would be the existing standard of Boatharbour Road. The previous applications were considered to have a minimal impact upon the existing road due to the limited hours of operation. The current application before Council results in a land use and consequent traffic generation where Boatharbour Road currently is of a width and construction that would not meet the minimum standards required to cater for this development. Council's City Works Group have provided the following comments in relation to the application:

*"In June 2004 an application for a rural tourist facility was assessed at this same location. At the time of assessment traffic counts were taken on Boatharbour Road in the vicinity of the proposed development. These counts showed an average daily traffic volume of 166 vehicles per day. Boatharbour Road exists as a one lane i.e. 3.5m wide, sealed road between Camerons Road and the development and Eltham Road and the development.*

*The relevant standard for the assessment of road requirements for this type of road is Austroads Rural Road Design Guide. This standard identifies that traffic volumes for a one-lane road should not exceed 150 vehicles per day. It is therefore evident that the road is currently below standard for the volume of traffic currently utilising it. The road standard required to cater for the existing and proposed traffic would be a 6m wide seal on an 8m wide gravel pavement.*

*The length of road that would require upgrading to meet this standard would be 2.1 kilometres from the end of the upgraded section west the of development and 2.7 kilometres from the development towards the east to Eltham Road. The total length requiring upgrading would be 4.8km. The existing road has on average a 4m-sealed width. To comply with the Austroads standard the road should have a 6m seal on an 8m pavement. Therefore the works required to upgrade the road to the suitable standard would be the construction of an additional 2m of sealed pavement with a 1m wide gravel shoulder on each side. A rough cost estimate for this work would be \$270,000 per kilometre. The total cost to upgrade the existing road to the required width standard would be \$1.3 million.*

*In the previous application the proponent proposed to restrict the opening hours of the café to overcome the need for these upgrading works. The proposal was to restrict the hours of operation of the development to the hours where the traffic volumes were below a maximum vehicle per hour volume that was extrapolated from the standard daily rate. The standard does not suggest this approach however it was accepted in that instance. To do this the hourly counts had to be less then 10% of the daily volume i.e. 15 vehicles per hour would be the maximum for a one-lane road. Whilst this approach was adopted it could be debated whether it is an appropriate methodology as it involves interpretation of the intent of the standard. It should therefore be considered as the most liberal interpretation of the standard and therefore the maximum.*

*The previous application proposed to open on three days per week and to generate an additional 5 trips per hour. Average hourly counts for each of the proposed opening days showed a range of 7-9.4 vehicles per hour for the proposed hours of opening i.e. 10-3 Wednesday to Friday. The proposed additional 5 trips per hour were added to these figures which resulted in an hourly trip generation of 12-14.4. These figures were below the maximum 15 trips per hour as extrapolated from Austroads for a one-lane road and therefore the café development was considered to meet the standard for access with the opening hours restricted to 10-3 Wednesday to Friday.*

*The present application proposes to import nut in shell to the site for processing. The application identifies that the facility would have the capacity to process 5kg of nut per minute, which equates to 3 hours twenty minutes to process a ton. It is proposed to import 32 tons of nuts to the site over a 4-month period. This means that the total proposed imported volume could be processed in 107 hours or 14 days. It is therefore apparent that the volume of nut proposed to be imported within this application will not result in the processing facility running anywhere near to its capacity. The impact of increasing the volume of nut imported to the facility above what is proposed within the current application would have significant effect in terms of traffic generation to the site and the assessment of the suitability of the road network to accommodate the increase. The ability to limit the volume of material imported to the site is an issue that should be addressed when determining this application.*

*The following assessment is based on being able to address the above concerns and limit the volume of nut imported to the site to 32 tons. Should this not be able to be achieved then it would appear that the existing road network would not be adequate to support the proposed development.*

*The importation of 32 tons of nut in shell will generate an additional 16 two-way trips or 32 traffic movements for delivery of nut in shell and assume an additional 6 two-way trips or 12 traffic movements for sale of cracked nut. The application states this traffic will generate over a four-month period. This scale of development would therefore generate an additional 1-2 two-way trips per week or a minimum of 2 traffic movements once or twice a week. Whilst this may appear a minor traffic increase if we add this to the above calculations for the previous development the predicted traffic volumes would be 14-18.4 traffic movements per hour. These figures indicate that the predicted traffic volumes will be in excess of the previously stated maximum of 15 movements per hour.*

*Given the above issues it should be questioned whether the application should be approved as the road is already below the recognised standard and with the additional traffic to be generated from both the café and processing facility the predicted traffic volumes will be in excess of a very liberal interpretation of the standard. As the expected cost of upgrading Boatharbour Road to the required standard is approximately \$1.3 million it would not appear realistic for the proposed development to fund bringing the road up to the required standard to allow the additional traffic on the road.”*

The applicant, within their report has stated that to minimise the impact of additional traffic movements, it is proposed to only receive deliveries on Monday to Friday, between 10.00am and 3.00pm and Saturdays between 9.00am and 6.00pm. To impose a condition of this nature would place too great an onus on Council to continually monitor the movements of traffic to and from the site. This, when taken into consideration with the irregular hours of operation of farming practices that are dictated by weather condition, it is considered that imposing conditions regulating the hours of operation of such an activity would be unenforceable.

As can be seen from the comments from Council's City Works Group, to bring the road up to a required width standard is a significant cost that could not reasonably be justified if imposed upon this development. On this basis, it is considered that the cost of the imposition of a condition of consent requiring the upgrade of Boatharbour Road does not satisfy the three tests of validity for the imposition of a condition of consent, these being:

- i) Having a planning purpose;
- ii) Fairly and reasonably relate to the development; and
- iii) not be so unreasonable that no reasonable planning authority could have imposed it.

The imposition of the condition to upgrade Boatharbour Road satisfies the first two requirements, however in relation to the third requirement, it is considered to be unreasonable due to the cost implications, to require the upgrading of Boatharbour Road to facilitate this development.

On the basis, the imposition of a condition of consent requiring the full upgrade of Boatharbour Road to acceptable standards, is considered too onerous and unreasonable, due to the cost of the works, to enable the development to proceed. Therefore it is recommended that the application currently before Council be refused.

## **Comments**

### **Financial Services**

Not required

## **Other staff comments**

### **Development Engineer**

Refer comments from City Works Group identified within the Planning Considerations Section of this report.

## **Environmental Health Officer**

Council's Environmental Health Unit has undertaken an assessment of the proposal and the following comments are made:

### **Noise Impact**

A Council environmental health officer undertook an inspection of the site on Friday 17 June 2005, which identified concerns in relation to noise from the operation of the processing facility on the closest residence.

In response the applicants undertook noise attenuation works, which included relocation of a compressor and soundproofing works of a roof mounted fan. A noise assessment of the site was subsequently undertaken by an acoustic consultant to assess noise impacts of the facility against levels recommended in the EPA's Industrial Noise Policy.

The report measured background noise levels in the area and source noise from the processing facility and identified that the noise level from the pecan processing operation is only 0.5dB(A) above the design goal level outlined in EPA Guidelines. The acoustic report identifies ameliorative options that may be further implemented in order to reduce noise impacts to levels below those required in the relevant EPA Guideline.

Councils EHU is satisfied that the Pecan Processing Facility generally complies with the relevant noise standards and that there is potential to reduce noise further with additional minor works to the facility. A noise condition is recommended to secure compliance with the relevant EPA Guideline.

Recommended condition:

- Noise levels from the use and occupation of the pecan processing facility including all plant and equipment installed thereon, must comply with the requirements of the Environment Protection Authority Guideline titled "New South Wales Industrial Noise Policy".

***Reason:** To protect the amenity of the area and comply with relevant standards for noise.*

### **Solid Waste**

The application states that pecan nut processing is a dry process and that the processing of 40 tonnes of pecan nut will result in the generation of 18 tonnes of shell waste. An inspection by Councils environmental health section confirmed this.

The applicant proposes to re-use the shell waste generated on the farm by using it as mulch on the existing plantation. This is standard practice on macadamia farms where husks are spread around the plantation. The environmental health section raises no objection to the re-use of shell waste on the farm subject to the collection and storage of shell waste being via procedures that minimise the attraction of pests and vermin and does not create runoff, which is likely to enter waterways.

It is noted that the proposed re-use of shell is likely to minimise the need for the importation of fertilizers and other soil enhancers on the farms plantation.

A condition is recommended to ensure the above is achieved.

Recommended condition:

- The method of collecting and storing shell waste prior to it being used as mulch on the farm must not attract pests and vermin and must not create runoff that has the potential to enter waterways.

In this respect a management plan detailing measures that will be implemented to ensure shell

waste cannot be accessed by vermin and includes measures to monitor and control pest invasion must be submitted to Council and approved prior to operation of this consent. The management plan must also include the method of ensuring any runoff from the shell storage area does not enter waterways.

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

## **Wastewater**

The existing operation has a wastewater system approved for installation that meets the needs of the proposed operation. It has been identified that the processing of pecan nuts is a dry operation and that the only additional wastewater generation is from a hand washbasin in which that runoff can be satisfactorily dealt with in the existing wastewater treatment system.

Recommended condition:

- Wastewater from the hand washbasin must discharge to the existing approved onsite wastewater system servicing the facility in accordance with Councils requirements.

**Reason:** *To comply with Councils Onsite Wastewater Management Strategy.*

## **Public consultation**

The application was exhibited and adjoining owners were notified in accordance with Council Policy. At the close of the exhibition period seven (7) objections were received and one (1) submission in support of the application. The objections raised the following points:

- Noise (refer to Environmental Health comments)
- Traffic
- Road safety
- Future potential expansion of the business
- Enforcing the proposed hours of operation.

The above issues raised within submission are considered to be valid, and with particular regard to the issue of road safety and the existing standard of Boatharbour Road being inadequate for the development, substantially warrant refusal of the application.

The issue of the standard of Boatharbour Road to cater for this development is considered to be of sufficient importance to refuse the application.

## **Conclusion**

Council's City Works Group have adequately addressed the issue in relation to the standard of Boatharbour Road and have raised questions as to whether the application should be approved as the road is already below the recognised standard and with the additional traffic to be generated from both the café and processing facility, the predicted traffic volumes would be in excess of a very liberal interpretation of the standards.

The issue raised in the City Works comments on whether the traffic movements to the site can be regulated to such an extent that the off site delivery of nut will be limited to certain hours in this instance would not be feasible as the movement of vehicles and the times would have to be continually monitored by Council and the neighbours.

The use of the facility for the stated purpose uses a road that is currently below acceptable standards and has an impact upon the existing residents of the area and other road users.

The development cannot proceed on the grounds of the inadequacy of Boatharbour Road to cater for the traffic generated to the site, and Council cannot impose a valid condition requiring the application to

bear the cost of the upgrade, hence the application is recommended for refusal.

In accordance with the requirements of the Environmental Planning and Assessment Act 1979 (as amended), Section 79C(1)(a) Council must ensure that there is adequate road infrastructure to service the development. It is clear that in this regard the proposal represents an overdevelopment of the site.

It is recommended that the application be refused on the following grounds:

## **Recommendation (PLA1)**

Development Application No. 2005/381 be refused for the following reasons:

1. There is inadequate road infrastructure to service the development (Section 79C(1)(a)).

## Report

<b>Subject</b>	Development Application No. 04/970 – 14 Lot Rural Residential Subdivision and Associated Works
<b>File No</b>	DA 2004/970
<b>Prepared by</b>	Development Assessment / Heritage Planner
<b>Reason</b>	Two Councillors exercised their right to require the matter to be reported to Council.
<b>Objective</b>	To determine the development application
<b>Strategic Plan Link</b>	Quality of Life / Economic Development/ Natural Environment
<b>Management Plan Activity</b>	Efficient assessment of land use development applications

### Overview of Report

This report provides a detailed assessment of a Development Application for the creation of 14 rural residential lots and associated works. There has been a number of submissions received during the exhibition period resulting in a total of seven (7) objections and six (6) letters of support.

The application currently before Council is recommended for approval subject to the proposed conditions of consent.

### Proposal:

The proposal is for the establishment of a fourteen (14) lot rural residential subdivision and associated works. The plans of the proposed subdivision are shown in Figure 1.

### Applicant:

Graham Meineke, consulting town planner of ASPECT North prepared the application on behalf of Dakein Pty Ltd.

### Location:

The site is Lot 252 DP 1051142, known as 156 Gungas Road, Nimbin. Map 1 shows the location of the site.

### Owner:

Dakein Pty Ltd.

### Zoning:

The site is zoned 1(c) Rural Residential.

### Key Issues:

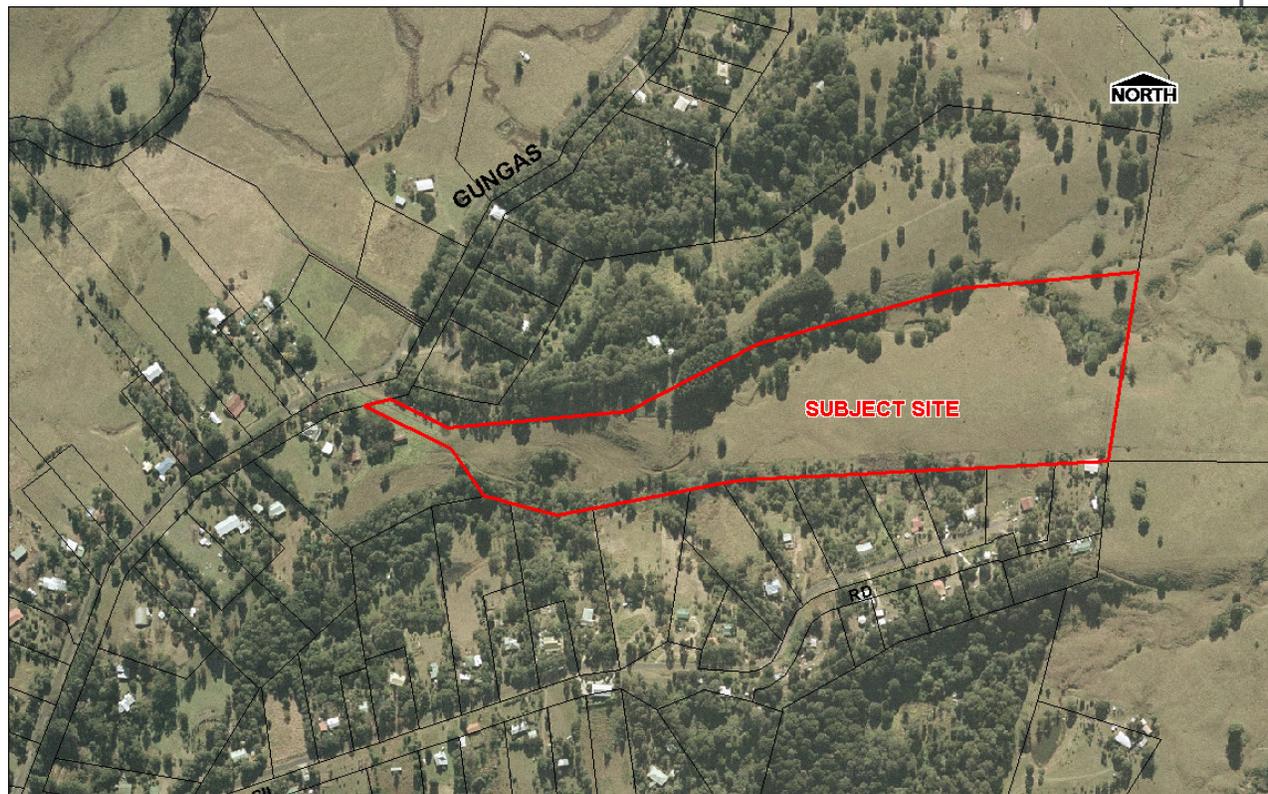
The key issues associated with this development application are:

- Bushfire requirements
- Effluent Disposal
- Riparian remediation and management
- Vehicular access

### Recommendation:

That the development consent be issued subject to appropriate conditions.





**Map 1: Subject Site**

## Background

The applicants, ASPECT North, have submitted a Development Application on behalf of owners, Dakein Pty Ltd, for a 14 lot rural residential subdivision on Lot 252 DP 1051142, 156 Gungas Road, Nimbin. Council has been in negotiations with the owners and applicants since the application was lodged on November 4, 2004, resulting in a reduced lot yield from 16 to 14 as well as amendments to the location of the proposed road.

### Site/ Site History:

The subject property is Lot 252 DP 1051142, known as 156 Gungas Road, Nimbin. Map 1 shows the location of the site. The subject property is 11.01 hectares in area, approximately three (3) kilometres from the township of Nimbin and gains access from Gungas Road. Currently there are no improvements on the site and the property has been used for grazing in recent times. A watercourse runs through the property in an east west direction on the northern boundary before flowing south across the site. Pockets of remnant vegetation occur along the watercourse. The site consists of undulating terrain with a large hill rising to the eastern boundary. This hill falls away at varying gradients (10-30%) to the northern and southern boundaries.

### Surrounding Properties and Environs:

The adjoining properties to the north, south and west are zoned 1(c) Rural Residential. The properties on the southern boundary are rural residential lots having access from Basil Road. The Basil Road rural residential subdivision has a total of 35 lots ranging in size from 4064m<sup>2</sup> to 7736m<sup>2</sup> most of which have dwelling houses constructed on them. Lot 242 DP810279 adjoins the subject site to the north, zoned 1 (c) Rural Residential, comprises 10.85 hectares and is currently undeveloped.

### Proposed Development:

The proposal is for the establishment of a fourteen (14) lot Torrens Title rural residential subdivision and associated works (Figure 1). The lots range from 0.345 ha to 1.206 ha in size. The proposed subdivision is Integrated Development pursuant to the Environmental Planning and Assessment Act 1979 (as amended). Integrated referrals were sent to the Rural Fire Service and the Department of

Infrastructure Planning and Natural Resources (DIPNR) for comments. The Statement of Environmental Effects included a Flora and Fauna Assessment, Contaminated Land Assessment, Bushfire Assessment and an Effluent Disposal Report.

## Planning Issues

The proposed subdivision of Lot 252 DP 1051142 into 14 rural residential lots is consistent with all relevant planning policies and statutory instruments that pertain to the site, including the North Coast Regional Environmental Plan 1988, Lismore Local Environmental Plan 2000. Development Control Plan No. 28 – Subdivision.

Conditions were received from the Rural Fire Service and DIPNR pursuant to the requirements of Integrated Development under the Environmental Planning and Assessment Act 1997 (as amended). DIPNR has required the applicant to obtain a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948 and as such it is recommended that the subject Development Application be a deferred commencement pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1997 (as amended). The applicant must obtain a part 3(A) Permit from DIPNR prior to the consent becoming operative. This will ensure the issues raised by DIPNR will be addressed in relation to the construction of a vehicular crossing over the watercourse.

Planning Services has no objections to the proposal subject to the imposition of appropriate conditions.

## Comments

### Financial Services

Not required.

### Other staff comments

Building Services, Environmental Health, Development Engineer, Lismore Water and the Bushland Management Officer have provided comments and/ or conditions in relation to this Development Application. Standard conditions have been recommended by Building Services, Lismore Water and the Development Engineer. The Bushland Management Officer has assessed the flora and fauna report submitted by the applicant and has also considered the issues raised in submissions received by Council. As a result, several conditions pertaining to riparian remediation and management have been recommended.

Environmental Health provided the following additional comments pertaining to wastewater, contaminated land and water supply:

#### Wastewater

*The site is not provided with a system of centralised sewage and as such requires the treatment and disposal of household wastewaters on the site.*

*A wastewater report submitted with the Statement of Environmental Effects identifies that the site is significantly constrained in relation to the disposal of wastewater due to the existence of watercourses and steep slopes. The report also identifies some favourable environmental features for onsite disposal including deep and well drained soils, assisting infiltration, as well as good aspect and exposure assisting in the uptake of wastewaters via transpiration and evaporation.*

*Two watercourses restrict options for wastewater disposal, one transects the site towards the northern boundary and central section of the property and the other follows the southern boundary until they meet centrally. Many wastewater guidelines such as the State Government 1999 document Environment and Health Protection guideline and Councils own onsite wastewater strategy recommend a buffer of 100m to permanent watercourses. Importantly the watercourses meet the scientific and legislative definitions of permanent watercourses as they exhibit features including residual water, a defined bed and bank including pool and riffle sequencing and habitat support.*

*A model contained within Councils strategy permits encroachment on the 100m buffer subject to specific disposal area sizing and wastewater treatment criteria being met and limiting the buffer to no less than 40m from a watercourse.*

*A buffer of 100m is unachievable for most lots therefore the application proposes an encroachment to within 40m of the watercourses. In prior discussions with the consultant Councils Environmental Health Unit (EHU) also requested pathogen modelling be undertaken. This was carried out and identified a minimum setback of 35.7m.*

*To offset potential impacts due to the encroachment the consultant recommends wastewater treatment to secondary quality and proposes the use of compost toilets on some lots.*

*The proposal recommends three distinct options for treatment and disposal and identifies which lots are suited to each option based on the sites constraints. The Environmental Health Unit (EHU) generally supports these options. However the EHU emphasises the importance on the need for householders to maintain systems particularly on sites with significant constraints such as this one. If the proposed systems are not well maintained they have the potential to impact on the watercourses irrespective of their design and predicted achievement.*

*All proposed options require regular maintenance. Councils EHU is responsible for the management and regulation of onsite systems of which there are approximately 6000 in the local government area. Only one Council officer is dedicated to regulating Councils existing onsite sewage network. As the onsite sewage network grows and land exhibiting marginal qualities gets developed the need for maintenance and regulation is increased stretching Councils resources.*

*Conditions of consent have been recommended to promote owner responsibility to maintain systems and assist Councils ability to manage the site over the long term.*

### Contaminated Land

*A contaminated land assessment has been undertaken involving an historical investigation, review of aerial photography and a sampling program using a judgmental methodology. The results revealed that all analytes tested were found in background concentrations only.*

*The report is in accordance with Councils Contaminated Land Policy and the Environmental Health Unit does not require further testing or conditioning of the application in relation to contaminated land.*

### Water Supply

*A report is provided assessing supply needs necessary to achieve various levels of security for the water supply on each site. Councils EHU requested an assessment on roof water catchment systems based on a usage of 700litres/day and 100% security of supply.*

*A number of calculations have been provided by the consultant using Meteorological records over 79 years assessing storage needs for various levels of security and based on various roof areas and water consumption values.*

*The report identifies that to provide a water supply with a security of 100% on standard household consumption rates a massive storage volume is required. This is not considered feasible.*

*Councils EHU supports the consultants recommendation to provide a 95% security of supply and provide conditions of consent that require fitting of households with standard water reduction fixtures to reduce consumption to rates of 115litres/person/day.*

Building Services, Environmental Health, Development Engineer, Lismore Water and the Bushland

Management Officer have no objections to the proposal subject to the recommended conditions being placed on the consent

### Public consultation

The application was exhibited and adjoining owners were notified in accordance with Council Policy. At the close of the exhibition period, seven (7) objections and six (6) submissions in support of the application were received. The submissions raised the following points:

#### Objections:

- Creating a suburban atmosphere in the rural locality – an overdevelopment of the site.
- Insufficient road network to cope with the increased traffic.
- Sightlines on Gungas Road are not adequate.
- Lack of foot/cycle paths.
- Insufficient infrastructure to support the increase in population.
- New dwellings will be visible from the existing properties in Basil Road and there will be loss of views.
- New dwellings will contribute to noise and other amenity issues for the existing neighbouring properties in Basil Road.
- Clearing of existing vegetation.
- The watercourse is not considered adequately in the proposal.
- Proximity of effluent disposal fields to the watercourse.
- Future maintenance and compliance of on-site wastewater system and potential to pollute the environment.
- Potential of the proposed subdivision to pollute the watercourse.
- Dwellings will be constructed on steep land.
- Loss of existing fauna corridor and no viable provision for a fauna corridor.
- Bushfire threat.

#### Support:

- Economic and social value for the Nimbin community.
- Nimbin has adequate services such as the school and the hospital.
- Increased commercial benefits and opportunities for Nimbin.
- Known shortage of rural residential land in the Nimbin area.
- No significant impact on the road network due to the creation of 14 additional lots.

Not all of these issues are valid planning concerns nor are some of them sufficient reasons to warrant refusal of the application. All submissions to the proposed rural residential subdivision have been taken into consideration during the assessment of this application and a number of the concerns raised in the objections have been addressed by conditions of consent.

### Conclusion

All planning matters have been considered in the assessment of the subject development application.

Comments by objectors to the proposed rural residential subdivision have been taken into consideration during the assessment of this application and a number of the concerns raised will be addressed by conditions of consent.

Having considered all the relevant planning issues, it is concluded that the proposed rural residential subdivision of a 1(c) zoned parcel of land is reasonable. The proposal is consistent with all relevant planning policies and statutory instruments that pertain to the site and there is minimal environmental impact resulting from the proposal. Accordingly, it is recommended that the application be approved on merit, subject to the imposition of appropriate conditions.

## Recommendation (PLA7)

- A) That Council grant delegated authority to the General Manager - subject to the concurrence of the Development Assessment Panel, to approve variations of a minor nature and/or arithmetic nature to conditions of consent applied to this application except where a particular condition has been specifically identified as requiring Council consent if it is to be varied.
- B) That Council, as the consent authority, approve Development Application 2004/970 for the subdivision to create fourteen (14) rural lots, subject to the following conditions:

The DRAFT conditions of consent are set out as follows, and the reasons for imposition of the conditions are shown in brackets at the end of each category:

### **DEFERRED COMMENCEMENT CONDITION(S) PURSUANT TO SECTION 80(3):**

This consent does not become operative until the following Deferred Commencement condition(s) have been fully completed to Council's satisfaction.

- A) A Part 3A Permit is required to be issued by the Department of Natural Resources for construction of the proposed road crossing across the creek adjacent to Lots 5 and 6. Upon determination of the Development Application, the proponent shall make application for a Part 3A Permit under the Rivers and Foreshores Improvement Act, 1948 and no construction works should commence until the Department has assessed and issued a Part 3A Permit for the works.
- B) A Part 3A Permit would be issued subject to the following general conditions:
- a) Provision of engineering drawings showing the proposed crossing of the creek that allows for the conveyance of creek flows and passage of aquatic species.
  - b) The approval of the Department of Primary Industry (NSW Fisheries) is required for all proposed designs of in-stream and foreshore works prior to the issue of a Part 3A Permit.
  - c) Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the creek.
  - d) The proposed stormwater outlet to the watercourse is to be designed and constructed to minimise any erosion or scour of the bed or banks of the creek.
  - e) Excavated and filled areas adjacent to the creek, including creek batters, shall be rehabilitated and stabilised with mulch and vegetation plantings.

In accordance with the provisions of Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, the Council sets the period of time in which the applicant must satisfy Deferred Commencement Conditions as 12 months effective from the determination date endorsed on this consent.

### **OPERATIVE CONDITIONS**

#### **STANDARD**

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. LM040319 – CU Issue 2 dated 10/5/2005 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)

### **SUBDIVISION**

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

**Reason:** *To provide visual identification of allotments (EPA Act Sec 79C(e)).*

- 3 The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by a Subdivision Certificate fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

**Reason:** *To comply with environmental planning instrument. (EPA Act Sec 79C(a))*

- 4 If the existing physical road to which the subdivision fronts encroaches upon the subject land then the area of encroachment must be surveyed out and dedicated to Council as road reserve as part of the subdivision certificate.

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

## DRAINAGE

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

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

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks. Topsoil shall be preserved for site revegetation. Appropriate signage shall be erected on-site identifying the requirement for the maintenance of these measures. Details of sediment control measures, revegetation works and signage shall be submitted to Council for approval prior to commencement of any works upon the site.

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

- 6 The proponent shall make satisfactory provision for existing and proposed lots to dispose of stormwater without causing a nuisance to other properties. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All roof water from any existing or proposed buildings and/or surface water from paved areas shall be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All drainage lines are to be located within drainage easements. Any stormwater line with an area of influence from the stormwater line measured by projecting a 45° angle from the invert of the main to surface level extending outside of the easement shall be covered by a restriction on use requiring any structure within this area to be pierced to the stormwater invert level. All costs shall be the responsibility of the proponent.

**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))*

- 7 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 approved design,
- all stormwater has been directed to a Council approved drainage system.
- all conditions of consent/approval have been complied with.

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

## EARTHWORKS

- 8 Prior to commencement of works, certification from a practising qualified engineer is required verifying that:

- The proposed civil engineering works including retaining walls have been assessed as structurally adequate,
- The proposed civil engineering works will not be affected by landslip either above or below the works,
- The proposed civil engineering works will not be affected by subsidence either above or below the works, and
- Adequate drainage has been provided within the proposed works.

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

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

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

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

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

## ROADS

- 11 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). 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 proposed new road as a bitumen sealed/kerb and guttered road with a width of 6m between kerbs for the full length of the proposed road and terminating in a 10m radius turning circle.

Construction of Gungas Rd to a 8 wide gravel formation comprising a minimum depth of 350 mm of compacted gravel, and including a bitumen sealed surface 6m wide for the full frontage of the land to Gungas Road

Construction of an intersection layout at the junction of Gungas Road and the Proposed New Road in accordance with AUSTRROADS Pt 5 "Intersections at Grade" giving particular attention to sight distance.

A practising qualified surveyor or engineer shall submit to Council for approval prior to the release of the Subdivision Certificate, a "works-as-executed" set of plans and construction certification. The certification shall detail satisfactory completion of all roads, drainage and civil works required by this development consent and approved design plans.

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

- 12 Full design plans of the proposed engineering works to satisfy condition(s) 5, 6 11, 13, 16 and 22 shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied by the fee, as adopted at the time of the relevant payment as indicated in Council's Fees and Charges.

NOTE: Where a development is proposed to be staged then appropriate plans to satisfy this condition for that stage shall be submitted and approved by Council prior to commencement of works.

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

- 13 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 with the engineering design plans.

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

- 14 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. Street signage in accordance with Council's adopted standard shall be erected prior to issue of the subdivision certificate

**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))

- 15 The proponent shall provide a plan of management for the construction of all civil works outside the real property boundaries of the proposed development. The plan shall table scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community. Such plan shall include a Traffic Control Plan prepared by an RTA accredited person. This plan of management shall be lodged with Council prior to the commencement of works. All works shall comply with the Occupation Health and Safety Act.

**Reason:** To ensure no conflict occurs between civil works and general public during construction.

#### VEHICULAR ACCESS

- 16 A bitumen sealed vehicular access shall be constructed and maintained from the road pavement to the proposed dwelling site upon lot 4 in accordance with Council's Design and Construction Specification for Vehicular Access prior to release of the Subdivision Certificate.

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

#### PUBLIC UTILITY

- 17 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. A Certificate of compliance from the relevant utility provider shall be required confirming that the respective utilities requirements have been met.

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

- 18 Prior to approval of the Subdivision Certificate, a certificate of compliance from Country Energy shall be required confirming that Country Energy 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.

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

- 19 The proposed right-of-way from the end of the proposed new road to Basil Road shall be constructed in accordance with the requirements of the Planning for Bushfire Guideline and the right-of-way created, prior to/or as part of the release of the subdivision certificate.

**Reason:** To ensure compliance with Planning For Bushfire Guidelines

#### WATER & SEWER

- 20 Town water is not available for the proposed subdivision, 156 Gungas Road, Nimbin. A Section 88B instrument is to be placed upon lots 1 to 14, stating that town water is not available. The authority empowered to vary the instrument shall be Lismore City Council.

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

#### BUSHFIRE

- 21 Any future development application lodged for this subdivision under section 79BA of the EP&A Act will be subject to the requirements as set out in Planning for Bushfire Protection 2001.

- 22 The internal access road must comply with the access requirements as per Section 4.3.1 of Planning for Bushfire Protection 2001.

- 23 Water supply for firefighting purposes shall be in accordance with Section 6.4.3 of Planning for Bushfire Protection 2001.

- 24 The building envelope for Lot 1 must be relocated to achieve the required 20 metre Asset Protection Zone to the adjacent western boundary.

- 25 The building envelope for Lot 3 must be relocated to achieve the required 20 metre Asset Protection Zone to the adjacent northern boundary.

- 26 The building envelope for Lot 4 must be relocated to achieve the required 20 metre Asset Protection Zone to the adjacent northern boundary.
- 27 The building envelope for Lot 5 must be relocated to achieve the required 20 metre Asset Protection Zone to the adjacent southern boundary.

**Reason for Conditions 21 – 27:** *To comply with the Rural Fires Act 1997.*

## **RIPARIAN REMEDIATION & MANAGEMENT**

- 28 In accordance with Aspect North's Statement of Environmental Effects (dated May 2005) recommendations (Appendix 1, section 4.4) 'vegetated areas of the site (i.e. primarily along the gully) be maintained' and 'larger habitat trees...be retained'. Trees to be retained include those marked on Aspect North drawing No. LM040319-CV2 and two *Elaeocarpus* and *Glochidion* species located in the northeast corner of the property outside riparian areas.

**Reason:** *To ensure preservation of existing trees on-site.*

- 29 Tree and vegetation clearing at all locations shall be limited to that indicated in Aspect North's Statement of Environmental Effects (dated May 2005). All works sites, stockpile areas, storage facilities, vehicle parking and maintenance areas shall be located on already disturbed land, avoiding any necessity for the clearing of vegetation for these activities.

**Reason:** *To ensure preservation of existing trees on site.*

- 30 An adequate Tree Protection Zone shall be provided around any retained tree. This Tree Protection Zone shall generally be provided by preserving an area around the tree with a radius of at least 1.25 x the average canopy radius from the trunk, or 0.5 x the tree height.

**Reason:** *To ensure preservation of existing trees on-site.*

- 31 Amelioration strategies outlined in Aspect North's Statement of Environmental Effects (dated May 2005) (Appendix 1, section 6.2) be implemented.

**Reason:** *To ensure minimum disturbance to the natural vegetation and surrounding environment.*

- 32 A riparian remediation/management plan be prepared by a suitably qualified person and submitted to Council and approved prior to commencement of any works on site. The plan shall address aims & objectives; methodologies and strategies for site preparation, weed control, planting, vegetation connectivity, monitoring and maintenance; management areas; fire management; access; priority works; fencing requirements; fauna habitat; timeframes/works schedule and species lists.

**Reason:** *To ensure environmental restoration works are planned and achievable.*

- 33 Works outlined in the riparian remediation/management plan be implemented prior to the release of the linen plan and shall be maintained at all times to the satisfaction of Council.

**Reason:** *To ensure environmental restoration works are carried out in accordance with the management plan.*

## **CONTRIBUTIONS**

- 34 Payment of contributions levied under Section 94 of the Environmental Planning and Assessment Act and Lismore Contributions Plan 1999 (as amended) are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the Subdivision Certificate is released. The rates and amounts applying at the date of this notice, totalling **\$84,318**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid prior to the 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 listing of rates applicable for the financial year in which payment is made. This listing of rates reflects the adjustment made for the Consumer Price Index (CPI) on an annual basis.

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

services or construction of any infrastructure or any other thing.

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

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

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

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

## BUILDING

35 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 will require an amended Geotechnical Report.

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

36 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.

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

## ENVIRONMENTAL HEALTH

37 An application to install / construct a sewage management system under Section 68 of the Local Government Act 1993 must be submitted to Council with any application for a dwelling on each lot and approved by Council **prior to release of the Construction Certificate**. The application must include a detailed design of the proposed system and must be in accordance with the requirements of Appendix B of the Statement of Environmental Effects submitted with the Development Application or to the satisfaction of Councils Environmental Health Unit.

38 Restrictions as to user pursuant to Section 88E of the *Conveyancing Act 1919* are to be registered on the title of each lot to the effect:

- The sewage management system must be designed and constructed in accordance with the requirements outlined in Appendix B – "Effluent Disposal Report" of the Statement of Environmental Effects submitted with the Development Application or otherwise to the satisfaction of Councils Environmental Health Unit.
- Landowners are responsible for the regular and ongoing maintenance of their sewage management system to the satisfaction of Council.

39 A water supply must be provided on each lot consistent with recommendations outlined in Section 10 of Appendix G of the Statement of Environmental Effects submitted with the Development Application. The above details are to be approved by Council prior to the release of any Development Application for each dwelling house.

40 A restriction as to user pursuant to Section 88 of the *Conveyancing Act 1919* is to be registered on the title to each lot to the effect:

- Town water is not available to the site.
- A water supply that provides a 95% security must be installed on each lot in accordance with recommendations outlined in Appendix G of the Statement of Environmental Effects submitted with the development Application.

**AMENITY**

41 The hours of work for any noise generating construction 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 activities are to take place on Sundays or public holidays.

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

42 During construction of the subdivision, a water truck designed to suppress dust from exposed surfaces and access roads shall be available at the site or in the immediate vicinity. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation.

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

43 The construction of the subdivision shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise.

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

**INFORMATION TO APPLICANTS****ADVISORY NOTES**

**NOTE 1:** The final linen plan shall not be released by Council until all conditions of Development Consent Notice 2004/970 have been complied with to the satisfaction of Council.

**NOTE 2:** 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 3:** If the provision of services or the construction of any infrastructure or any other thing required by this consent occurs, and a GST is payable by Council, the applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of this consent.

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

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

LISMORE CITY COUNCIL

DEVELOPMENT CONSENT NO: 2004/970  
 ADDRESS: 156 Gungas Road, Nimbin

**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. 34, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this Schedule.

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

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

Levy Area	Account No.	No. of ET's/m <sup>2</sup>	Cost Per ET/m <sup>2</sup>	Amount Payable	
<b>Recreation and Community Facilities</b>					
Nimbin and District	- Local	1643.4	13	412	\$5,356
<b>Rural Roads</b>					
Nimbin Road	90014260	13	2,698	\$35,074	
Nimbin Village	1672.1	13	1,843	\$23,959	
Gungas Road	90212001	13	1,395	\$18,135	
<b>SES</b>					
All areas	1695.1	13	56	\$728	
<b>Rural Fire Service Plan</b>					
All areas	1690.1	13	82	\$1,066	
<b>Total</b>				<b>\$84,318</b>	

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

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

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

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

**COUNCIL USE ONLY**

**Cashier to Note:**

This section must be completed by a Financial Services Officer prior to receipt.

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

the Consumer Price Index has been applied to the schedule of Section 94 fees and Section 64 fees, where the period between the date of consent and the date of payment is in excess of twelve (12) months.

.....

...../...../.....

## Report

<b>Subject</b>	Lismore Urban Strategy – Re-evaluation of constrained 2(a) lands
<b>File No</b>	S650
<b>Prepared by</b>	Senior Strategic Planner
<b>Reason</b>	Council Resolution
<b>Objective</b>	To advise Council of the outcome of a review of constraints applying to 2(a) land
<b>Strategic Plan Link</b>	Economic Development
<b>Management Plan Activity</b>	Review and update planning controls

### Overview of Report

This report advises on the outcome of a review into constraints applying to vacant 2(a) residential land as identified in the Lismore Urban Strategy.

### Background

At its meeting of July 12, 2005, Council resolved that the Planning Department, in conjunction with Councillors Henry and Meineke and other interested Councillors, reassess the constraints on residentially zoned land in the Lismore Urban Strategy and report back to Council's September meeting.

The Urban Strategy identifies vacant 2(a) land in the urban area and provides an estimate of the likely lot yield for those lands based on an assessment of the constraints applying to such lands. A total of 31ha of vacant 2(a) land has been assessed as 100% constrained in the Strategy and a remaining 255ha as has been assessed as 20% constrained. This results in an overall discount of 81ha.

A meeting to reassess the constraints was held on August 5, 2005 and was attended by Councillor Meineke. Material to assist with the reassessment was supplied for the meeting which included large scale maps showing vacant 2(a) lands identified in the Urban Strategy (as of 2003) with overlays of the relevant constraints. The maps were also updated to include the location of new lots that have been created within those 2(a) lands subsequent to 2003.

The level of constraint applying to residential development can vary from 'partial' to 'absolute' depending upon the nature of the constraint. The level can also vary depending on the purpose of the constraint mapping. For example, the objective of the constraints mapping in the Urban Strategy was to identify non-urban land that has the greatest capability to accommodate new residential development. Constraints that were considered relevant for this purpose included flooding, slope of 20% or more, prime agricultural land, habitat and significant areas of remnant vegetation.

When investigating non-urban land for its residential capability, the above constraints could be considered to be absolute, i.e. land significantly affected by one or more of these constraints would be excluded from consideration for future rezoning. Where such constraints exist on land that is already zoned residential, the level of constraint could vary from 'zero' to 'partial'. For example, there is no obstacle to developing agricultural land that is already zoned 2(a). Similarly, land with gradients of 20%

or more may be only partially constrained. The updated maps produced for the review process revealed that many of the formerly vacant 2(a) lands affected by slopes greater than 20% have since been subdivided.

Subdivision approvals since 2003 make it possible to compare the estimated lot yield (as per the Urban Strategy) with actual lot yield (as per the development consent). One of the largest vacant 2(a) land holdings is the 'Hosie' land in Oliver Ave. It has an area of 31.98ha of which an estimated 11.5 ha (or 36% of the site) is affected by slopes of 20% or more. Part of the site is also constrained by drainage. A comparison between the estimated lot yield and actual lot yield is as follows:

Estimated yield (as per Strategy) = (31.98ha – 20%) x 8lots/ha  
= 204 lots

Actual yield (as per DA) = 236 lots

The above example indicates that the 20% discount factor that has been applied to vacant 2(a) lands in the Strategy is too high rather than too low, at least for this particular site. Even though 36% of the Hosie land is affected by slope constraints, a discount factor of just 8% would have produced a lot yield equivalent to that actually achieved in the DA.

Reducing the discount factor to less than 20% will increase the estimated vacant land stock and this would weaken Council's argument that additional residential land is required. Although different land parcels will have different levels of constraints applying to them, it is considered that the overall discount factor of 20% adopted in the Strategy (other than for those lands that have been discounted 100%) represents a reasonable approach to estimating potential lot yield for vacant 2(a) lands.

## Comments

### Financial Services

Not required

### Other staff comments

Not required

### Public consultation

Not required

## Conclusion

The review of the constraints applying to vacant 2(a) land has demonstrated that the assumptions for discounting land as used in the Urban Strategy have a reasonable basis.

## Recommendation (PLA5)

That Council endorse the methodology for discounting lot yield for vacant 2(a) residential land as adopted in the Lismore Urban Strategy.

## Report

<b>Subject</b>	<b>Cultural Precinct Development Control Plan</b>
<b>File No</b>	S857 & S921
<b>Prepared by</b>	Manager Community Services and Senior Strategic Planner
<b>Reason</b>	Council resolution to report back to Council with Master Plan amendments
<b>Objective</b>	Seek Councillor endorsement to exhibit the amended Master Plan as a Development Control Plan
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Community Services

### Overview of Report

This report presents the final draft of the amended master plan for the proposed Cultural Precinct. The report seeks Councillor endorsement of the amended master plan in the form of a Development Control Plan, which will then be placed on public exhibition for a 28 day period.

### Background

The initial master plan for the Cultural Precinct was completed by Thompson Adsett Architects in association with John Mongard Landscape Architects, and brought before Council at the June 2004 meeting. At that time it was resolved that *all submissions be reviewed by the Cultural Precinct Project Team and a further report and amended master plan be brought back before Council for adoption.*

Following a review of all submissions and discussion around the potential problems with the master plan, the Project Team engaged EDAW gillespies, specialists in urban design and landscape planning, to provide options for the master plan layout. The planning process involved a workshop with the project team followed by a number of consultations with a subgroup from the Project Team to refine the draft master plan proposals.

A total of twenty one (21) submissions regarding the initial master plan were received, and these submissions were addressed in a report to Council at the 12 October 2004 meeting. Issues raised in the submissions can be grouped into two main categories: library parking and the use of the library ground floor. These issues, together with additional concerns raised by the Project Team, have been addressed as follows:

#### Library parking

There are twenty seven (27) off-street car parking spaces currently located at the rear of the library. It is considered that this number more than caters for current library needs as a number of spaces are often vacant or occupied by shoppers or students of the Conservatorium.

It is proposed that a new car park located directly adjacent to the library on the eastern side will replace the existing car park. The new car park will accommodate twenty (20) vehicles. Furthermore, the master plan provides for the reconfiguration of parking in Magellan Street to create additional on-street car parking spaces. Six of these, directly in front of the library, will be dedicated as special needs parking for library use only. This will allow disabled, frail, elderly persons and parents with prams etc, to

access the library without parking difficulties. Another two spaces in front of the library will ensure easy access for quick drop-off and deliveries to the library.

The reconfiguration of parking in Magellan Street will also allow the mobile library to utilise these spaces as a loading zone for limited periods during the week, accessing the building by the Magellan Street automatic doors without the need to drive around the building and into the precinct itself. The redesign of Magellan Street parking will capitalise on the generous width of the street, accommodating the mobile library without loss of car parking spaces.

A multi-storey public car park accommodating 400 parking spaces will also be located within the precinct less than 100m from the library and readily accessible to library, museum, gallery and central business district patrons alike.

### **Use of Library Ground Floor**

The plans indicate the library will remain a public library facility, and the ground floor will continue to be accessible to the community via its meeting rooms. For example, the large meeting room is currently tenanted by the Lismore Toy Library who use the room twice a week.

### **Location of the Gallery/Museum building**

The constraint provided by the existing electrical substation was considered too great to locate the building with direct frontage to Keen Street. The amended plans now feature the Gallery (Cultural Centre envelope) set back from Keen Street, located more centrally between the multi-story car park, and Keen and Magellan Streets. The positioning will allow a clear line of sight of the building from both streets, and does not constrain the building's access or footprint. Landscape treatment will reinforce the main entrance to the gallery from Keen Street.

### **Development Control Plan**

It is considered that the most effective means of ensuring that the principles contained in the master plan will guide future redevelopment of the site is to incorporate such principles into a site specific Development Control Plan. Consequently a draft Development Control Plan (DCP 49 – Lismore Cultural Precinct) has been prepared that establishes where each of the major land uses is to be located on the site and provides guidelines on design, building heights, pedestrian and vehicular circulation and landscaping. Plans that formed part of the master plan relating to building footprints and circulation patterns have been incorporated in to the draft DCP. A copy of the draft DCP is included as a separate attachment (Attachment 1).

Other plans that form part of the master plan include architectural drawings and sections showing how various buildings within the precinct might look. These drawings represent just one of a number of possible design responses to the controls set out in the DCP. They are attached separately as Attachment 2. It is recommended that these drawings be exhibited with the draft DCP to give the public a better understanding of how the precinct might look when fully developed.

## **Comments**

### **Financial Services**

Not required.

### **Other staff comments**

Not required.

## **Public consultation**

The following interest and stakeholder groups were consulted regarding the amended master plan. Their comments and suggestions have been taken into account in the final plans.

- Art in the Heart Reference Group
- Richmond River Historical Society

- Lismore City Library
- Northern Rivers Conservatorium of Arts Inc
- Arts and Culture Policy Advisory Group
- LCC Cultural Precinct Project Team

The draft Development Control Plan will now need to be publicly exhibited for a minimum of 28 days and this will provide the wider community with an opportunity to comment.

## Conclusion

The Project Team has worked with the consultants to deliver a master plan that addresses the key objectives for the precinct as well as the needs of stakeholders, especially those noted in previous submissions. The objective of the draft DCP is to ensure that the principles of the master plan will provide the framework for future development within the precinct while still permitting a range of design responses in relation to individual buildings and spaces. It will also provide the impetus for future funding and investment opportunities, and will reassure the community that development of the Cultural Precinct is progressing.

## Recommendation (PLA9)

- 1 That Council endorse the master plan concepts as incorporated into draft Development Control Plan No 49 - Lismore Cultural Precinct and in the architectural drawings prepared by EDAW gillespies.
- 2 That Council resolve to prepare draft Development Control Plan No 49 and place it on public exhibition for a period of 28 days.
- 3 That the additional architectural drawings prepared by EDAW gillespies be placed on public exhibition with the draft DCP together with an explanation that these plans represent a possible design response to the guidelines set out in the DCP.

## Report

<b>Subject</b>	Draft Development Control Plan No. 50 – Heritage Conservation
<b>File No</b>	S922
<b>Prepared by</b>	Development Assessment / Heritage Planner
<b>Reason</b>	Establish development controls for Heritage Listed Items and Conservation Areas.
<b>Objective</b>	Council's resolution to exhibit the new draft DCP.
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Review and update planning controls

### Overview of Report

This report provides a brief description of the background and contents of a proposed new DCP for Heritage Conservation. Currently, Council does not have any development control plan guiding heritage conservation. Given Council's regulatory role in heritage matters, the proposed DCP is an essential document that will assist staff in providing advice on heritage conservation to property owners and the general public.

### Background

A new Development Control Plan (DCP) has been prepared for heritage conservation provisions. Currently, Council does not have any development controls or policies relating to heritage conservation, relying only on clauses within the Lismore LEP. Council engaged a heritage consultant to assist in the development of the draft DCP. The DCP will apply to land within the Lismore Local Government Area and specifically to items and Conservation Areas listed in Schedule 1 and 2 of the Lismore Local Environmental Plan 2000.

Council has a regulatory role in heritage matters pursuant to the Environmental Planning and Assessment Act 1979 (as amended) and the Lismore Local Environmental Plan 2000. The draft DCP will assist staff in providing advice on heritage conservation to owners of heritage items (Schedule 1) and structures within Conservation Areas (Schedule 2). The draft DCP gives guidance in design and conservation principles for people wishing to undertake works on or in the vicinity of heritage items.

The draft DCP contains sections on several design elements such as roof pitch and form, verandahs, windows and doors, fences and colours. Each of the design elements has an explanation of the element and general principles which should be considered when undertaking works. The six (6) Conservation Areas in Schedule 2 of the Lismore Local Environmental Plan are addressed in precinct policies within the draft DCP. Each Conservation Area has a Statement of Significance, a description of the characteristics that define the area and some specific policies that must be addressed as part of development proposals within those areas.

The proposed DCP No. 50 – Heritage Conservation was the subject of a councillor workshop held on August 23, 2005, and the issues raised have been incorporated into the draft plan. A copy of the draft DCP is included in the attachments to the Business Paper.

## Comments

### Financial Services

Not required; the services of the Heritage Consultant were funded from the Planning Services 2003-04 Budget allocation.

### Other staff comments

No other sections of Council were consulted during the preparation of the draft DCP, however should Council resolve to support the exhibition of the Draft DCP, then the Environmental Health and Building Services and the Property Management Officer, will be consulted.

### Public consultation

There is a statutory requirement that draft DCPs be publicly exhibited for a minimum period of twenty eight days.

### Conclusion

The proposed new DCP No. 50 – Heritage Conservation will assist staff in providing advice on heritage conservation to owners of heritage items (Schedule 1) and structures within Conservation Areas (Schedule 2). The draft DCP gives guidance in design and conservation principles for people wishing to undertake works on or in the vicinity of heritage items. The proposed DCP is considered an essential document given Council's regulatory role in heritage matters.

## Recommendation (PLA4)

That council exhibit draft Development Control Plan No. 50 – Heritage Conservation for a period of twenty eight (28) days.

## Report

<b>Subject</b>	Draft Development Control Plan No.18 – Off-Street Carparking Requirements and consequential amendments Development Control Plans No. 26 – Industrial Development Standards.
<b>File No</b>	S510
<b>Prepared by</b>	Development Assessment / Heritage Planner
<b>Reason</b>	Review of the current DCP No.18 – Off-Street Carparking
<b>Objective</b>	Council's resolution to exhibit the new draft DCP
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Review and update planning controls

### Overview of Report

This report provides a brief description of the proposed amendments to Council's Development Control Plan No. 18 – Off Street Carparking Requirements. A review of the existing Plan was considered appropriate as DCP No. 18 has not been reviewed since 1993 when it took effect. The proposed amendments to the current DCP will ensure the DCP remains consistent with other documents and specifications such as the Australian Standards and Roads and Traffic Authority (RTA) specifications.

### Background

A new Development Control Plan (DCP) has been prepared for Off-Street Carparking Requirements which is intended to replace the current DCP No.18. A review of the existing Plan was considered appropriate as DCP No. 18 has not been reviewed since 1993 when it took effect. Many of the provisions in the existing DCP are outdated as they refer to Australian Standards and Roads and Traffic Authority (RTA) specifications that have changed since the plan took effect in 1993. A review of several other Local Government Areas carparking requirements was undertaken to ensure the proposed amendments were consistent with other Council's.

The most significant changes proposed to the DCP are:

- Additions and amendments to the table of carparking requirements to ensure consistency with the landuse definitions in the Lismore Local Environmental Plan 2000. The proposed amendments will contain the requirements for carparking spaces for 71 defined landuses
- An additional column in the table of carparking requirements specifying the loading and manoeuvring areas required for certain landuses.
- Deletion of a majority of the figures and tables contained in the current DCP as the proposed amendments will refer the reader to both the Australian Standard and RTA's Traffic Generating Guidelines

In general, there have been no significant increases in carparking rates. The review has resulted in several of the defined landuses having a reduced rate, for example - car repair stations have been reduce from 6 spaces per workbay to 4 spaces per workbay.

Carparking specifications i.e. bay widths, bay lengths and bay angles are referenced in Australian Standards. As these documents are amended on a regular basis, the proposed amended DCP endeavours to summarise the general requirements and refers the reader to the Australian Standards for more specific and comprehensive information.

As a consequence of the proposed draft DCP 18, a minor amendment is required in DCP No. 26 – Industrial Development Standards. Several additional defined landuses and carparking requirements are to be included on page 4 of DCP No. 26.

The proposed amendments to DCP No.18 was the subject of a councillor workshop held on August 23, 2005, and the issues raised have been incorporated into the draft plan. A copy of the draft DCP has been included in the attachments to the Business Paper.

There are specific requirements pertaining to the drafting of amending Development Control Plans. Should Council resolve to support the intent of the amended DCP No.18, the legal instrument will be drafted prior to exhibition.

## Comments

### Financial Services

Not required

## Other staff comments

The Development Engineer has been consulted during the preparation of the new draft DCP.

## Public consultation

There is a statutory requirement that draft DCPs be publicly exhibited for a minimum period of twenty eight days.

## Conclusion

The review and the subsequent proposed amendments to the current DCP No. 18 are considered essential and appropriate given the plan took effect in 1993. Many of the specified requirements contained within the DCP are out dated and contrary to documents such as the Australian Standards and Roads and Traffic Authority specifications. The proposed amendments will also ensure consistency with the defined landuses contained in the Lismore Local Environmental Plan 2000.

## Recommendation (PLA6)

- 1 That Council exhibit draft Development Control Plan No.18 – Off Street Carparking Requirements for a period of twenty eight (28) days.
- 2 That Council exhibit the consequential amendments to Development Control Plan No.26 – Industrial Development Standards for a period of twenty eight (28) days.

## Report

<b>Subject</b>	Replacement of the Development Control Plan 17 - Vegetation Management Order with the New Development Control Plan No. 17 - Tree Preservation Order.
<b>File No</b>	S453
<b>Prepared by</b>	Strategic Planner
<b>Reason</b>	Update to comply with legislation
<b>Objective</b>	Council's adoption of Replacement Development Control Plan No. 17 - Tree Preservation Order
<b>Strategic Plan Link</b>	Natural Environment
<b>Management Plan Activity</b>	Review and update Planning Controls

### Overview of Report

This report advises on the outcome of the public exhibition of Draft Development Control Plan No. 17 - Tree Preservation Order and recommends that Council adopt the replacement Development Control Plan – 17 Tree Preservation Order. The replacement DCP No. 17 - Tree Preservation Order follows the report in the Business Paper.

### Background

At its meeting of August 9, 2005 Council resolved to publicly exhibit the new Development Control Plan No. 17 - Tree Preservation Order for a period of twenty eight (28) days.

The current Development Control Plan No. 17 - Vegetation Management Order has been in effect since 2002. There have been several amendments to state legislation and the introduction of the new *Native Vegetation Act, 2003*. As a result the current Development Control Plan (DCP) No. 17 is outdated.

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

### Comments

#### Financial Services

Not required

## **Other staff comments**

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

## **Public consultation**

The draft Development Control Plan No. 17 - Tree Preservation Order was publicly exhibited for twenty-eight days from Monday, July 4, 2005 to Tuesday August 2, 2005.

In response to the public exhibition no submissions were received.

## **Conclusion**

The proposed replacement DCP No. 17 provides current advice to applicants and meets all legislative and community requirements.

## **Recommendations (PLA6)**

That Council:

- 1 Repeal the existing DCP No. 17 - Vegetation Management Order.
- 2 Adopt the new Development Control Plan No. 17 - Tree Preservation Order.
- 3 Notify the public of the new Development Control Plan No. 17 in accordance with the requirements outlined in the Environmental Planning and Assessment Act, 1979.

## Report

<b>Subject</b>	Amendment No. 6 to Development Control Plan No. 14 – Residential Development
<b>File No</b>	S461/2
<b>Prepared by</b>	Manager, Planning Services
<b>Reason</b>	Public exhibition period has ended
<b>Objective</b>	To update DCP 14 to comply with State Government requirements
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Review and update planning controls.

### Overview of Report

At its meeting of June 14, 2005, Council resolved to prepare and exhibit draft Amendment No. 6 to DCP 14, which aimed to delete superseded provisions regarding energy efficiency and insert instead reference to the State Government's BASIX program. At the close of the public exhibition period no submissions had been received, and Council's adoption is now sought. The need for further amendment of the DCP in relation to other matters is also foreshadowed.

### Background

At its meeting of June 14, 2005, Council resolved to prepare and exhibit draft Amendment No. 6 to Development Control Plan (DCP) 14, which aimed to delete superseded provisions of the plan regarding energy efficiency and insert instead reference to the State Government's BASIX program.

DCP 14 addressed energy efficiency and the need for all residential developments to achieve a minimum scorecard rating under Section 2.3 Energy Efficiency and Appendix 2 – Attachment for Energy Efficiency Compliance & Exemptions. These aspects of the DCP have been superseded by BASIX from July 1. Amendment No. 6 to the DCP deletes these parts and replaces them with advice regarding the submission to Council of a BASIX Certificate with the development application.

The amending DCP follows this report in the Business Paper.

### Comments

#### Financial Services

Not required

#### Other staff comments

*Manager Environmental Health & Building Services:*

The amendment to DCP 14 brings into line current legislative requirements of BASIX (Building and Sustainability Index) which supersedes the current energy efficiency requirement for a NatHERS Certificate to be provided for any residential, duplex and multi unit development.

### Public consultation

The draft amending DCP was publicly exhibited for 28 days from June 23 to July 22, 2005. No submissions were received.

### Future amendment to DCP 14

During the use of the DCP several anomalies and omissions have been identified. The DCP was originally intended for the development of housing on vacant land, and provides little guidance for 'infill' development such as creation of a second dwelling as a detached dual occupancy where the original dwelling is to be retained on an urban block. Accordingly it is proposed to include in a future amending DCP guidelines aimed at ensuring that detached dual occupancy dwellings have sufficient functional open space, privacy, parking and driveway access, and do not detrimentally impact on surrounding properties by overshadowing or loss of privacy. These guidelines and correction of other anomalies will be collated into a draft amending DCP which will be the subject of both a report to Council and a workshop/briefing for Councillors prior to public exhibition.

### Conclusion

Amendment No. 6 to DCP 14 deletes superseded provisions and introduces reference to the State Government's BASIX initiative. No objections to the amendment were received. The amendment will come into effect with a notice printed in the local newspaper, in accordance with the Environmental Planning & Assessment Regulation.

In order to expedite the preparation of the foreshadowed amending DCP, Council is also asked to resolve to prepare an amending DCP to introduce guidelines for infill development and correct minor anomalies.

### Recommendation (PLA3)

That Council

- 1 Adopt Amendment No. 6 to Development Control Plan No. 14 – Residential Development, and
- 2 Prepare Amendment No. 7 to DCP 14 which will introduce guidelines for infill development and correct minor anomalies.

## Amendment No.6 to Development Control Plan No.14 Residential Development

### Citation

This plan may be cited as Amendment No. 6 to Development Control Plan No. 14 – Residential Development

### Aim

The aim is to delete superseded provisions of the plan regarding energy efficiency and insert instead reference to the State Government's BASIX program.

### Land to which this plan applies

This plan applies to the local government area of the City of Lismore

### Commencement

This amending plan will become effective following Council's adoption and notification in the newspaper in accordance with the Environmental Planning & Assessment Regulation.

### Relationship to other planning instruments

Development Control Plan No. 14 – Residential Development is amended as follows:

- [1] Delete the following from Section 1.5 How to Use this Plan:

*Council's Energy Efficiency Principles are mandatory and require that all residential development must achieve a **minimum energy rating of 3.5 stars** using an accepted energy rating technique for both the proposed developments' building envelope and hot water system OR seek an Exemption from this provision. Section 2.3 of this document details the requirements and the process necessary for providing this rating. Applicants are encouraged to incorporate these principles into site layout and building design.*

- [2] Delete the contents of Section 2.3 Energy Efficiency between the heading 'Objectives' and the words 'Table 2.3.2'

- [3] Insert instead the following:

#### **Objectives**

To ensure that each dwelling design meets the NSW Government targets of:

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

## Requirements

From 1<sup>st</sup> July 2005 each development application for a residential dwelling in New South Wales must be submitted with a BASIX Certificate. BASIX (the Building Sustainability Index) is a web based planning tool that measures the potential performance of new residential dwellings against sustainability indices.

BASIX ensures that each dwelling design meets the NSW Government energy efficiency targets.

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

BASIX – Building Sustainability Index is accessible at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

- [4] (a) Delete from Section 3 Guidelines for submitting a Development Application, the third dot point under the heading Development Application Requirement;
- (b) insert instead the following:
- A completed BASIX Certificate.
- [5] Delete from Section 3 Guidelines for submitting a Development Application, in the fourth dot point, the words 'Five (5)'; insert instead the words 'Six (6)'.
- [6] Delete Appendix 3: Attachment for Energy Efficiency Compliance and Exemptions.

## Report

<b>Subject</b>	<b>Builders' Waste Recycling – DCP 47</b>
<b>File No</b>	S881, P25041
<b>Prepared by</b>	Manager-Waste Services
<b>Reason</b>	To implement a fees and charges scale to encourage separation of builders' waste at Wyrallah Road Waste Facility.
<b>Objective</b>	To seek approval from Council to implement a new fee structure for construction and demolition (C&D) waste, to promote separation of builders waste for recycling.
<b>Strategic Plan Link</b>	Water and Waste Cycle
<b>Management Plan Activity</b>	Waste Minimisation

### Overview of Report

It is proposed to implement a new fee structure to encourage the separation of builders waste into separate streams for reuse and recycling, instead of land filling this material. Northern Rivers Waste is setting up operations to sort and recycle builders' waste on site.

### Background

At its meeting of 12 October 2004 Council adopted Development Control Plan (DCP) 47, and associated amendments to DCP's 14, 26 and 40. The intention of DCP 47 is to encourage the reuse and recovery of C&D waste during construction/demolition activity, and is relevant to demolition and construction work for all residential, commercial and industrial development.

From 12 October 2005 DCP47 requires the separation and reuse/recycling of inert materials (such as bricks, concrete etc); scrap metal and reusable timber, where possible. A Waste Management Plan will be required with a development application (DA), detailing waste and recycling/reuse strategies for the development.

In order to facilitate the implementation of DCP47 and provide the financial incentives needed to offer the industry cost savings through resource recovery, Northern Rivers Waste proposes to implement the following revised fees and charges from October 12, 2005, for sorting and processing construction and demolition waste:

- contaminated mixed builders waste - \$75 per tonne
- clean (uncontaminated) mixed builders waste for sorting (scrap metal, timber, rubble/concrete/bricks/tiles only) - \$55 per tonne
- timber and steel only - \$35 per tonne
- rubble/concrete/bricks/tiles only - \$25 per tonne

These financial incentives will apply both for skip service operators and builders bringing material 'self-haul'. Northern Rivers Waste will write to all local builders advising of the new fees and charges.

On large sites this cost structure will provide an incentive for the builder to sort their waste, which in turn will reduce handling costs at the waste facility, while still providing an incentive to do the right thing on smaller sites.

Sorted materials will be stockpiled on site until processed or sold. Rubble will be processed on site by contract crushing operators and used to provide gravel for unsealed traffic areas. The last time this was done the cost was \$26.00 per tonne but cheaper alternatives are currently being investigated. Metal will be sold on a commercial basis to large processors such as Simsmetal. Market rates in the last year have varied from \$85 to \$230 per tonne depending on demand and the mixture of metals and contaminants in the material. Further sorting will be investigated to ascertain whether this will increase returns. Timber will be resold through the Revolve Centre, processed through the green waste mulching or sold to second hand timber dealers. Possible returns are unknown at this stage.

It is estimated that the whole process will cover costs and generate a small income stream.

## Comments

### Financial Services

On the basis that the objective of the DCP is to divert reusable building waste from landfill, it is likely that the proposal to introduce a significantly reduced charging structure for sorted waste will assist in delivering the desired effect.

If adopted, the revised charges will need to be advertised for 28 days and Council will need to consider any submissions prior to them being implemented.

From a financial perspective, the proposal is supported as the charges per tonne for reusable rubble, metal and timber, plus anticipated proceeds from resale, will potentially exceed reprocessing, stockpiling, selling and administrative costs.

### Other staff comments

Not required.

### Public consultation

The new fees and charges will be publicly exhibited for 28 days prior to implementation.

### Conclusion

The proposed fees and charges should provide economic and environmental outcomes to reduce construction and demolition waste to landfill in Lismore.

## Recommendation

That Council exhibit the draft fees and charges as set out in the report.

## Report

<b>Subject</b>	South Lismore Sewage Treatment Plant Odour Control
<b>File No</b>	P9522
<b>Prepared by</b>	Manager Lismore Water
<b>Reason</b>	Response to customer complaints
<b>Objective</b>	To minimise odours
<b>Strategic Plan Link</b>	Water and Waste Cycle
<b>Management Plan Activity</b>	Wastewater

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### Overview of Report

Lismore Water has undertaken a number of operational improvements in the past few years and, subsequently, consultants PAE undertook an odour assessment study. The Consultants recommended that the situation be monitored before taking further action. Given that we have now received some odour complaints, it is recommended that Council seek the services of a consultant to prepare designs and documentation for an odour control system for the South Lismore STP. The estimated cost of a biofilter system is \$560,000.

### Background

Lismore Water (LW) has been receiving odour complaints from nearby residents of South Lismore treatment works for some years. In response, a number of operational improvements were undertaken in the past few years. These include:

- Better management of the digesters and drying beds;
- Better management of the sedimentation / humus tanks;
- Prevention of turbulence at the attenuation tank and better utilisation of it to balance;
- Diurnal flow variations to the sedimentation tanks and the trickling filters;
- Maintenance of the trickling filters to prevent ponding;
- LW has also required improvements to be made to the Norco trade waste treatment system, completed in late 2003.

Since implementing these improvements, there has been a reduction in the frequency of complaints. In mid 2004 Pacific Air & Environment (PAE) was commissioned by Lismore Water (LW) to conduct an odour impact assessment (subsequent to the above improvements being made) and to recommend a suitable course of action if there were any other deficiencies.

There are several potential sources of odour emissions from the treatment works including the inlet works, balance tank, zig-zag channel, grit removal unit, sedimentation tanks and trickling filters. The odours from these sources differ significantly and may be separated into two categories: primary sewage and secondary sewage odours. Primary sewage odours are typically high in H<sub>2</sub>S and may be described as earthy and faecal with a sulphurous or rotten egg component (although individual descriptions can vary), while secondary sewage odours are noticeably different, characterised as having tarry and urine-like components.

Through sampling and analysis of the identified odour sources, odour emission rates were determined for input into the CALPUFF dispersion model. The primary and secondary sewage odour sources were assessed separately.

Dispersion modelling results indicate that the odour levels in the area surrounding the STP including the nearby industrial area, while noticeable, were unlikely to explain the reports of intense and offensive odours lodged in the past. This may be due, in part, to a number of improvements made since 2003, including to the Norco waste stream.

The impacts of installing odour control on the inlet works and balance tank were also assessed. The modelling predicts a significant decrease in primary sewage odours in the industrial area with concentrations less than 1 ou. However, the report goes on to state that overall reduction in impact from the STP will be less, owing to the influence of secondary sewage odours from the trickling filters.

The report recommended ongoing monitoring of odour complaints and impacts. Should the monitoring program indicate that adverse odour impacts continue to occur, then treatment technologies for the inlet works and balance tank should be considered.

## Recent Events

Recently LW has received two odour complaints. It is not unusual for odour complaints to increase during winter months when meteorological conditions favour katabatic flows, (flows due to temperature inversions). Given that there is an ongoing problem, it is recommended that an appropriate odour treatment system be installed.

## Treatment options

The report also assessed odour treatment options, focusing on the inlet works, which is the dominant single odour source. The collection and treatment of odorous air from the screen area, balance tank and zig-zag channel has been evaluated, with four options for treatment. These options are identified below, along with estimated construction costs, annual operational and maintenance costs and present value.

Control Option	Construction Cost	Annual O &M Cost	PV
Vent stack	\$320,000	\$ 6,000	\$ 360,000
Biofilter	\$560,000	\$23,000	\$ 770,000
Chemical scrubber	\$830,000	\$73,000	\$1,550,000
Activated carbon scrubber	\$990,000	\$82,000	\$1,790,000

### *Vent Stack*

The cheapest option is to construct a vent stack. This option would involve discharging all gas via a nominal 600 mm dia 12 m high stack. No odour treatment would be provided. There are minor annual operating and maintenance costs associated with foul air extraction and venting. The advantages and disadvantages of this option are summarised below.

## Advantages

Only minor operating and maintenance costs are associated with this option.

## Disadvantages

No odour treatment is provided. It relies on dispersion of air emission from stack to achieve odour dilution.

Given that odour complaints increase during winter months when meteorological conditions favour temperature inversions, a vent stack may not solve the problem. A system that treats odours before it is dispersed is preferable.

### *Biofilter*

This option would involve treating all odorous gases collected from the inlet works in two biofilters operated in parallel. The surface of the two biofilters is 160m<sup>2</sup>, based on a design retention time of 60 seconds. The filter media would be chipped pine bark with a depth of 1.0 m.

The advantages and disadvantages of this option are summarised below.

## Advantages

- Accepted technology in both Australia and overseas and growing in popularity as method of odour control in sewage works (LW operates one at the Union Street Pump Station and has had very good success);
- Can remove high odour concentrations and also achieve low odour concentration because of the very large surface available for mass transfer;
- Good capacity to contain surges in odour concentration and air flow;
- Low power, water and chemical requirements;
- Low capital and operating costs; and
- Little cost penalty for multiple units.

## Disadvantages

- Need to replace the bed media every few years and dispose of waste media;
- High land requirement; and
- Soil and pH needs to be controlled (some operator control required).

The other two options, namely chemical scrubbers and activated carbon scrubbers, are significantly more expensive and more complex to maintain. However, If Council resolves to proceed with the installation of an odour control system, the tendering process will allow alternatives and a whole of life cost assessment will be carried out to determine the most cost effective system.

The full report prepared by PAE is available with the author.

## Comments

### Financial Services

Not required.

## **Other staff comments**

### *Environmental Health*

Odour complaints are an environmental and public health issue, which need to be addressed. Of the two main options considered, the biofilter is most likely to achieve the best results to prevent odour emissions. The venting option may not be successful, due to the well-known temperature inversions in the Lismore basin. On this basis the recommendation to proceed with design of an odour control system is supported.

## **Public consultation**

Inform the complainants of the actions taken by Council.

## **Conclusion**

Lismore Water has undertaken a number of operational improvements in the past few years and, subsequently, consultants PAE undertook an odour assessment study. The Consultants recommended that the situation be monitored before taking further action. Given that we have now received some odour complaints, it is recommended that Council seek the services of a consultant to prepare designs and documentation for an odour control system for the South Lismore STP. The estimated cost of a biofilter system is \$560,000.

## **Recommendation (ENT10)**

That Council proceed with the preparation of designs and documentation for an odour control system for the South Lismore STP.

## Report

<b>Subject</b>	Country Towns Water Supply and Sewerage Program (CTWSSP) Funding Restoration
<b>File No</b>	S301
<b>Prepared by</b>	Manager Lismore Water
<b>Reason</b>	To inform Council
<b>Objective</b>	To campaign for restoration of the CTWSSP
<b>Strategic Plan Link</b>	Water and Waste Cycle
<b>Management Plan Activity</b>	Water & Wastewater

### Overview of Report

Council to campaign for restoration of the Country Towns Water Supply and Sewerage Program (CTWSSP).

### Background

In mid 2004 the NSW Government announced significant changes to funding arrangements for the CTWSSP. Grants were reduced from 50% to 20% of backlog costs for councils such as Lismore with a turnover of more than \$10 million per annum. For the small towns program (Clunes etc.), subsidies have been limited to 50% regardless of turnover and the maximum subsidy capped at \$15,000/tenement.

A subsequent priority ranking process at the end of 2004 resulted in some 200 projects being unfunded, including Lismore's Nimbin Water Supply Augmentation Project. Council resolved to construct these works without the subsidy, given that it would result in a significant improvement of levels of service. Recent e-mail correspondence with DEUS staff indicate that the proposed North Woodburn project may not receive any funds, as there are other priorities for the limited funds available.

In response to the above changes in policy, the LGSA and Water Directorate have prepared a strategy paper, *The Need to Restore Funding*. The strategy paper provides compelling arguments for restoration of funding levels and it seeks certain commitments from the NSW Government. The LGSA and the Water Directorate urges all councils to commence campaigning to restore funding and it recommends that the Council write to key politicians (a draft copy of the letter is attached – Attachment B).

The conclusion from the position paper is reprinted below in Recommendation 1. A copy of the full position paper is attached (see Attachment A).

### Comments

#### Financial Services

Not required.

**Other staff comments**

Not required.

**Public consultation**

Not required.

**Conclusion**

Council to campaign for restoration of the CTWSSP.

**Recommendations (ENT11)**

1. Council seek the following CTWSSP commitments from the Government:
  - a) That it will reassess residual funds available to the program after making realistic allowances for cost escalation from 1994;
  - b) An increase in annual allocations to more closely match the original agreement between Government and councils of \$85 million per annum (in 1994 dollars);
  - c) A return to a more consultative approach to administration of the Program, including a joint review of the effect of the reduction in grants to individual projects introduced in 2004. This review would give particular attention to the level of subsidy provided for new small town sewerage schemes; and
  - d) An increase in funding to assist councils comply with changes to legislation and application of more stringent regulatory requirements (load based licensing, 2004 Drinking Water Guidelines, Water Management Act 2000 etc.).
2. Council write (see Attachment B – draft letter) and express our support for the restoration of funding to the following:
  - a) The Hon. Kerry Hickey, Minister for Local Government
  - b) The Hon. Carl Scully, Minister for Utilities
  - c) The Hon. Thomas George, Member for Lismore
  - d) NOROC.

## Report

<b>Subject</b>	<b>Management of Lismore Memorial Baths</b>
<b>File No</b>	P6768
<b>Prepared by</b>	Contracts Officer
<b>Reason</b>	To inform Council that tenders will not be called for the management of the Lismore Memorial Baths for the first twelve months of operation
<b>Objective</b>	To obtain Council approval not to call tenders for the management of the Memorial Baths
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Community Services

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### Overview of Report

This report details the requirements to comply with the Local Government (Tendering) Regulation 1999 not to call tenders for the management of the Lismore Memorial Baths for the first twelve months of operations

### Background

Due to the exact operational requirements of the new facility being unknown, it is proposed that Council not call tenders for the management of the new Lismore Memorial Baths for the first twelve months of operation, but rather directly negotiate a contract to manage the facility on behalf of Council for the 2005/2006 swimming season.

Section 55 of the Local Government Act 1993 requires that public tenders must be called for all contracts in excess of \$150,000 or a period of two years or more. In normal circumstances a contract for the management of the Lismore Memorial Baths would be for 3-5 years and would be in excess of \$150,000 per annum.

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

As with any new facility of this nature, it is impossible to predict what operational issues will occur and the patronage of the facility. In addition, for the first twelve months the facility will be subject to a defects warranty from the construction contractor. There are also many potential unknowns in the management of this facility and it would be unreasonable to call public tenders where Council is unable to completely inform tenderers of all the operational and management issues, patronage numbers, etc, and therefore possibly result in tenderers being unable to prepare meaningful tender submissions

### Comments

#### Financial Services

Not Required

## Other staff comments

### Manager Community Services

It would be prudent to closely record and analyse attendance and financial data for a finite period following the completion of the Baths. This information will allow better and more reliable statistics to be gathered that will hopefully assist with a competitive tendering process to commence in the second year of operation. It is anticipated that attendance figures and operating costs in the first year of operation will be significantly different to those experienced in the final years of operation prior to redevelopment of the Memorial Baths

## Public consultation

Nil

## Conclusion

It is intended to document operational issues and procedures fully during the first twelve months of operation of the Lismore Memorial Baths. These procedures together with patronage numbers and usage patterns will enable staff to prepare a tender document that will fully inform tenderers of all the relevant issues in regard to the management of the Lismore Memorial Baths when tenders are called during 2006.

## Recommendation (INF01)

Council not call tenders for the management of the Lismore Memorial Baths for the first twelve months of operation because of extenuating circumstances, being that there is insufficient information available to prepare accurate tender documents that fully detail the operational and management requirements and patronage figures are yet to be established.

## Report

<b>Subject</b>	<b>Lismore Memorial Baths Management Contract</b>
<b>File No</b>	P6768
<b>Prepared by</b>	Recreation Planner
<b>Reason</b>	Report back to Council as per resolution (19.07.05)
<b>Objective</b>	To adopt an interim 12 month management contract for the Lismore Memorial Baths
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Community Services

### Overview of Report

This report provides an overview of the 12 month interim management contract for the Memorial Baths. Given the re-development of the Baths and subsequent anticipated change in attendance patterns, a trial management period was considered necessary to enable relevant and reliable data to be gathered prior to seeking tenders for a long-term contract management appointment. This report outlines reporting mechanisms that will assist in quantifying the relevant data to be used beyond the 12 month period.

### Background

The re-development of the Memorial Baths has completely altered the management and operations of the complex. Previous annual attendance numbers have been in the vicinity of 55,000, and these figures are expected to increase significantly, but are as yet unknown. In order to adequately and accurately tender to manage a \$9.6 million aquatic facility, accurate information relating to patronage, revenue, expenditure, and relevant business components should be made available for potential management contractors to provide a fair and achievable tender over a long term contract (ie 3–5 years). A 12 month interim contract phase utilising high quality software that produces reliable reports was deemed necessary to provide that information.

### Current Situation

For a 12 month period, the previous Memorial Baths management contractor, Mr Iain Jones, is recommended for appointment to the role. During this time Council will receive data on the operation and management of the complex and thereby gather reliable information and statistics that provides the foundation on which to tender the contract for its future management. The tendered contract will be longer term and reflective of Council's desire for the future direction of the Memorial Baths.

Council has installed a Centre Management Software System (*Centaman*) at the Memorial Baths to assist in the generation and collection of data. Centaman is an Australian company, well known in the field of centre management, and is the system of choice by numerous leisure centres worldwide. Information regarding the use of the complex can be rapidly and reliably reported and analysed through this system.

The Management Contract has stipulated that a monthly report be generated for Council by the Contractor outlining important operational and management data. For example an extract from the contract states:

- i. The Contractor shall within 5 working days at the end of each calendar month provide the Contract Supervisor with a written monthly report covering the following minimum criteria:
  - a. Numbers of people admitted into the pool, separated into the various admission categories as stated in the Fees and Charges.
  - b. Revenue generated through the hiring of the facility across the various fees and charges categories.
  - c. Revenue generated through admission across the various categories including a total of all admissions.
  - d. Gross profit calculations generated from the operation of the Kiosk
  - e. Revenue and numbers of Learn to Swim Schools held at the Memorial Baths.
  
- ii. The Monthly Summary Report must include descriptions and/or explanations of any:
  - a. service standards of works undertaken in respect to each service performed under this contract;
  - b. interruptions to work;
  - c. damage to property or works;
  - d. changes to personnel, plant and equipment;
  - e. any deviation from the standards set in the specification;
  - f. copies of required monthly checklists as detailed in the quality plan
  - g. changes to site or weather conditions affecting the provision of the Services;
  - h. industrial relations issues, including, without limitation, work bans, strikes etc;
  - i. capital improvement proposals;
  - j. risk management issues;
  - k. changes to any sub-contractors;
  - l. date, time, number and type of complaints received, action taken, response times and complainant details;
  - m. initiatives or other improvements implemented by the Contractor; and
  - n. all other matters which ought reasonably be drawn to the attention of the Contract Supervisor.

All reports related to the management of the pool can be quickly and reliably generated from the Centre Management Software.

The Contract states the Contractor will have exclusive rights to the operation of the kiosk and Learn to Swim (LTS) program. Council will meet the costs associated with operating the complex (excluding the kiosk and LTS program); this includes the wages for lifeguards. The annual cost of lifeguards is dependent on the usage of the facility (ie number of lifeguards on duty reflects the amount of patronage at the complex, to be staffed with reference to Australian Royal Life Saving Guidelines). The Contractor (Mr Iain Jones) will perform lifeguard functions as required and be remunerated accordingly. All payment of staff will be at award rates.

Council will assist in the cost of a single admission staff member. This assistance will be to the level of 0.6 of the position. The Contractor will fund the remainder of that position.

The Contractor will generate income from the revenue associated with the kiosk and the LTS program, and will be paid as a lifeguard at lifeguard award rates while delivering that service. There is no longer a contract management fee per se.

The contract specifies the clear communication procedures between the Contractor and Council. The costs of operating the facility will be closely monitored and reported on a monthly basis.

## Comments

### Financial Services

From a financial perspective, this contract has been structured so that all net operating costs associated

with the facility will be at Council's expense. Effectively, the contractor will manage and operate the facility and Council will reimburse the contractor the costs incurred. The contractor is required to provide sufficient information to substantiate all claims for reimbursements such as payment summaries for wages, duplicate copies of invoices, receipts, etc.

As indicated above, the only income for the contractor from this contract is the profit from the kiosk, Learn to Swim programs run by the contractor, and payment for when actually undertaking lifesaving services. There is no direct cost to Council for management per se.

As for the estimated cost of this contract, based on the agreed pool opening hours and possible staffing scenario, including wages, superannuation, workers compensation insurance, public liability insurance, communications, uniforms, training and administration, approximately \$300,000 is anticipated.

## **Other staff comments**

Not required

## **Public consultation**

Not required

## **Conclusion**

The Management Contract enables Council to generate vital data on the operation of the new Lismore Memorial Baths complex over the coming 12 months with the aim of establishing a solid management base. The implementation of the Centre Management Software System enables the Contractor to generate the data required by Council rapidly and reliably to assist in this process.

Council will refine its requirements for management of the complex toward the conclusion of this 12 month interim management contract period, and advertise for Expressions of Interest seeking tenders for the long-term management of the complex.

## **Recommendation (COM01)**

- 1 That Council appoint Mr Iain Jones as the Management Contractor for a period of 12 months.
- 2 That Council adopt the Management Contract for a period of 12 months.

## Report

<b>Subject</b>	<b>Tenders for Water Mains Replacement, Various Locations, Lismore</b>
<b>File No</b>	T26001
<b>Prepared by</b>	Contracts Engineer - Lismore Water
<b>Reason</b>	To inform Council of the tenders received for the water mains replacement, various locations, Lismore
<b>Objective</b>	To obtain Council approval to award the Contract
<b>Strategic Plan Link</b>	Water and Waste Cycle
<b>Management Plan Activity</b>	Water Supply

### Overview of Report

This report outlines the recommendation to award the tender for the water main replacement.

### Background

Council called tenders for the water mains replacement in some parts of Victoria Street, Venn Street, James Street, Laurel Avenue, Barnes Avenue, Dibbs Street, Magellan Street, Sunshine Place, Pleasant Street and Kadina Street in Lismore. These water mains are in poor structural and service condition and in need of urgent replacement.

The request for tender was advertised in "Tenders Live" on Council's website and in the Weekend Star, the Courier Mail and the Sydney Morning Herald.

Eight organisations collected the tender documents and one tender was received by the closing time at 2.00pm on Tuesday 16 August 2005.

### Tender Examination

Summary of the tenders received is given below.

TENDERER	TENDER PRICE
Camglade Pty Ltd	\$487,745.00

Note: Prices shown are **exclusive of GST**.

The tender is a schedule of rates tender. The "tender price" is the estimated price of the works, as inserted by the tenderer using their respective rates.

An evaluation committee comprising of Ravi Ariyasinghe (Contracts Engineer), Janaka Weeraratne (Asset Manager) and Kim Bulmer (Water and Wastewater Inspector) undertook the assessment of tenders.

The tender documents (Clause B7) defined four areas by which each tender would be assessed:

- i. Total Price,
- ii. Capability and Past Experience,
- iii. Quality, safety and Environmental Management; and
- iv. References.

The Attachment 'A' shows the evaluation. Taking all the assessment criteria into account, Camglade Pty Ltd provides a good proposal, despite being the only tender received. The rates submitted were comparable with the rates received for the previous similar tenders.

## Referee Check

Lismore City Council has contracted Camglade Pty Ltd for many works in the past. During the last financial year, Camglade Pty Ltd carried out similar works under T25001 - Water Main Replacement. These works were performed to a high standard.

## Comments

### Financial Services

There are sufficient funds allocated in the 2005/06 budget for the replacement of these water mains.

### Other staff comments

Not required.

### Public consultation

Not required.

## Conclusion

Camglade Pty Ltd is considered to have the ability to complete the work satisfactorily. It is recommended that the contract for the water main replacement be awarded to Camglade Pty Ltd at the rates submitted.

## Recommendations (ENT09)

1. The contract for the water mains replacement be awarded to Camglade Pty Ltd at the rates submitted. (The estimated price of the works is \$487,745.00 plus GST.)
2. The Mayor and General Manager be authorised to execute the Contracts on Council's behalf and attach the Common Seal of the Council.

## Report

<b>Subject</b>	Arts Northern Rivers Board of Directors
<b>File No</b>	S86
<b>Prepared by</b>	Manager Community Services
<b>Reason</b>	Request from Board
<b>Objective</b>	To confirm the Lismore City Council Arts Northern Rivers Board Director.
<b>Strategic Plan Link</b>	Quality of Life
<b>Management Plan Activity</b>	Community Services

### Overview of Report

This report seeks to confirm Lismore City Council's representative to the Arts Northern Rivers Board.

### Background

At the 13 July 2005 Council meeting, it was resolved that Council's representative on the Arts Northern Rivers Board would be determined via an expression of interest process, to be advertised within the local community. The rationale behind the report's recommendation was that an individual from the Lismore arts community would be best placed to represent Council on the Arts Northern Rivers Board.

At its meeting on 21 February 2005, the interim Board of Arts Northern Rivers Inc set the date for its first annual general meeting to take place on 17 October 2005. Councils have been requested to confirm their representatives for that meeting.

The interim Board of Arts Northern Rivers Inc has met on a regular basis since its inception and comprises exclusively local government representatives, both staff and Councillors. The current composition of the Board is as follows:

Cr Phil Silver (Acting Chair) Ballina Shire Council  
 Greg Downes, Administration and Community Services Manager, Byron Shire Council  
 Cr Joy Mathew, Clarence Valley Council  
 Scott Turner, Director Planning, Environment and Community Services, Kyogle Shire Council  
 Wendy Adriaans, Manager Community Services, Lismore City Council  
 Wayne Halcrow (Treasurer) Director Corporate Services, Richmond Valley Shire Council  
 Gary Corbett, Museum and Gallery Coordinator, Tweed Shire Council

The Board continues to function efficiently and harmoniously, and meetings are rotated in all local government areas. However, given the very positive progress of Arts Northern Rivers and the fluid and regional approach to developing the arts industry across all council areas, it is considered prudent to continue with local government representation on the Board. Local government representative are considered essential to assist Arts Northern Rivers with access to Mayors, General Managers, government representatives etc.

It should be noted that within the Constitution of Arts Northern Rivers Inc there is provision to co-opt additional members (up to 40% of the composition of the Board) who may not necessarily be associated with local government.

## Comments

Not required

## Other staff comments

Not required

## Public consultation

This matter was discussed at length at the June 2005 Arts and Culture Policy Advisory Group meeting. The group unanimously supported the proposal for the current Council representative to continue as Lismore City Council's representative on the Arts Northern Rivers Board. It was also recommended that Professor Jan Davis, Head of the School of Visual Arts at Southern Cross University, act as an alternate representative for Council should the representative be unavailable.

## Conclusion

The Arts Northern Rivers Board is a very successful entity, and together with Arts Northern Rivers staff is successfully supporting and facilitating the development and growth of the arts within the Northern Rivers. This success is due in part to direct and regular contact with all local governments within the region. Evidence from other regional arts centres strongly links the involvement of local government with continued success and sustainability of the regional arts entities and their boards. Lismore City Council's interests are best served by local government representation rather than seeking a community representative via an expression of interest process.

## Recommendation (DG01)

- 1 That Wendy Adriaans, Manager of Community Services, remain the Lismore City Council representative to the Arts Northern Rivers Board.
- 2 That Jan Davis (SCU) represent Council at Arts Northern Rivers Board meetings in the absence of the Manager-Community Services.

## Report

<b>Subject</b>	Nominations to fill Vacancy on Clunes Wastewater Committee
<b>File No</b>	S288
<b>Prepared by</b>	Manager Lismore Water
<b>Reason</b>	Resignation of a Clunes Wastewater Committee Member created a vacancy
<b>Objective</b>	To fill vacancy
<b>Strategic Plan Link</b>	Water and Waste Cycle
<b>Management Plan Activity</b>	Wastewater

### Overview of Report

Three applications have been received for the replacement of member of Clunes Wastewater Committee.

### Background

A committee member resigned from the Clunes Wastewater Committee (CWC). The vacant position was advertised in accordance with a recommendation made by the CWC. Three applications were received and the nominees for the position are:

- Hugh John Gallagher
- Richard Graeme Hancock
- Jim Richardson.

One of the criteria specified by the Committee was the applicant needs to be familiar with the process and all three applicants stated that they have attended all the CWC meetings for the “new” Committee.

The three applications are attached (Attachment “A”).

### Comments

#### Financial Services

Not required.

#### Other staff comments

Not required.

#### Public consultation

Not required.

## **Conclusion**

Three applications have been received for this vacancy in the Clunes Wastewater Committee and all satisfy the criteria for this position.

## **Recommendation (ENT12)**

Council appoint one person to fill the vacancy on the Clunes Wastewater Committee.

## Report

<b>Subject</b>	<b>Nominations to fill Vacancy on Corndale Quarry Community Consultative Committee</b>
<b>File No</b>	D97/342
<b>Prepared by</b>	Project Assessment Planner
<b>Reason</b>	Conditions 64 and 65 of quarry consent require a consultative committee to be created.
<b>Objective</b>	To set up a committee
<b>Strategic Plan Link</b>	Natural Environment, Quality of Life
<b>Management Plan Activity</b>	Planning Services

### Overview of Report

Three community citizen nominations have been received for appointment to the Corndale Quarry Community Consultative Committee.

### Background

Conditions of consent by the Land & Environment Court require the setting up of a Corndale Quarry Community Consultative Committee (CQCCC).

Nominations were called for in a letter from council to a number of surrounding properties to the quarry. Two nominees have expressed formal interest (Messrs Pellatt and Hoggan) and more recently a third person has (verbally) requested to be placed on the Committee (Mr C Garlick).

Messrs Pellatt and Hoggan live in close proximity to the quarry, and Mr Garlick is at the Clunes end of James Gibson Road, being affected by trucking movements to and from the quarry.

Council has already appointed mediator Ms Carol Perry to act as independent chairperson on the Committee and the Corndale Quarry has nominated its two representatives.

### Comments

#### Financial Services

Not required.

#### Other staff comments

Not required.

### Public consultation

Nominations have been invited from "the public", that is, landowners in the general vicinity of the quarry. No further consultation is required.

## **Conclusion**

Three nominations have been received for the two positions on the CQCCC.

## **Recommendation (PLA15)**

Council appoint –

- Mr Darryl Pellatt of 530 Corndale Road, Corndale
- Mr Bruce Hoggan of 517 James Gibson Road, Corndale

as the community delegates to the Corndale Quarry Community Consultative Committee, with

- Mr Christopher Garlick of 205 James Gibson Road, Clunes

as alternate delegate in the event that either of the other delegates cannot attend a meeting at any time.

## Report

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

### Overview of Report

Council investments as at 31st August 2005 total \$31,876,094 subject to the final value of funds held under Managed Funds being advised shortly.

Interest rates reported over the period of August 2005 are 6.17% in comparison to 6.20% for August 2004.

### Background

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

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

### Report on Investments

- *Confirmation of Investments – 31st July 2005* \$31,746,013

The amount is higher than the estimate reported for July 2005 due to additional positive valuation movements in funds held under Managed Funds.

- *Estimate of Investments – 31st August 2005* \$31,876,094

Some variation is expected on the final balance of Managed Funds. The final valuation of these funds is not made until after the end of the month. The current rate of return on investments for August 2005 was 6.17% compared to 6.20% for the same period last year. Indications are that rates will remain steady in September 2005.

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

**Financial Services Comments**

N/A

**Other staff comments**

N/A

**Public consultation**

N/A

**Conclusion**

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

**Recommendation**

The report be received and noted

**MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING  
HELD ON AUGUST 17, 2005, AT 10.00 AM.**

**Present** Councillors Merv King (*Chairperson*) and Jenny Dowell, Ms Bronwyn Mitchell (*on behalf of Mr Thomas George, MP*), Mr Michael Baldwin and Ms Liz Smith (*RTA*), Snr Const Steve Hilder and Stuart Turner (*Lismore Police*), together with Mrs Wendy Johnson (*Road Safety Officer*), Messrs Garry Hemsworth (*Manager-Roads & Parks*) and Bill MacDonald (*Co-Ordinator-Traffic & Law Enforcement*).

**In Attendance** Mr Warren Rackham for Item No. B-05:08-3  
Mrs Carol Van Der Wall for Item No. B-05:08-7

TAC62/05 **Apologies** Apologies for non-attendance on behalf of Councillor John Hampton, Mr Thomas George, MP, and Mr John Daley were received and accepted and leave of absence granted.

TAC63/05 **Minutes** The Minutes of the Traffic Advisory Committee Meeting held on July 20, 2005, were confirmed by Council on August 9, 2005.

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**Disclosure of Interest**

Nil

**Part 'A' – Committee Recommendations**

**Business Arising**

**Renwick Street, Lismore Heights – Speed Hump**

*(Refer Council Minute No. 246/03 of meeting of November 4, 2003)*

A plan of a proposed watts profile speed hump was tabled at the meeting. Its location would be in Renwick Street, just off High Street.

TAC64/05 **RECOMMENDED** that the facility be installed as shown on the plan. (R7130)

**Correspondence / Reports**

**Ministry of Transport; seeking advice regarding suitability or otherwise of current road infrastructure to assist in determining applications from various rural school bus operators to provide direct services to schools, thereby eliminating a forced transfer at the Lismore Bus Interchange.**

Mr MacDonald advised that he had liaised with all schools involved in the proposed reallocation of country bus services and all but Blue Hills College were in favour of students being transported directly from home to school. There would be minimal impact at schools provided bus operators worked together to ensure arrival and departure times were staggered and did not require the extension of existing infrastructure by Council at individual schools.

**Ministry of Transport** *(Cont'd)*

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- TAC65/05 **RECOMMENDED** that Council agree with the proposal provided bus operators worked together to ensure arrival and departure times were staggered and did not require the extension of existing infrastructure at individual schools by Council.
- TAC66/05 **FURTHER RECOMMENDED** that the introduction of three (3) additional buses to Blue Hills College not be agreed to until such time as the school has developed an adequate bus drop-off and pick-up point. (05-7853:S352,S673)

**P McWilliam; requesting a chevron signboard be installed at the T-intersection of Pitt Lane and Winterton Parade, North Lismore, to alert motorists of the approaching intersection.**

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- TAC67/05 **RECOMMENDED** that a black and white chevron hazard marker be erected on the eastern side of Winterton Parade, opposite its intersection with Pitt Lane. (05-8580:R6228,R6234,S346)

## General Business

### **Holland Street, Goonellabah – No Stopping Signs**

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The Committee considered the placement of No Stopping signs along both sides of Holland Street in the vicinity of the new shopping centre. It was reported to the Committee that, upon inspection, it was felt that No Stopping signs along the eastern side of Holland Street were all that was required.

- TAC68/05 **RECOMMENDED** that No Stopping signs be installed on the eastern side of Holland Street, between Ballina Road and Ida Place. (R6461)

## **Part 'B' – Determined by Committee**

### Correspondence / Reports

**Mrs H Laverick on behalf of Residents of Dunoon, Dunoon Public School, P&C Association, General Store and Post Office; expressing concern for excessive speed of traffic through the Dunoon Village and requesting that traffic calming devices be provided to slow traffic.**

B-05:08-1 Mr MacDonald advised that there had been insufficient time to carry out a further speed survey within the village and this would be available for the next meeting. (05-7614:S352)

**North Coast Area Health Service; drawing attention to access problems associated with the driveway entrance to the Pathology Service off Uralba Street, and requesting that the area be designated for "Ambulance and Pathology Courier Vehicles Only".**

B-05:08-2 Mr Baldwin advised that the signage, as proposed, was not allowed and he would need to make further investigations as to what would be appropriate. This approval was not delegated to Council. Mr Baldwin undertook to report back to the next meeting. (05-8581:R6058,S346)

### General Business

**Proposed Woolworths Service Station – Nos. 99-105 Diadem Street, Lismore**

B-05:08-3 Mr Rackham was present for this item and gave a brief outline of the history and current status of the proposed service station development. It was noted that previous concerns relating to site restrictions and traffic issues had generally been addressed by the Applicant. Mr Hemsworth advised that he had met with the residents of Diadem Street, discussing a number of issues including medians, landscaping and access. The proposed traffic facilities were considered appropriate. (D050534)

**Parking Facilities – Intersection of Fermoy Avenue/Irvine Place, Lismore**

B-05:08-4 Mrs M Pope had requested that No Stopping signs be erected near the driveway to No. 13 Fermoy Avenue as vehicles were often parked across the driveway. A number of inspections along Fermoy Avenue revealed that motorists generally were parking each side of driveways but not restricting vehicular access to properties. It was considered that No Stopping signs were not warranted. Council Rangers will be requested to carry out patrols in the area to ensure parking was uniform. (R6022:CR05-3146)

**Parking Facilities – No. 54D Terania Street, North Lismore**

B-05:08-5 Ms P Bradley had requested that No Stopping signs be erected near the driveway to the above property. No Stopping signs were not considered warranted, however, Council's Rangers would include this area in their patrols. (R6461)

### **Intersection of Ballina and Dibbs Streets, Lismore**

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B-05:08-6 Three (3) intersection upgrade options were discussed. Options 1 and 2 prohibited cross-traffic and downhill right-turn movements from Ballina Street. Option 3 allowed cross-traffic movements and still provided a dedicated right-turn bay for eastbound traffic on Ballina Street.

There were concerns that if cross-traffic movements out of Dibbs Street were prohibited, there would be significant impacts on local amenity in Avondale Avenue (past St Vincent's Hospital) and Pound Street/Magellan Street (past Lismore Public School). All cross-traffic movements would be concentrated towards the intersection of Ballina Street with Hunter Street/Second Avenue should either Options 1 or 2 be implemented. This intersection had its own inherent problems.

It was suggested that Option 3 be forwarded to the RTA as the preferred short-term option. Part of any assessment prior to implementation should include the impact of the recently introduced traffic lights and medians that have already been installed along Ballina Street.

(R6002,R6020)

### **Cowlong Road, McLeans Ridges – Speed Limit**

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B-05:08-7 Mrs Carol Van Der Wall, a resident of Cowlong Road, was present for this item and was invited to relay her concerns relating to traffic issues on Cowlong Road. Mrs Van Der Wall's concerns were the speed at which some motorists were driving and the potential for an increase in speed once the road was upgraded.

A recent speed survey conducted on Cowlong Road indicated that presently there was not a significant speeding problem with the 85<sup>th</sup> percentile speed being 81 kph and 87 kph. This did not mean that some individual motorists were not creating problems. Snr Const Steve Hilder advised that Police Officers patrolled the area when resources permitted and would continue to do so.

(R4501)

### **Vehicle Speeds on Elton Street, Lismore**

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B-05:08-8 Councillor Dowell relayed the concerns of a resident about the speed at which some motorists were travelling in the Esyth and Elton Streets area. A check of existing road conditions confirmed that the roads were narrow with poor alignment and did generally not encourage excessive speeds. Speeds in the area would be monitored by Police Officers when resources permitted.

(R7437,R7435)

### **Blueberry Farm Vehicular Access off Ballina Road, Lindendale**

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B-05:08-9 Concerns had been raised by the owners about difficulties being experienced by vehicles (trucks in particular), with turning into the property from the Lismore-bound overtaking lane. It was felt that a 'truck turning' sign would have little impact and the only way to overcome the current concerns would be for the property owners to upgrade their vehicular access to include a protected right-turn bay off the Highway.

It was noted, however, that this would be at significant cost. It was suggested that further investigations be carried out in consultation with the owners to find an acceptable outcome.

(P26765,R6408)

## **Closure**

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

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**Chairperson**

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**Co-Ordinator - Traffic & Law Enforcement**

## Documents for Signing & Sealing

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

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

### Recommendation

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

#### **Contract of Sale – Sale of Lot 41 Bristol Circuit**

Council has negotiated an offer of \$122,500 for the purchase of Lot 41 in the next stage of the Bristol Circuit subdivision. The price is consistent with both the value ascribed to the lot when the multilist agents visited the site and other comparable lot sales.

(05-8942: P28714)

## Section 356 Donations

- a) **Mayor's Discretionary Fund (GL2033.26)**  
 Budget: \$2,700 To date: \$110.00  
 Leukaemia Foundation – sponsorship for Marrowthon 100 Hole  
 Golf Challenge at Lismore Workers Golf Club on 28/10/05. \$50.00
- b) **City Hall Reductions in Rental – Policy 8.4.2 (GL2033.2)**  
 Budget: \$11,700 To date: \$0  
**Lismore Swing Connection** – Swing Dance Camp from  
 January 22-27, 2006.  
*In accordance with policy.* \$1,072.80
- c) **Banners – Policy 1.4.14 (GL2033.8)**  
 Budget: \$700 To date: \$145.00  
**Lismore 2005 Women Reclaim the Night Collective** –  
 October 26-30, 2005  
*In accordance with policy.* \$145.00
- d) **Council Contributions to Charitable Organisations**  
**Waste Facility – Policy 5.6.1 (GL2033.15)**  
 Budget: \$6,000 To date: \$793.16
- |                                      |               |          |
|--------------------------------------|---------------|----------|
| Animal Right & Rescue                | \$16.36       |          |
| Challenge Foundation                 | \$76.36       |          |
| Five Loaves                          | \$70.00       |          |
| Friends of the Koala                 | \$22.73       |          |
| LifeLine                             | \$110.00      |          |
| St Vincent De Paul Society           | \$5.45        |          |
| Salvation Army                       | \$110.00      |          |
| Westpac Life Saver Rescue Helicopter | <u>\$9.09</u> |          |
| <i>In accordance with policy.</i>    |               | \$419.99 |
- e) **Lismore Incentives for Investment - Policy 11.1.1**  
*In 1998, Council adopted the above policy to 'identify ways to encourage business investment and employment growth through incentives while still maintaining the integrity of Council's budget and funds management'. The policy provides the framework document, and the aims of the program are addressed through the implementation of the procedure in place at the Economic Development Unit.*  
*It is proposed to update and revise the policy, and this matter is to be listed for a future EDPAG meeting for recommendation and reporting to the Strategic Plan Steering Committee.*  
*To ensure that there is an alignment of procedures with the statutory reporting requirements under Section 356, the following information is provided:*
- Feijoa Productions P/L - Rural Tourist Facility**  
 Outcome of Incentives for Investment application and review panel assessment includes a cash contribution which is to be considered upon achievement of business plan phases and objectives which demonstrate actual employment growth and economic contribution.  
*(In accordance with policy.)* Up to \$2,000.00

### Recommendation

In accordance with Section 356(1) of the Local Government Act 1993, the donations to persons as listed above are hereby approved for distribution.

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, AUGUST 9, 2005 AT 6.00PM.**

**Present** Mayor, Councillor King; Councillors Chant, Crimmins, Dowell, Ekins, Graham, Hampton, Henry, Irwin, Meineke, Swientek and Tomlinson, together with the General Manager, Executive Director-Development & Governance, Manager-Finance & Administration, Manager-Roads & Parks, Acting Manager-Customer & Community Relations, Manager-Planning Services, Manager-Water & Wastewater, Manager-Environmental Health & Building Services, Administrative Services Manager and Team Leader-Administrative Support.

- 158/05 **Apologies/  
Leave of  
Absence** Leave of absence was approved for Councillor Chant (August 10-September 10, 2005).  
(Councillors Crimmins/Irwin)
- 159/05 **Minutes** The minutes of the Ordinary Meeting held on July 12, 2005 were confirmed.  
(Councillors Irwin/Chant)
- 160/05 The minutes of the Extraordinary Meeting held on July 19, 2005 were confirmed.  
(Councillors Hampton/Swientek)

### Public Access Session

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

#### **John Donnelly & Jennifer Joy – Draft LEP Amendment No. 23 – Miscellaneous Amendments**

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Mr Donnelly and Ms Joy spoke to their submission. They emphasised the long term benefit their business would bring to Lismore, the need to live on site and requested removal of the requirement for the 1:500 year flood event engineer's report.  
(S894)

### Disclosure of Interest

#### **S459**

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Councillor Meineke declared an interest in report Provision for Mowing Services.  
(His company a tenderer.)

### Mayoral Minute

#### **North Coast Area Health Service**

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- 161/05 **RESOLVED** that the minute be received and as a result of these serious concerns, Council call on the Minister for Health, Mr Hatzistergos to urgently come to Lismore to:
- 1 Develop a plan by the end of August to circumvent the withdrawal of medical services at Lismore Base Hospital.
  - 2 Broker sufficient goodwill with the doctors to retain their services whilst negotiations continue.

- 3 Ensure effective negotiation between doctors and health administrators in order to resolve the current dispute in a spirit of compromise, including:
  - a) acting on a statewide basis to determine the appropriate level of remuneration for anaesthetists by bringing forward negotiations on the Visiting Medical Officer (VMO) Sessional Determination, which sets relevant remuneration levels;
  - b) as a matter of urgency, providing necessary financial and non-financial resources to assist a resolution.
- 4 Immediately implement the Resource Distribution Formula to ensure that fair and equitable funding is made available to the NCAHS without delay, including the Lismore Base Hospital.
- 5 Commit to full funding for Stage 3 of the re-development of the Lismore Base Hospital in the next State budget.  
(Councillors King/Irwin) (S792)

## Altering Order of Business

162/05 **RESOLVED** that the order of business be altered to debate the following matters raised during public Access:

- Draft LEP Amendment No. 23 – Miscellaneous Amendments  
(Councillors Irwin/Henry)

## Reports

### **Draft LEP Amendment No. 23 – Miscellaneous Amendments**

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- 163/05 **RESOLVED** that the report be received and Council -
- 1 Adopt LEP Amendment No. 23 as per the attachment to this report.
  - 2 Use its delegations under section 69 of the EP&A Act to forward a report to the Minister for Infrastructure, Planning and Natural Resources with the request that the Minister make the plan.
  - 3 Prepare and exhibit a draft amendment to DCP 27 (Buffer Areas) to require a minimum 80 metre buffer between crematoriums and residential development.
  - 4 That LEP Amendment No. 26 (residential use floodways) and reclassification of Crozier Field and Oakes Oval be brought to Council at its October meeting if possible.  
(Councillors Irwin/Hampton) (S894)

### **Amendment No. 8 to DCP 26 – Industrial Development**

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- 164/05 **RESOLVED** that the report be received and Council adopt Amendment No. 8 to Development Control Plan No. 26 Industrial Development as placed on exhibition.  
(Councillors Meineke/Hampton)  
**Voting Against:** Councillors Irwin, Tomlinson, Ekins, Dowell and Swientek.  
(S545)

### **Amendment No. 24 to Lismore Local Environment Plan – 9 Livotto Drive, Richmond Hill**

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- 165/05 **RESOLVED** that the report be received and Council -
- 1 Adopt LEP Amendment No. 24 as attached to this report.
  - 2 Use its delegations under section 69 of the EP& A Act to forward the amendment and report to the Minister for Infrastructure and Planning with a request that the Minister make the Plan.

- 3 Adopt the Livotto Drive, Richmond Hill Rezoning Submission prepared by Newton Denny Chapelle dated May 9, 2005 generally in accordance with the Master Plan including the following reports:
- Richmond Hill Road Catchment Local Development Guidelines prepared by Newton Denny Chapelle.
  - Proposed Rural Residential On Site Sewage Management Strategy prepared by Peter Lucena and Associates Pty Ltd dated April 23, 2004.
  - 395 Richmond Hill Road Lismore City, Ecological Assessment Report prepared by Place Planning and Design.
  - Land Use Conflict Risk Assessment Plan prepared by Newton Denny Chapelle.
- (Councillors Hampton/Meineke) (S896)

### **Lismore Floodplain Management Plan**

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166/05

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

- The Lismore Floodplain Management Plan be amended by replacing the current plan for fill restrictions on the Airport Industrial Estate with the updated plan as attached to this report.
- The amended Lismore Floodplain Management Plan be placed on exhibition for public comment for a period of one month.

(Councillors Dowell/Graham)

**Voting Against:** Councillor Irwin. (S106)

### **Construction Certificate and Inspection, Fees and Charges Review 2005/06**

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A MOTION WAS MOVED that the report be received and –

- That Council's fees and charges for the issuing of Construction Certificates and Inspections remain unchanged as scheduled.
- That the archiving fee remain to be charged at Development Application stage.

(Councillors Irwin/Tomlinson)

AN AMENDMENT WAS MOVED that the report be received and –

- That Council's fees and charges for inspections remain unchanged as scheduled.
- That the archiving fee remain to be charged at Development Application stage.
- That Council fees and charges for the issuing of construction certificates be increased by 25%.

(Councillors Henry/Hampton)

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

**Voting Against:** Councillors Irwin, Tomlinson, Ekins, Dowell and Swientek.

167/05

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

- That Council's fees and charges for inspections remain unchanged as scheduled.
- That the archiving fee remain to be charged at Development Application stage.
- That Council fees and charges for the issuing of construction certificates be increased by 25%.

(Councillors Henry/Hampton)

**Voting Against:** Councillors Irwin, Tomlinson, Ekins, Dowell and Swientek.

(S910)

**Nesbitt Park – Old Tennis Court Site**

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- 168/05 **RESOLVED** that the report be received and Council endorse the proposal to lease the Nesbitt Park Old Tennis Court site to Lismore District Cricket Association.  
(Councillors Chant/Irwin) (P1863)

**Tenders for the Renewal of Sewer Mains, Various Locations, Lismore**

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- 169/05 **RESOLVED** that the report be received and –
- 1 The contract for the renewal of sewer mains - Separable Portion 1 be awarded to Collex Pty Ltd at the rates submitted. (The estimated price of the works is \$ 1,318,461 plus GST.)
  - 2 The contract for the renewal of sewer mains - Separable Portion 2 be awarded to Camglade Pty Ltd at the rates submitted. (The estimated price of the works is \$293,260 plus GST.)
  - 3 The Mayor and General Manager be authorised to execute the Contracts on Council's behalf and attach the Common Seal of the Council.
  - 4 An additional \$330,000 from Council's sewer reserves be allocated to undertake these sewer main renewal works.
- (Councillors Dowell/Graham) (T25025)

**Provision for Mowing Services**

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S459

Councillor Meineke declared an interest in this matter and left the chamber during discussion and determination thereof.

- 170/05 **RESOLVED** that the report be received and -
- 1 The contract for the provision of mowing services of various urban & rural areas for the period to July 31, 2006 be awarded to Gaudrons Mowing & Vegetation Management for the amount of \$85,040.00 +GST.
  - 2 The Mayor and General Manager be authorised to execute the Contract on Council's behalf and attach the common seal.
- (Councillors Hampton/Graham) (T25021)

**Provision for the Maintenance of Turf Wickets**

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- 171/05 **RESOLVED** that the report be received and the contract for the provision of maintenance of turf wickets for the period to July 31, 2005 not be awarded.  
(Councillors Swientek/Chant) (T25026)

**Miscellaneous Section 356 Community Donations Funding**

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- 172/05 **RESOLVED** that the report be received and -
- 1 That the 2005/2006 miscellaneous Section 356 donations be provided to the following ten (10) projects:-

a) Northern Rivers Community Transport	\$1,400
b) Interchange Respite Care Inc.	\$2,200
c) Tower Pre-school Inc.	\$2,200
d) Lismore Soup Kitchen	\$2,000
e) Five Loaves Mobile Soup Kitchen	\$2,200
f) Lismore Senior Citizens Club	\$1,650
g) Lismore Meals on Wheels	\$2,200
h) South Lismore Soccer Club	\$2,200
i) Lismore Swans Junior AFL	\$2,200
j) Ngamahi Goori Youth Group	\$2,000

- 2 That Councillor's vote to increase the section 356 miscellaneous community donations funding from \$30,500 to \$33,240 and therefore fund the following six (6) projects in addition to the ten (10) above, so that all sixteen (16) projects are funded.: -
- |   |         |
|---|---------|
| a) YWCA                                   | \$2,200 |
| b) Humour Foundation                      | \$2,190 |
| c) Cedar Guitar Country Music Festival    | \$2,200 |
| d) The Channon Trust Youth Group Project  | \$2,200 |
| e) Lismore over 50's Learning Centre      | \$2,000 |
| f) Northern Rivers Community Legal Centre | \$2,200 |
- (Councillors Irwin/Chant) (S164)

**The Australian Sister Cities Association (ASCA) National Conference 2005 –  
*'A New Energy in Sister Cities'***

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- 173/05 **RESOLVED** that the report be received and –
- 1 That support Councillor's Swientek's attendance at the ASCA Conference.
  - 2 That Councillor Swientek provide a written report and evaluation of the conference which clearly outlines the conference outcomes and anticipated benefits to the community as a result of participation.
- (Councillors Chant/Hampton) (S390)

**One Local Government Association**

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- 174/05 **RESOLVED** that the report be received and Council support in principle the amalgamation of the Local Government Association and the Shires Association of NSW into one organisation.  
(Councillors Irwin/Crimmins)  
**Voting Against:** Councillor Swientek. (S47)

**June 2005 Quarterly Budget Review Statement**

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- 175/05 **RESOLVED** that the report be received and -
- 1 Council adopt the June 2005 Budget Review Statement for General, Water and Sewerage Funds.
  - 2 This information be submitted to Council's Auditor.
- (Councillors Irwin/Henry) (S880)

**Management Plan Review 2003-2006 – Quarter ended June 2005**

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- 176/05 **RESOLVED** that the report be received and noted.  
(Councillors Dowell/Hampton) (S4)

**July 2005 – Investments held by Council**

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- 177/05 **RESOLVED** that the report be received and noted.  
(Councillors Hampton/Graham) (S178)

## Committee Recommendations

**Traffic Advisory Committee 20/7/05**

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- 178/05 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted, excluding Clauses B-05:07.5.  
(Councillors Irwin/Tomlinson)

**Clause B-05:07.5 – Ballina Street (SH16) – Proposed Centre Median**

A MOTION WAS MOVED that there be further investigation into a turning lane from Ballina Street into Brewster Street.

(Councillors Swientek/Crimmins)

AN AMENDMENT WAS MOVED that the item be noted.

(Councillors Irwin/Hampton)

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

**Voting Against:** Councillor Swientek.

- 179/05 **RESOLVED** that the item be noted.  
(Councillors Irwin/Hampton) (R6002,S352)

**Strategic Plan Steering Committee 19/7/05**

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- 180/05 **RESOLVED** that the minutes be received and adopted and the recommendations contained therein be adopted  
(Councillors Dowell/Graham) (S4)

## Documents for Signing and Sealing

- 181/05 **RESOLVED** that the following documents be executed under the Common Seal of Council:

**Mortgage Deed - 71 Union Street, Lismore**

Deferral of Section 94 & 64 Levies for DA 05/10 - Rural Tourist Facility, Dunoon Road, Dorrroughby in accordance with the Incentives for Investment policy, Feijoa Production P/L have been offered a deferral of S94 (\$11,109) and S64 levies (\$17,586) for this development.

To provide security of payment for the deferral period, they have offered an unencumbered or first mortgage over 71 Union Street, Lismore. This is an acceptable form of security and legal advice is currently being sought to confirm the mortgage meets Council's absolute rights should a default occur.

Council's formal approval is required prior to accepting the mortgage for this purpose.  
(P9667, D05/10, P17044:05-7960)

**Plan of subdivision and accompanying 88B instrument - Lot 6 DP 1055586, Heather Avenue, Goonellabah**

The plan of subdivision is for Lot 6 DP 1055586, Heather Avenue, Goonellabah. An allotment for a sewer pump station has been dedicated and easements for access and water and sewer drainage have been created.

(DA02/699)

(Councillors Hampton/Chant)

## Section 356 Donations

- 182/05 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the donations to persons as listed are hereby approved for distribution.

**e) City Hall Reductions in Rental – Policy 8.4.2 (GL2033.2)**

*Budget: \$11,700 To date: \$0*

Lismore Symphony Orchestra – performance on November 12, 2005.  
(05-8098: S164,P6816)

<i>In accordance with policy.</i>	\$63.00
Mr Marshall Fittler – public meeting – crisis at Lismore Base Hospital 6/8/05 (05-8469: P6816,S164) <i>In accordance with policy.</i>	\$67.75
Lismore Musical Festival Society – schools days eisteddfod – August 8-10, 2005. (05-8461: P6816,S164) <i>In accordance with policy.</i>	\$282.00
Livewire – christian youth bands night 27/8/05. (05-8462: P6816,S164) <i>In accordance with policy.</i>	\$76.20
<b>f) Banners – Policy 1.4.14 (GL2033.8)</b> <i>Budget: \$700 To date: \$0</i>	
Lismore Legacy – banner in Uralba Street from August 29-September 2, 2005. (05-7794: S164,S374) <i>In accordance with policy.</i>	\$145.00
<b>g) Council Contributions to Charitable Organisations</b> <b>Waste Facility – Policy 5.6.1 (GL2033.15)</b> <i>Budget: \$6,000 To date: \$373.17</i>	
St. Vincent de Paul Society (June) <i>In accordance with policy.</i>	\$85.64
Animal Right & Rescue	\$9.09
Challenge Foundation	\$110.00
Five Loaves	\$48.18
Friends of the Koala	\$18.18
LifeLine	\$110.00
St Vincent De Paul Society	\$5.45
Salvation Army	\$54.09
Westpac Life Saver Rescue Helicopter	<u>\$18.18</u>
<i>In accordance with policy.</i>	\$373.17
<b>d) Hardship Claim – Lismore Water – Policy 6.1.6 (GL8201.13)</b> <i>Budget: \$12,200 To date: \$0</i>	
D & T Blokland, 113 Brunswick Street, Lismore <i>In accordance with policy.</i>	\$277.14
E & C Bryce, 12A Eversham Drive, Modanville <i>In accordance with policy.</i>	\$409.20
<b>e) Development &amp; Construction Cert. Application Fees Subsidy</b> <b>Policy 1.4.7 (GL2033.7)</b> <i>Budget: \$300 To date: \$0</i>	
Our Kids – NR Children’s Health Fund – S68 application for temporary fence around northern side of The Left Bank for Wine Fair 18/9/95 - 30% of fee. (05-8214: S164,P25694) <i>In accordance with policy.</i>	\$47.40
<b>f) Mayor’s Discretionary Fund (GL2033.26)</b> <i>Budget: \$2,700 To date: \$70.00</i>	
Nimbin Women’s Bowling Club – sponsorship for Gala Day – 5/9/05 (05-7949: S164)	\$20.00

Corndale Public School P & C Association – annual Trivia Night 20/8/05  
(05-7810: S164) \$20.00

**g) Miscellaneous Donations**

- 1 Lismore Theatre Company (LTC) – request for Council to waive the Place of Public Entertainment - Annual Registration & Inspection fee.  
(05-7693 & 05-7999: P583 & S164)  
\$200.00
  
- 2 Lismore Public School P & C Association – originally requested the use of Richards Oval where no fees apply to schools. Richards Oval however is receiving heavy use and requires resting. The only suitable available site is Crozier Oval. Council's policy requires schools to pay fees for the use of Crozier Oval.  
Lismore Public School is requesting Council waive hire fees for Crozier Oval on 18/8/05 for holding a walkathon to raise money for the school.  
(Policy 8.8.1 Hire of Council Sports Grounds states: Schools can hire all grounds (except Oakes and Crozier Ovals and turf wickets) free of charge, on the understanding that there is no additional preparation of the relevant ground required. In the event that special preparations are required then a fee will be charged for such works, calculated in accordance with Council's adopted Fees and Charges.) (05-7817: S164,P25112) \$188.00  
(Councillors Irwin/Dowell)

**Closure**

This concluded the business and the meeting terminated at 8.30 pm.

CONFIRMED this 13TH of SEPTEMBER, 2005 at which meeting the signature herein was subscribed.

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**MAYOR**

**MINUTES OF THE EXTRAORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE  
HELD IN THE COUNCIL CHAMBER, GOONELLABAH ON TUESDAY, AUGUST 23, 2005 AT 6.00PM.**

**Present** Mayor, Councillor King; Councillors Dowell, Ekins, Graham, Hampton, Irwin, Meineke, Swientek, together with the General Manager, Executive Director-Development & Governance, Manager-Finance & Administration, Acting Manager-Customer Service & Community Relations, Manager-Community Services, Recreation Planner and Administrative Services Manager.

183/05 **Apologies/  
Leave of  
Absence** Apologies for non-attendance on behalf of Councillors Chant, Crimmins, Henry and Tomlinson were received and accepted and leave of absence granted.  
(Councillors Irwin/Graham)

### Public Access Session

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

#### **Mr Bruce Towner**

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Mr Towner spoke on behalf of the Lismore RSL Swimming Club. He raised concerns over the "per hour facility hire charges" and the family charges. He sought a reduction in these fees to support greater use of the facility.  
(P6768,S910)

#### **Mr Chris Mills**

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Mr Mills, on behalf of the Lismore Workers Swim Team detailed the activities of the Club. He spoke against the general increase in fees. He claimed the level of fees would restrict the number of carnivals that would be held at the facility.  
(P6768,S910)

### Suspension of Standing Orders

184/05 **RESOLVED** that standing orders be suspended to allow discussion on the undermentioned matters:-

- **Lismore Memorial Baths – 2005/06 Fees and Charges**  
(Councillors Irwin/Hampton)

### Resumption of Standing Orders

185/05 **RESOLVED** that standing orders be resumed.  
(Councillors Irwin/Hampton)

### Reports

#### **Lismore Memorial Baths – 2005/06 Fees and Charges**

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186/05 **RESOLVED** that the report be received and –  
1 All submissions be received and noted.



- 3 Guidelines for the refund/reimbursement of annual passes be considered and prepared by management.
- 4 When Council next reviews its fees and charges for the Lismore Memorial Baths, comment be sought from the following Policy Advisory Groups:
  - Economic Development
  - Sport and Recreation
  - Community Services(Councillors Graham/Irwin)  
**Voting Against:** Councillor Swientek.  
(P6768,S910)

## Documents for Signing and Sealing

187/05 **RESOLVED** that the following documents be executed under the Common Seal of Council:

**Final Plans of Survey and Section 88B instruments – Bristol Circuit**

For the subdivision of land in Bristol Circuit owned by Council – Lot 34, DP 1068160.  
(Councillors Hampton/Dowell) (D04/93)

## Closure

This concluded the business and the meeting terminated at 7.40 pm.

CONFIRMED this 13TH day of SEPTEMBER, 2005 at which meeting the signature herein was subscribed.

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**MAYOR**

