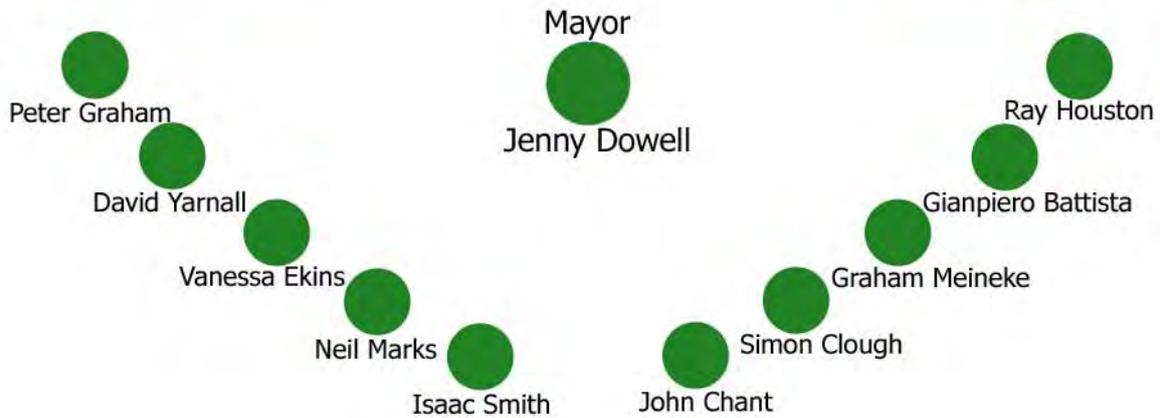


# Notice of Council Meeting



## Council

An ORDINARY MEETING of LISMORE CITY COUNCIL will be held in the COUNCIL CHAMBERS, 43 Oliver Avenue, Goonellabah on Tuesday, 13 December 2011 at 6.00pm

Members of Council are requested to attend.

Gary Murphy  
**General Manager**

6 December 2011

# Agenda

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Mike Berry - Balzer Oval, Dunoon - Land Acquisition	
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# Lismore City Council Community Strategic Plan 2008 - 2018



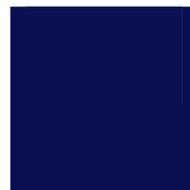
Guiding Principles	Outcomes
Social Inclusion and Participation	That all Lismore residents enjoy equal opportunities within a strong, inclusive community.
Sustainable Economic Growth and Development	That Lismore's economy is vibrant and development is environmentally and socially sustainable.
Protect, Conserve and Enhance the Environment and Biodiversity	That Lismore's natural ecology is protected and maintained in a healthy and robust state for future generations
Best-Practice Corporate Governance	That best-practice management principles pervade our business; that we are innovative, ethical, and our use of resources provides maximum benefits to the community.

Community Strategic Priorities	Outcomes
Enhance Lismore as a Regional Centre	That Lismore retains and builds on its regional service centre role, including the provision of key medical, legal and tertiary education functions
Foster Youth Development	That young people are included in our community and can safely pursue their interests and aspirations.
Support an Ageing Population	That older people have access to appropriate services and facilities to enhance their health and wellbeing.
Provide Sustainable Land-use Planning	That land-use planning is founded on principles of sustainability.
Improve Catchment Management	That catchment management is integrated and holistic, in order to achieve a sustainable and balanced use of natural resources.
Revitalise the CBD	That the CBD becomes a vibrant meeting place and a cultural and entertainment hub for the Northern Rivers region.
Integrated Waste Cycle Management	That Lismore minimises waste to landfill by reducing, reusing and recycling.
Improve Roads, Cycleways and Footpaths	That Lismore has an extensive transport network and is an accessible, safe and efficient city for motorists, cyclists and pedestrians.
Mitigate Climate Change at a Local Level	That Lismore is a leader in reducing carbon emissions and minimising the impacts of climate change.
Develop and Support Art, Cultural, Sporting and Tourism Activities	That our regional art, cultural and sporting facilities remain a major component of Lismore life and an increasingly popular attraction for domestic tourists.
Integrated Water Cycle Management	That Lismore maintains long-term water security for its growing population through the efficient use of this precious resource.
Provide Greater Housing Choices	That Lismore offers a diverse range of housing options to accommodate a variety of households.
Improve Passive and Active Recreational Facilities	That Lismore retains and builds on its regional recreation centre to attract major events and tournaments.

Corporate Foundations	Outcomes
Efficient Use of Council Resources	That we maximise the value of our resources, continually review our operations to ensure best value, eliminate waste and duplication, and gain the full service potential from our assets
Engage With the Community	That the community is informed and consulted about the issues that are relevant to their lives and we are fully accountable to the community for our operations.
Promote a Constructive Corporate Culture	That customers and staff experience a supportive organisation, with a strong sense of integrity, which responds to their needs and provides innovative and creative services.
Whole of Council Corporate Planning	That we have clear goals and act as one in their co-ordinated implementation, in order to maximise the return on resource investment and staff expertise.
Providing Excellent Customer Service	That our primary focus is to understand and respond to the needs of the community we serve.

# Notice of Rescission Motions

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## Notice of Rescission

**Crs John Chant, Graham Meineke and Neil Marks** have given notice of their intention to move the following rescission motion:

That the Resolution on the Draft Koala Plan of Management, Minute Number 515/11, of Ordinary Council Meeting 8 November 2011 be rescinded.

### **Staff Comment**

#### **Manager - Integrated Planning**

Council staff recommend and strongly support the putting of the Draft Koala Plan of Management (KPoM) on exhibition at this time and as such don't support the Rescission Motion. The key reasons for this recommendation are:

1. The exhibition at this time is required for staff to meet Council's Delivery Plan deadline for reviewing this plan. Council resolved in 2009 to review the previous Comprehensive Koala Plan of Management and subsequently included this project into the four year Delivery Plan, with a timeline for completion by June 2012. This project is currently on track to meet this timeline. Delaying the exhibition will make it tight to meet this deadline.
2. The Draft KPoM was developed with a sound and agreed consultation process in preparation for exhibition. This involved a Community Consultation Workshop in February 2011, Expert Working Group meetings and nine meetings of the Stakeholder Reference Group (SRG) which was established specifically to provide input to the draft plan.
3. Council staff following consultation drafted a balanced KPoM, ready for public comment and submission. This document is intended to provide an objective tool for the assessment of development applications. It does not give rise to development applications.
4. The SRG has met since the last Council meeting to discuss the compensation provisions that were of concern to some Councillors. The SRG is not a decision-making body and they have understood this. They have however, discussed and had input to all the aspects of the draft KPoM.
5. Public exhibition is a key step in the consultation process and permits wider community input to the draft plan apart from the obvious key stakeholder groups. It is important that the wider community has input into the draft KPoM after such comprehensive preparation and stakeholder consultation.

**TRIM Record No:** BP11/942:EF10/363

# Notice of Motions

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## Notice of Motion

**Cr John Chant, Graham Meineke and Neil Marks** has given notice of intention to move:

That the Draft Koala Plan of Management be referred back to the Steering Committee to ground truth and rectify the mapping and discuss the protection measurements relating to the Habitat Compensation Policy of Appendix 2.

### **Staff Comment**

#### **Manager – Integrated Planning**

On Friday, 25 November 2011 the Stakeholder Reference Group (SRG) was reconvened to discuss the issues raised in the Notice of Motion, namely issues around the koala habitat map (Section 3 of the plan) and the Habitat Compensation Policy (Appendix 2).

It was acknowledged that the SRG was not expected to reach consensus on all issues, or to be a decision-making body. SRG members also reserved the right to support or not support the plan beyond this meeting, noting they are ultimately accountable to the bodies and groups they represent.

In regard to the Koala Habitat Map the SRG were advised that the purpose of this map was to:

- identify the area of the LGA to which the plan applies;
- provide an indication of koala habitat mapping at a regional scale; and
- provide a 'first sieve' to assist the development application assessment process.

Essentially the map does not trigger any component of the plan, as all development assessment decisions are based on a ground assessment of koala habitat, i.e. the map does not, of itself trigger the need for a development application. The SRG discussed issues around this topic.

In regard to the Habitat Compensation Policy the SRG were again led through the compensation provisions which apply to small and large developments and it was explained that the Habitat Compensation Policy only applies to large developments (i.e. subdivisions over four lots). The SRG were advised that three compensation classes exist for a proponent to choose from - habitat protection, enhancement and creation. The perception that developers are required, for example, to transfer land to Council is not correct because a proponent may choose other protection measures, or prefer to use habitat enhancement or creation measures instead. The SRG discussed issues around this topic.

The SRG were also advised that compensation provisions are already used in development assessments but there are no guidelines to ensure consistent outcomes. The draft habitat compensation measures are an improvement on this situation because they provide a transparent and consistent approach for assessing the use of compensation. They do not introduce another compliance regime.

The SRG meeting ended with a recommendation that a statement be attached to the draft KPOM that the SRG had an extra meeting which **identified a number of points of clarification** and that these will be considered by staff and addressed after the public exhibition phase. These include:

## Notice of Motion

1. Describing the purpose of the habitat map (as explained above);
2. Clearly explaining that Appendix 2 only relates to large developments;
3. Clearly explaining that the proponent has the option of choosing which habitat compensation mechanism to implement, and that no single mechanism is mandatory; and
4. Clearly confirming that that the draft KPoM is a development application assessment tool and does not give rise to DA's.

These four points do not raise new substantive issues; rather clarify aspects in the draft document. Taking this into account and given Council's resolution in November to exhibit the draft KPoM it is not recommended that these amendments be made to the document. Instead they can be accommodated via:

1. Including them in the frequently asked questions (FAQ) sheet as part of the exhibition. This would effectively meet the request by the KPoM SRG.
2. A staff submission to the draft KPoM during the exhibition period.

**TRIM Record No:** BP11/943:EF10/363

## Notice of Motion

**Cr Gianpiero Battista** has given notice of intention to move:

That:

1. Lismore City Council sends a request to the NSW Minister for the Arts, Mr George Souris, to invite Cameron Morley, Manager of the NSW State Library's Public Library Services Branch, to advise Councillors on the future structure and management options available for the Richmond Tweed Regional Library.
2. The presentation from Mr Morley on the options available be in the form of a briefing with open public access.

### **Councillor Comment**

At the September meeting 2011 Council resolved to:

1. *Receive advice from Byron/Ballina on their investigations;*
2. *The library committee meet to discuss options; and*
3. *Receive a report on the implications for the Richmond Tweed Regional Library should Ballina Shire Council or Byron Shire Council not accept the offer to be a Participating Council.*

I believe it is only appropriate and timely that Mr Morley, Manager of the NSW State Library's Public Services Branch is invited to present and advise Councillors, whom will ultimately decide by vote, on what organisational model is more appropriate for the RTRL.

In consideration of the changes to the Library Act 1939 whereby, '2 or more local authorities may, with the approval of the minister, enter into an arrangement for the provision, control and management of any library service or information service in the area of any local authority that is a party of the arrangement', it is now possible to return to a **more independent** model of management of our Regional Libraries rather than having Lismore as the Administrative Council.

Ballina Council has approved a similar motion at their meeting on the 24 of November 2011 therefore I assume that Mr Morley will be travelling up here and could in fact present the options to both Councils.

### **Staff Comment**

#### **Manager - Finance**

A presentation by a NSW State Library representative to Councillors on options for the provision, control and management of library services afforded by the Library Act 1939 is supported. However, it is important to note that some options permissible under the Library Act 1939, such as a county council, would still require separate approval under the Local Government Act 1993 by the Minister for Local Government.

## Notice of Motion

Council considered a report on the Draft Richmond Tweed Regional Library (RTRL) Agreement at its 13 September 2011 meeting. It was resolved, in part, that the decision be deferred until the library committee meet to discuss options. In accordance with Council's resolution, a meeting of the RTRL Library Committee, Mayors and General Managers is tentatively scheduled for 7 February 2012. The RTRL Committee may also wish to receive the same presentation, albeit they would already be reasonably informed on such options, and this will be canvassed at the meeting.

**TRIM Record No:** BP11/962:EF10/363

# Reports

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# Report

<b>Subject</b>	<b>Balzer Oval, Dunoon - Land Acquisition</b>
<b>TRIM Record No</b>	BP11/838:P12629-02
<b>Prepared by</b>	Property Services Administrative Assistant
<b>Reason</b>	To advise Council of two issues related to the property adjoining Balzer Oval at Dunoon. It is recommended that Council pursue a boundary adjustment to deal with the identified issues.
<b>Community Strategic Plan Link</b>	Improve Passive and Active Recreational Facilities

## Overview of Report

This report proposes a solution for two issues identified as affecting land owned by Mrs Norma Balzer, adjoining Balzer Oval in Dunoon, and land owned by the Dunoon & District Sports & Recreation Club Ltd.

Wastewater from the Council amenities block located on Balzer Oval drains into an easement to dispose of wastewater on Mrs Balzer's land in favour of the Dunoon & District Sports & Recreation Club. In addition, a small area of the soccer field on Balzer Oval recently constructed by the Dunoon & District Sports & Recreation Club encroaches onto Mrs Balzer's land, adjacent to the drainage easement area.

This report proposes that Council pursue the purchase of a small parcel of land containing the easement and encroachment, and boundary adjust the land from Mrs Balzer's lot onto the Council owned Balzer Oval allotment.

## Background

The three properties affected by the issues being discussed in this report comprise:

- Balzer Oval owned by Lismore City Council and located at 131A James Street, Dunoon (Lot 2, DP 613492).
- Dunoon & District Sports & Recreation Club Ltd (*Sports Club*) land located at 15 Cowley Road, Dunoon (Lot 3, DP 805704).
- Mrs Norma Balzer's (*Balzer's land*) land located at 5 Donaghue Street, Dunoon (Lot 3, DP 1125175).

Balzer's land is a large parcel of land (approximately 48 hectares), adjoining and to the south of the Balzer Oval and Sports Club lots. Mrs Balzer's land is currently being subdivided for residential housing.

A plan of the area is provided below.



There are two areas of concern raised by Mr Norm Balzer, on behalf of Mrs Balzer, and the Sports Club:

### 1. Wastewater Disposal

The drainage of wastewater from the Council owned amenities block located on Balzer Oval (Council land) through the Sports Club easement to drainage beds located on Balzer's land has been occurring for some time. Council made connection into this system with the agreement of the Sports Club. The Sports Club has the legal benefit of an easement to drain wastewater onto Balzer's land to the south of the club land.

Mr Balzer is concerned about the effects of additional loading on the absorption trenches and the fact that the connection of Council's amenities block into the system apparently occurred without any reference to the Balzer family.

Council has sought legal advice regarding this situation and been advised that the current arrangement is legal, and that:

- "1. Under the statutory terms of an "Easement to drain sewage" (Part 4 Schedule 8 *Conveyancing Act*, 1919), the right is for every person entitled to an estate in possession in the land indicated as the dominant tenement (Lot 3) "and every person authorised by that person". So, provided Council is authorised by the club to drain the sewage, the terms of the easement are in that respect satisfied.
- " 2. In any event, the right is "to drain sewage and other waste material and fluid in any quantities across and through the land indicated as the servient tenement..." It does not say that the sewage is to be confined from a particular source or location - it is a right in absolute terms to do a specific thing, which is being done."

## 2. Soccer Field Encroachment

The Sports Club has completed construction of an additional soccer field at Balzer Oval. Conditions were placed on the development consent for the work requiring certain setbacks and clearances from the existing property boundaries. The work did not proceed in accordance with these requirements and the result is that there is an encroachment by the newly marked soccer field onto the adjoining Balzer land. This is in close proximity to the location of the easement and absorption trenches for the onsite wastewater disposal system.

The encroachment can be readily rectified by re-marking the soccer field to comply with the conditions of consent as issued by Council, however, this would result in a field that is smaller in size than a regular senior soccer field.

## Discussion

Based on the legal advice received, Council is not required to obtain a further easement to dispose of wastewater from the amenities building through the existing easement in favour of the Sports Club.

Further, in regard to encroachment of the soccer field, the problem is not Council's making and can be readily addressed through re-marking of the field.

However, it needs to be recognised that the Balzer land is soon to be redeveloped for residential housing and its ownership will change hands. Council and the Sports Club have enjoyed a very good relationship with the Balzer family over the years and an issue to consider in the current situation is that the family in the very near future will no longer own the land on which the easement exists. Council may have a different relationship with the new owners and there is considered to be strong merit in Council and/or the Sports Club actually owning the land on which the wastewater is disposed. This would remove many potential opportunities for conflict with a future owner of the land regarding the operation and maintenance of the onsite wastewater disposal system.

Acquiring this piece of land would also correct the issue with the location of the marked soccer field.

Staff have held discussions with Mr Norm Balzer and Mr Mike Berry from the Sports Club. The Sports Club has agreed to meet half the cost of legal and survey fees etc. should Council agree to acquire the land in question. The estimated cost of these fees is approximately \$1,000 assuming that the requisite survey and plan can be included in the current subdivision plan for the Balzer land.

Should a separate survey and plan be required, these costs would increase significantly to as much as \$7,000. Should the proposal proceed, there would need to be further discussion and negotiation between the parties to agree on the sharing of costs for the work required.

There was little discussion about the actual cost of purchasing the land, should there be a cost involved. The Balzer family have been very generous in their assistance with resolving issues involving Balzer Oval and the Sports Club in the past and it was perhaps assumed that this would continue. Mr Norm Balzer has since confirmed that his family would sell the small parcel of land to Council and is asking \$3,500.

## Sustainability Assessment

### Sustainable Economic Growth and Development

There is no detrimental effect on economic growth and development with this proposal.

## Social Inclusion and Participation

As part of the Development Application process, the proposal will be advertised and all neighbouring property owners notified of the proposed boundary adjustment. The ability to retain a second full sized soccer field at Balzer Oval is considered to be a positive outcome should the recommendation be adopted.

## Protect, Conserve and Enhance the Environment and Biodiversity

There will be no change and negative effect on the environment and biodiversity of the area with this proposal.

## Best-Practice Corporate Governance

A Development Application process is considered best practice for the proposed boundary adjustment.

## Comments

### Finance

The total cost for acquiring this parcel of land is estimated to be \$4,500. Some of these costs may be offset by a contribution from the Sports Club.

In regards to funding, it is recommended that \$4,500 be funded from the unexpended Rural Sports Facilities Fund carried forward from previous years. This will still leave \$24,500 plus \$25,700 provided in the 2011/12 Budget.

### Other staff comments

Not required.

### Public consultation

Not applicable at this stage. Normal consultation processes would be conducted as part of a development application for the proposed boundary adjustment.

## Conclusion

The boundary adjustment is suggested to deal with the issues identified in the report. It is considered prudent for Council and the Sports Club to own the land on which wastewater from the amenities building and the Sports Club is disposed given the impending change of ownership and development of the Balzer land for residential purposes.

The costs of purchasing the land and the associated legal and survey fees are significantly higher than those contemplated in earlier discussions with the Sports Club. There needs to be further discussion about sharing these costs and a delegation to the General Manager is considered appropriate.

Further, acquisition of the land will address the problem for the Sports Club in regard to the encroachment of the soccer field. In this regard it is considered reasonable that the Sports Club, in addition to contributing to the legal and survey costs involved, contribute to the cost of purchasing the land.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council agree in principle to purchase an area of land adjacent to Balzer Oval from the Balzer family to address the issues of wastewater disposal and an encroachment by the soccer field.
2. The General Manager be delegated authority to conduct further discussions and negotiations with the Balzer family and the Dunoon & District Sports & Recreation Club Ltd to progress the matter and in particular to negotiate a more equitable cost sharing arrangement with the Sports Club.
3. Upon reaching agreement with the Balzer family and Dunoon & District Sports & Recreation Club Ltd, the matter proceeds on the basis of a boundary adjustment, with the subject land to be added to the lot on which Balzer Oval is currently located.
4. Upon completion of the purchase, Council proceed to classify the land as operational land.
5. The Mayor and General Manager be authorised to sign and affix the Common Seal to all documents necessary to complete the actions contained in this report.
6. The net cost of this acquisition is funded from the Rural Sports Facilities Fund.

# Report

<b>Subject</b>	<b>S96 Application to Modify Development Consent 1998/7 - Perradenya Estate</b>
<b>TRIM Record No</b>	BP11/511:DA98/7-11
<b>Prepared by</b>	Senior Development Assessment Officer (Planning)
<b>Reason</b>	Council determination of Development Application.
<b>Community Strategic Plan Link</b>	Sustainable Economic Growth and Development

## Overview of Report

On 11 August 1998, Council granted Development Consent 1998/7 subject to conditions for: 168 Village Allotments, 2 Integrated Allotments, 1 Village Centre Allotments, 1 Water Reservoir Allotment, 2 Drainage Reserve Allotments, 5 Public/Private Open Space Allotments, 5 Sewer Pump Station Lots, Associated earthworks and staging. This approved development is known as the "Perradenya Estate" and as at the date of lodgement approximately 75 lots had been developed. The grant of Development Consent 1998/7 followed the rezoning of the land by Council in July 1997 and the adoption of DCP 35 (Caniaba Village) by Council in June 1998.

The proposed section 96 application seeks to modify the consent to:

1. delete the requirement for a Water Reclamation Scheme (WRS) and replace it with a \$7,000 subsidy to existing landowners for rainwater tanks, solar power or other environmentally friendly, energy efficient initiatives;
2. delete Condition 63 which requires the construction of a shared walking/cycling track between the Perradenya Estate and the Caniaba public school and replace it with a new condition that requires the developer pay Council s94 development contributions equivalent to the full construction cost of the footpath, and;
3. delete Condition 89 which requires five (5) private open space allotments to be available for the use of and management by the members of the Community Village Association (CVA), and replace it with a new Condition that requires the developer to manage and maintain the allotments until the subdivision is completed and at such time the subject lots are proposed to be dedicated to Lismore City Council.

Council as the consent authority may modify the subject development consent if it is satisfied that the development to which the consent as modified relates is "substantially the same" development as the development for which consent was originally granted and before that consent as originally granted was modified. It is concluded that if approved the proposed modification in relation to deletion of the WRS requirement will result in a development that is not substantially the same development as the development for which consent was originally granted. As a consequence, consent to the proposed modifications in relation to deleting the WRS is not supported. The proposed modification in relation to the shared walking/cycling track is also not supported given a detailed design that is fully costed has not been undertaken, the potential issues associated with the timing of construction and that the developer does not have to comply with Condition 63 until the release of the last residential allotment.

The proposed modification in relation to the CVA is only partly supported. For reasons outlined in this report, it is considered reasonable for Council to accept dedication of Lots 912, 1210 and 1410. However the failure of the CVA was not consider to be sufficient reason to accept the dedication of Lots 1701 and 1801, particularly given the ongoing maintenance liability Council would incur.

The section 96 application is a Crown application made on behalf of Rous Water and therefore Council cannot refuse the application or impose conditions without written concurrence from Rous Water. In the event of dispute over the proposed determination by Lismore City Council, the application must be referred to the Northern Region Joint Regional Planning Panel for determination and then the Minister if the application remains unresolved. These requirements of the EP&A Act are reflected in the 'recommendation'.

## Background

### Development Consent

On the 11 August 1998, subject to conditions, Council granted Development Consent 1998/7 for:

- **168 Village Allotments** (*for residential allotments*),
- **2 Integrated Allotments** (*for integrated housing*),
- **1 Village Centre Allotments**, (*for a village common, buffer plantings, shops, restaurant and offices, car parking, community hall and childcare centre, etc, depending on market forces for the final land use approval*)
- **1 Water Reservoir Allotment**, (*for a water reservoir*),
- **2 Drainage Reserve Allotments**, (*for drainage reserves and wildlife corridors*),
- **5 Public/Private Open Space Allotments**, (*for drainage reserves, wildlife corridors, equestrian centre, environmental protection area, bushfire buffer and walking, cycling and bridal paths* ),
- **5 Sewer Pump Station Lots (numbered 3000 - 3004)**, (*for subsurface pump stations*)
- **Associated earthworks and staging.**

At the time of determination of the original DA, Rous Water was not the developer of the proposed development, however took over the development of the estate in the late 1990's. The approved development is commonly known as the "Perradenya Estate" and as at the date of lodgement of the section 96 application approximately 75 village lots have been developed, which equates to approximately 45% of the overall estate.

Included as conditions within Development Consent 1998/7 was the requirement:

- to construct a Water Reclamation Scheme (**referred to hereafter as the 'WRS'**);
- to construct a shared walking/cycling track between the Perradenya Estate and the current Caniaba Primary School; and
- that five (5) private open space allotments be available for the use and management by the members of the Caniaba Village Association (**referred to hereafter as the 'CVA'**).

### Water Reclamation Scheme (WRS)

The approved WRS is broadly summarised as a scheme where the wastewater (sewerage) is collected from the approved dwellings within the estate and piped to a an on-site packaged sewerage treatment plant where it is treated and piped back to the dwellings to form the feed source for the potable and non-potable water to each of the dwellings within the Perradenya Estate. Each dwelling within the estate was to choose between the following water reticulation options available:

- (i) the provision of reticulated town water for indoor use and rainwater tanks for outdoor use;
- (ii) the provision of reticulated town water for indoor use and the provision of reticulated reclaimed water for outdoor use;
- (iii) the provision of reclaimed water for both indoor and outdoor use.

The conditions of consent required the developer in association with Rous County Council to construct the WRS.

The current section 96 application made the following comments in relation to the WRS, which are relevant as part of this background section.

*In the late 1990's, Rous Water undertook the development of a showcase environmentally sustainable water efficient residential community called Perradenya. When fully developed, it is expected that the estate will contain approximately 200 houses. As of June 2010, there were 75 of the total lots released for housing.*

*The initial water conservation concept involved the construction of a water reclamation plant to treat wastewater from the estate and the utilisation of a dual water supply scheme to provide households with recycled water produced by the plant, in addition to potable water from the bulk water supply network. A dual reticulation network has been installed in the developed parts of the estate and residents have installed internal dual plumbing in their dwellings to provide for future recycled water supply to toilets and outdoor taps.*

*At the time of purchase of blocks of land within the Perradenya Estate, the original purchaser was required to elect which of the following options would be their long-term water supply:*

- a) Town water for potable use and rainwater tank for non-potable;*
- b) Town water for potable use and reclaimed water for non-potable;*
- c) Reclaimed water for both potable and non-potable use.*

*Initially most purchasers elected option (c), some option (b) and none selected option (a).*

*Rous Water promoted the choice of option (c) with maximum financial incentive, (b) with some financial incentive and discouraged the choice of option (a) by requiring residents who chose that option to purchase their own tank. Over time, the following points became apparent.*

- 1 The NSW Health Department, the regulator for drinking water quality would not approve potable reuse.*
- 2 The estate was developing slower than anticipated.*
- 3 Rous Water was keen to involve itself in an alternative water efficient supply system.*

*This situation prompted Rous Water to promote a dual water supply for the new Ballina Heights subdivision which would provide some 3,000 lots/5,500 residents (15 times greater than Perradenya Estate) and after negotiations with the developer and Ballina Shire Council non-potable reuse was adopted. It was subsequently adopted as part of the overall Ballina Urban Water Management Strategy.*

*With this outcome, non-potable reuse moved from being part of a demonstration project at Perradenya to a full-scale application with community acceptance at Ballina Heights. Consequently, the need for a water efficiency showcase at Perradenya was no longer a high priority, and Rous Water resolved to reassess the alternative water supply options for Perradenya, engaging GeoLINK to assist with this process.*

*GeoLINK have prepared three documents for Rous Water in the event of the water reclamation strategy not proceeding at Perradenya. The reports reviewed alternative water supply options, community consultation and associated findings and a summary of the investigations into the alternative water supply options.*

*The technical assessment by GeoLINK compared the following alternative water supply options for the Perradenya subdivision:*

- Water reclamation plant for centralised treatment of wastewater and subsequent reticulation.*
- Household rainwater tanks for collection and reuse on each allotment.*
- Household grey water treatment systems for collection, treatment and reuse on each allotment.*
- Stormwater harvesting for centralised treatment and reticulation.*

*At the conclusion of the desktop analysis by GeoLINK the outcome was that rainwater tanks present the best cost benefit ratio of the options compared by GeoLINK. However, the report also recognised the physical constraints impacting on the implementation of rainwater tanks on existing developed village allotments. Subsequently, in conjunction with community consultation Rous Water then took the initiative to review other environmentally sustainable initiatives for the Perradenya Subdivision.*

*In addition to the above it is important to identify whether the entire Caniaba Village was to be connected to the WRS. In relation to 'Water Supply' and 'Wastewater' the Caniaba Village DCP in force at the time made the following statements:*

*“Lismore City Council has considered the most appropriate manner to provide the village with a sustainable water supply system. An integrated water and sewage treatment strategy has been prepared for the village. The proposed scheme will utilise reclaimed water to minimise the demand exerted on the current Rous County Council Headworks.*

*The challenge is for the whole village to be connected into a water reclamation scheme. For Perradenya hamlets, the village centre and the village residential areas, this concept is to be achieved by a reticulated collection system”.*

The report to Council for the determination of DA 1998/7 details that the developer of the Perradenya Estate was at the time entering into an agreement with Rous County Council and Lismore City Council to make the provision of options for reclaimed water available to property developers. In the context of the paragraph, the term ‘property developers’ is understood to be developers of other potential urban areas within the Caniaba Village.

In addition to the above, Condition 76a) of Development Consent 1998/7 indicates that the water reclamation plant is to be an alternative water supply solution for the broader area of the future Caniaba village and not just Perradenya.

### Caniaba Village Association (CVA)

The CVA was to be created for the purpose of owning, managing and making available to its members for use, five (5) private open space allotments within the Estate.

The CVA was intended to be an incorporated body created in accordance with the Association Incorporation Act 1984 and that those residents who became members of the CVA would be required to comply with by-laws outlining management guidelines for the private open spaces, including maintenance, access and amenity.

Development Consent 1998/7 intended that the membership of the CVA would initially comprise the future residents of the Perradenya Estate, however as the Caniaba Village developed it was contemplated that additional members from outside the estate would be added to the CVA.

The CVA has never been created.

### Description of Site and Locality

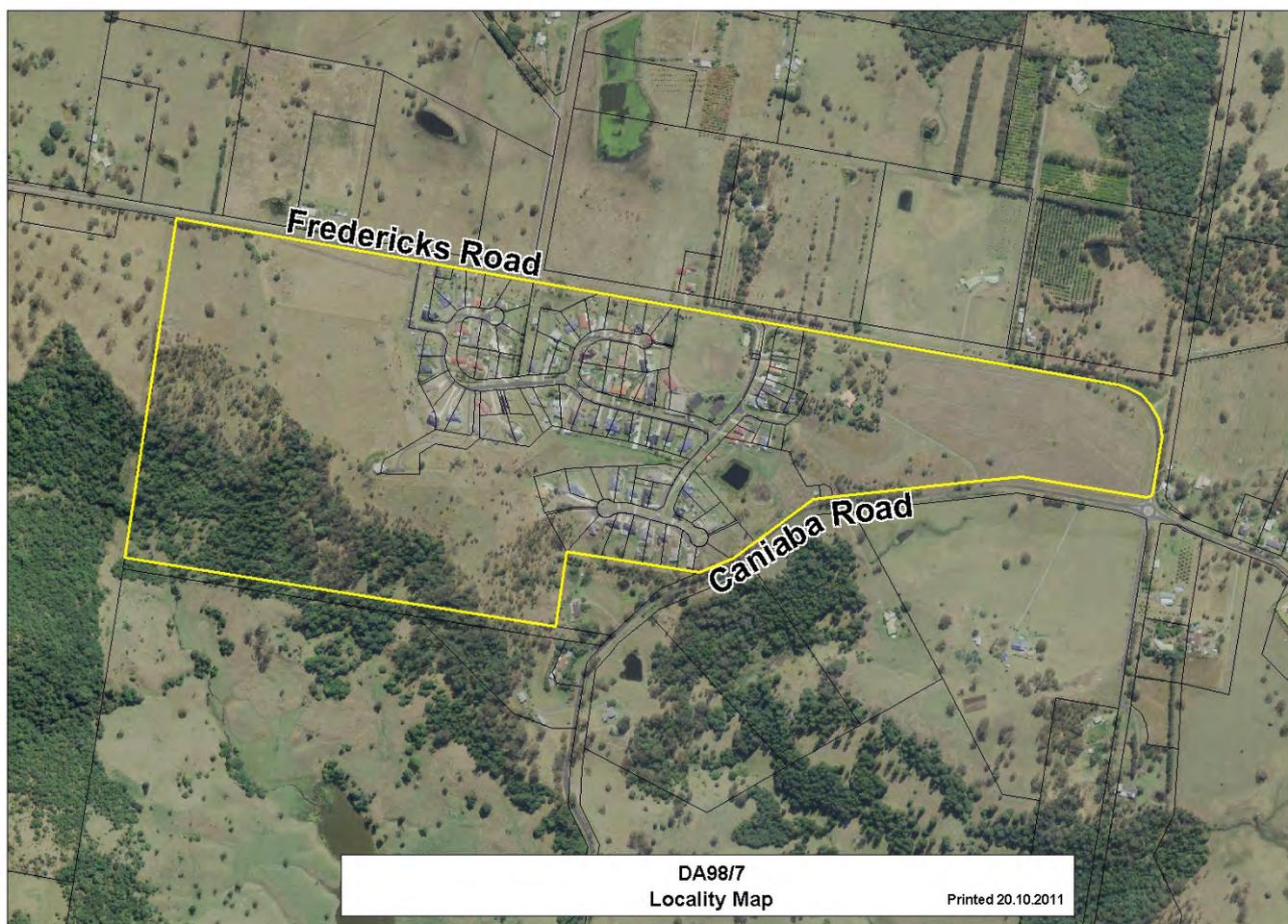
The subject land is illustrated in the below locality plan and the plans in **Attachment 1**.

The Perradenya Estate is located on the elevated Caniaba Plateau approximately 4km south-west of Lismore and 14km north-east of Casino. 1.4km to the east along Caniaba Road is the Caniaba Public School and at the base of the plateau to the north-east is Lismore Airport, rural and urban fringe areas and the Lismore CBD.

Apart from the Perradenya Estate the Caniaba locality is characterised by rural allotments of varying sizes and the land uses predominantly include; grazing and horticulture.

The Perradenya Estate is currently accessed by Fredericks Road, however when fully developed will also have access off Caniaba Road.

## Locality Map



## Relevant Development History

The following is a summary of the development history of the Perradenya Estate, focusing particularly on the WRS and the CVA aspects of the approved development.

### Perradenya Estate Rezoning Application (LEP Amendment No. 41)

Between 1993 and 1997 a proposal was pursued for the rezoning of the land subject of this report, being the Perradenya Estate, from 1(a) General Rural to 2(v) Village. The proposed rezoning application was subject of public exhibition and objections were received. A report was prepared for the Council Meeting on the 15 July 1997 recommending the subject land be rezoned.

In accordance with the recommendation and Council resolution the land was rezoned.

***NB.*** A copy of the rezoning report is available for viewing in the Councillors room prior to the Council meeting.

### Development Control Plan 35 – Caniaba Village (DCP)

Part of the Council's resolution in relation to the rezoning of the land was that prior to the adoption of the LEP amendment, the Caniaba Village DCP (DCP) be finalised to the satisfaction of Council. In accordance with this Council resolution, the DCP was prepared and subsequently adopted by the Council on the 23 June 1998.

The aims of the DCP were:

1. *Ensure Caniaba village develops as an ecologically sustainable settlement providing innovative, practical and achievable examples of Ecologically Sustainable Development (ESD) principles for residential living and resource management.*
2. *Incorporate the principles of Lismore City Council's policies and strategic approach to village settlement within the City area.*
3. *Incorporate the principles of regional, state and national strategies, and international commitments to move towards more sustainable lifestyles to protect and reduce our adverse impact on the Earth's ecological systems and resources.*

The DCP included specific chapters on: Utility Services (Water and Sewer) and Community Resource Management (Caniaba Village Association). Each chapter of the DCP contained: 'Objectives', 'Concept' and 'Strategies' and each of the Strategies set out actions that were either "mandatory" or "recommended".

**NB.** *A copy of DCP 35 is available for viewing in the Councillors room prior to the Council meeting.*

## Discussion Paper Perradenya Estate Association

A discussion paper was prepared (by the applicant's solicitor 'Mallesons Stephen Jaques') to examine from a legal perspective a title, management and operational structure for the Caniaba Village Association, which was proposed as part of the Perradenya Estate DA.

**NB.** *A copy of the discussion paper is available for viewing in the Councillors room prior to the Council meeting.*

## Development Application 1998/7 (DA) and Report to Council

DA 1998/7 was lodged with Council on the 13 January 1998 and was reported to the August 1998 Council Meeting.

**NB.** *A copy of the submitted DA and Council Report is available for viewing in the Councillors room prior to the Council meeting.*

## Development Consent 1998/7

Council resolved to grant consent to DA 1998/7, subject to conditions, on 11 August 1998. The conditions of Development Consent 1998/7 included the requirement to construct a WRS, the shared walking/cycling track and establish the CVA.

**NB.** *A copy of the Development Consent report is available for viewing in the Councillors room prior to the Council meeting.*

## Letter from NSW Health

On the 12 December 2003, the NSW Department of Health wrote to Tom Marshal of CH2M Hill regarding Rous Water's proposal for the potable use of reclaimed water. The Department of Health letter advises that it would not support direct potable reuse.

**NB.** *A copy of the NSW Department of Health's letter is available for viewing in the Councillors room prior to the Council meeting.*

## Operation of Consent and review of performance

In response to a Councillor request, in June 2006 Council's Development and Compliance Section undertook a review of the performance of the subdivision and associated dwellings against Development Consent 1998/7 and the provisions of DCP 35. The review memo concluded that:

*“The original DCP and development concept was high in idealism and very low in practical or legal application. The practical interpretation from the developer and Council has been relatively poorly delivered. The development consent was a poorly drafted document with several unenforceable conditions and conditions that have no trigger or timeframe for completion. ....*

*A poor development consent has been coupled with very poor engineering design (in the early stages) and a design concept that did not allow the implementation of DCP principles. Additionally Council staff has (sic) not consistently applied DCP 35 with respect to dwellings and further subdivision applications”.*

The memo identified problems with the performance and compliance of some aspects of the approved development, including: location of village centre, solar control, building orientation and layout, ventilation and zoning, fencing, swales and drainage, roads and footpaths, landscaping and the community association.

**NB.** *A copy of the compliance memo is available for viewing in the Councillors room prior to the Council meeting.*

## Repeal of Development Control Plan 35 – Caniaba Village

A report was prepared to the August 2006 Council meeting with the purpose of outlining the intent of DCP 35 and outlining a means for ensuring that the intent of the DCP can be carried forward into the future despite the fact that the Perradenya subdivision has already been approved.

On the 8 August 2006, Council adopted the following recommendation:

*That Council:*

1. *Note the legislative and policy changes regarding sustainability which have superseded the requirements of DCP 35 Caniaba Village;*
2. *Resolve to repeal the current DCP 35; and*
3. *Resolve to prepare a new DCP for the proposed Caniaba village area, to focus on:*
  - *Road, footpath, cycleway and open space linkages between residential development and community facilities;*
  - *Requirements for linking proposed vegetation corridors with established corridors or existing vegetation;*
  - *Water supply and waste water management options as described in s4.5 of DCP 35.*

A new DCP has not been subsequently prepared.

**NB.** *A copy of the Council Report can be is available for viewing in the Councillors room prior to the Council meeting.*

## Other Section 96 Applications to Modify Consent

Council has approved five (5) subsequent s96 applications to modify consent. These modifications related to:

1. *Modification to the approved stages;*
2. *Modification to the koala fencing requirements, the timing for the dedication of open space allotments to Council and modification to retain the silo as a sales office on the residue allotment;*
3. *Modification to rename a ‘Stage 2’ to ‘Development Area F’, delete Condition 54 and delete reference to ‘precincts’ from the development areas;*
4. *Modification to the construction timing of the roundabout at the intersection of Caniaba Road and Fredericks Road; and*
5. *Modification to road design specifications and stormwater management.*

**NB.** *Copies of the s96 reports are available for viewing in the Councillors room prior to the Council meeting.*

## Description of Proposed Modification

### Water Reclamation Scheme (WRS)

The proposed modification seeks approval to delete the requirement to construct the Water Reclamation Scheme (WRS) and in its place proposes to provide a \$7,000 subsidy to existing landowners of individual developed lots of the Perradenya Estate for rainwater tanks, solar power or other acceptable environmentally friendly, energy efficient initiatives.

The application to modify Development Consent Notice 98/7 seeks to delete those conditions, or part thereof, associated with the Water Reclamation Scheme component of the estate and the insertion of a new condition relating to the proposed \$7,000 subsidy.

The following conditions 51 and 85 are proposed to be deleted:

- 51 *The developer in association with Rous County Council, shall submit a Development Application to Lismore City Council for the creation of an allotment to service the proposed water reclamation scheme prior to the release of the 66<sup>th</sup> residential lot.*
- 85 *The developer, in association with Rous County Council, shall construct a water reclamation scheme in accordance with DCP No. 35 – Caniaba Village.*

The following conditions 76 and 77 are proposed to be amended. The parts of the conditions in **bold** font below are proposed to be deleted.

- 76 *The developer shall provide water works to service the development and meet health standards at the time of implementation. These works shall include (but are not limited to):*
- a) ***A dual water reticulation that comprises** a potable water service **and a reclaimed water service** to each allotment that will meet the minimum pressure and fire fighting requirements of the proposed Perradenya Estate and future Caniaba Village.*
  - b) ***The reclaimed water pipework is to be designed to be connected to the town water reservoir until Rous County Council constructs the reclaimed water reservoir.***
  - c) *A potable water reservoir and access road (sealed) **with provision for connection to the reclaimed water reservoir** to be constructed by Rous County Council. The potable water reservoir should be sized to meet the total demands of the proposed Perradenya Estate and the future Caniaba Village.*
  - d) *A water supply pump station (with provisions for installation of disinfection equipment) and access road (sealed) sized to meet the total demands of the proposed Perradenya Estate and future Caniaba Village.*
  - e) *A trunk potable water main to supply the Perradenya Estate and the future Caniaba Village.*
  - f) *Augmentation of existing reticulation mains in Lismore City.*
  - g) *Telemetry system to link into Council's Water and Sewerage telemetry system.*
  - h) *Manproof fence around the potable water reservoir and water supply pump station.*
  - i) *Water supply easements (if required).*
  - j) *Subdivide (and purchase if necessary) the land for the water supply pump station site.*

*These water supply works shall be designed and constructed in accordance with Council's adopted standards. Any costs shall be the responsibility of the developer (funding to be shared with Council in accordance with Council's decision dated 17/2/98). The developer shall be responsible for the full cost of any associated water maintenance considered necessary by the Manager - Water and Sewerage for a period of twelve months from the date of approval of the works. A practicing qualified surveyor shall submit a "works-as-executed set of 1:1000 transparency plans and plans in electronic format (AutoCAD or similar) showing these works.*

- 77 The developer shall provide sewerage works to service the development. The works shall include (but are not limited to):
- a) A gravity sewer reticulation that comprises a sewer junction to service the lowest ground level of each allotment.
  - b) Sewerage pump stations with access roads (sealed) **with Sewerage Pump Station 1 being designed to accommodate the requirements of the reclaimed wastewater plant to be designed and constructed by Rous County Council.**
  - c) Sewerage rising mains from the Perradenya Estate to the South Lismore Wastewater Treatment Works.
  - d) A strategy to overcome hydrogen sulphide generation in the sewerage system.
  - e) Telemetry system to link into Council's Water and Sewerage telemetry system.
  - f) Man proof fence around the sewerage pump stations.
  - g) Sewerage easements for pipework.

*These sewerage works shall be designed and constructed in accordance with Council's adopted standards. Any costs shall be the responsibility of the developer (funding to be shared with Council in accordance with Council's decision dated 17/2/98). The developer shall be responsible for the full cost of any associated sewerage maintenance considered necessary by the Manager - Water and Sewerage for a period of twelve months from the date of approval of the work. A practicing qualified surveyor shall submit a "works-as executed" set of 1:1000 transparency plans and plans in electronic format (AutoCAD or similar) showing these works.*

The following draft condition has been proposed by the applicant to be considered for inserting within Development Consent 98/7:

- *Rous Water shall provide an agreed subsidy to existing landowners of individual developed lots as at (INSERT AMENDED CONSENT DATE) of the Perradenya Estate for rainwater tanks, solar power or other acceptable environmentally friendly, energy efficient initiatives. The subsidy shall lapse three years from (INSERT DATE OF APPROVAL OF THE SECTION 96 AMENDMENT).*

The applicant's reasons / justification for this component of the proposed modification are detailed in **Attachment 2**.

## Shared Walking/Cycling Track

The proposed modification seeks approval to delete Condition 63 which requires the construction of a shared walking/cycling track between the Perradenya Estate and the current Caniaba School and replace it with a new Condition that requires the developer pay Council s94 development contributions equivalent to the full construction cost of the footpath.

Condition 63 is to be deleted:

- 63: *The developer shall at no cost to Council provide a shared walking/cycling track between the Perradenya Estate and the Current Caniaba Primary School. The track shall be constructed of a minimum 150mm depth cement stabilised gravel pavement, 2m wide and edged with treated timber or a similar treatment as approved by Lismore City Council. Detailed design plans shall be submitted to and approved by Lismore City Council prior to any works being carried out. All works shall be completed upon the completion of the upgrading of the section of Caniaba Road identified as CH4200-CH4600 in the Caniaba Road Upgrading Management Plan or the release of the last residential allotment within the development, which ever shall occur first.*

Replace Condition 63 with the following condition:

- 63 *The developer shall pay \$293/lot x CPI, inclusive of retrospective payment of lots for already registered as at the date of (INSERT AMENDMENT DATE), to Council to provide a shared walking/cycling track between the Perradenya Estate and the Current Caniaba Primary School.*

*The track shall be constructed of a minimum 150mm depth cement stabilised gravel pavement, 2m wide and edged with treated timber or a similar treatment as approved by Lismore City Council. The developer shall pay any outstanding contributions (balance between \$296,485 x CPI – paid contributions) current as at the date of completion of the upgrading of the section of Caniaba Road identified as CH4200-CH4600 in the Caniaba Road Upgrading Management Plan or the release of the last residential allotment within the development, which ever shall occur first.*

In addition to the above the application outlines that Rous Water propose to provide retrospective payment for all lots currently released at the current contribution rate, (\$293 x CPI) to maintain the commitment to fund the pathway.

The applicant's reasons / justification for this component of the proposed modification are detailed in **Attachment 2**.

## Caniaba Village Association (CVA)

The proposed modification seeks approval to delete Condition 89 which requires five (5) private open space allotments within the Estate to be available for the use of and management by the members of the Caniaba Village Association, and replace it with a new Condition that requires the developer to continue to manage and maintain the five (5) allotments and their facilities until the subdivision is completed when at such time the lots are proposed to be dedicated to Council.

Current condition 89 below is proposed to be deleted:

- 89 *The allotments numbered 911, 1210, 1410, 1701 and 1801 within Plan DA98.1 issue D dated January 1998 shall be available for use by all members of the proposed Caniaba Village Association as contemplated by the document entitled "Discussion Paper Perradenya Estate Association" prepared by Mallesons Stephen Jaques accompanying the Woromar Pty Ltd letter dated July 21, 1998 and submitted to Lismore City Council on July 22, 1998.*

Replace Condition 89 with the following condition:

- 89 *The open space identified as Lots 912, 1210, 1410, 1701 and 1801 shall be maintained by the developer at no cost to Council until the release of the Subdivision Certificate for the final stage of the development at which time Council shall accept responsibility for the ongoing management of the parcels. All infrastructure works or property embellishments shall be completed by the developer pursuant to the conditions of this consent prior to the dedication of the land to Council.*

The five (5) private open space allotments were approved with a range of uses and functions, including: an equestrian centre, horse, cycling and walking trails, a forest (Environmental Protection area), bushfire buffer, wildlife corridor's, drainage paths and stormwater dams and basin's. One of the allotments includes the former Kopp's dip site.

The applicant's reasons / justification for this component of the proposed modification are detailed in **Attachment 2**.

## Crown Authority

The application asserts that, the developer, Rous Water, falls within the definition of the "Crown" under Division 4 of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in its capacity as a "public authority" and a "public utility" within the meaning of clause 226(1) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). Accordingly, the application lodged on behalf of Rous Water under s.96(2) of the EP&A Act constitutes a Crown modification application within the meanings of s.89 and s.89B of the EP&A Act.

Council received two (2) public submissions that indicated they did not believe that for the purposes of this s.96 application Rous Water were a Crown authority as they are acting as the developer of the land.

Development and Compliance staff have sought advice and reviewed this issue and conclude that the s.96 application made on behalf of Rous Water (Rous County Council) is a Crown modification application for the purpose of Division 4 of Part 4 of the EP&A Act. In particular, Rous Water is considered to be a 'public authority' and/or a 'public utility' as prescribed by the Clause 226 of the EP&A Regulation and as a consequence is included in a reference to the Crown for the purpose of s.88 of the EP&A Act and considered a Crown development under Division 4 of Part 4 of the EP&A Act.

The provisions of Division 4 of Part 4 of the EP&A Act apply to an application made on behalf of the Crown under s.96 in the same way as it applies to a development application for development consent.

Rous Water's reference to the Crown for the purpose of Division 4 of Part 4 of the EP&A Act is not considered to be affected by their role as the developer of the approved subdivision.

## Internal Referrals

### Development Engineer

Council's Development Engineer made the following comments in relation to the shared walking/cycling track component of the proposed modification:

*A site inspection has revealed that there is an estimated 100m of Caniaba Road where the road shoulder width, cutting heights and density of vegetation would make the construction of a two metre wide pathway quite expensive but not impossible. Some sections of the path will be required to be retained and fenced for safety reasons. Acquiring or resuming land maybe a viable alternative.*

*It is impossible to agree to the proponents request without a fully costed approved design.*

*The upgrading of Caniaba Road is not on Council's works program. Although the problem section of pathway may be approximately 100m long there would be a section of at least 500m to 800m of Caniaba Road that may require realignment.*

*The construction of the path, independent of construction timing, will result in a removal of trees. The path will be constructed sympathetic to the vegetation and will meander to some extent between trees; however in areas where the verge width is restrictive, trees will be required to be removed.*

*The development approval did not specify when the path is required. At the present rate of development it may take another ten years to complete the development before the proponent is compelled to build the path.*

*Should Council agree to the proponents request I would highly recommend that the pathway be fully costed and an agreed rate per allotment be determined.*

### **Recommendation**

*That unless Lismore City Council proposes to include the upgrade of Caniaba Road in the 10 year forward works program, that Council reject the section 96 application to amend condition 63.*

## Water and Sewer

Aside from the merits, Council's Water and Sewer Officer advises that from a technical perspective the proposed modification in relation to the WRS can be achieved subject to conditions of consent.

In relation to certain merit considerations, Council's Water and Sewer Officer's comments are summarised as follows:

## **S64 Contributions**

At the time of development consent in 1998 no infrastructure existed to service the Perradenya Subdivision, so the developer chose to fund the installation of the infrastructure necessary for the development. Council took the view that to make savings on the back of the works proposed by the developer it would fund increased capacity to serve the future development of the Village of Caniaba (approximately 400 ET's).

Council committed to funding 100% of the construction cost for the sewer up to the Perradenya Subdivision site and 50% of the construction of the Water, being for a reservoir and water main in the Perradenya precinct to the boundary of the Village of Caniaba. Council was to recoup its costs from both the developer of the Perradenya Estate and the 200 other lots to be developed in the Village of Caniaba.

At present, Council has recovered a few water contributions (approximately 5) from existing residents in the Village of Caniaba and contributions from approximately 45% of the lots in the Perradenya Estate.

The s64 contributions applied to Development Consent 1997/8 were substantially discounted by \$3,867 per ET. There are no records that indicate precisely why a discount was applied.

It is unlikely the contributions were arbitrarily discounted under delegated authority, but rather linked in some way with a WRS and its potential to reduce water supply demand.

In view of the above, if the modification to delete the WRS is approved it is highly appropriate that all future development within Perradenya Estate and the Village of Caniaba pay s64 contributions in line with the true cost of infrastructure management, which is Council's current adopted Development Servicing Plans.

## **Plumbing**

The installation of the dual reticulation system also incorporated dual water meter assemblies and back-flow prevention devices on each participating allotment. Lismore City Council now owns and operates the dual reticulation pipe work including the meter assemblies and back-flow prevention devices.

Council charged each property owner for the additional meter and back-flow prevention device at the time building approval was sought. Should the water reclamation plant not proceed then all above ground piping, metering and devices should be removed at full cost to the developer.

## **Sustainable Development Officer**

Council's Environmental Strategies Officer made the following comments in relation to the proposal to delete the WRS and to provide a \$7,000 subsidy to each household to encourage the retrofitting of alternative environmental initiatives:

*While it is accepted that there are positive environmental benefits from the installation of the nominated environmental initiatives (solar panels or rainwater tank), or other acceptable energy efficient environmentally friendly initiatives (which have not been defined in the report), there is some uncertainty as to whether these initiatives will be comparable in terms of the environmental benefits expected from the water reclamation scheme. This scheme had the obvious focus on water demand management.*

*The retrofit of a rainwater tank per household would be the most appropriate initiative to more adequately satisfy the original intention of the development. In the event that this is not a suitable option for a household it is acknowledged that the installation of other alternative energy efficient initiatives (solar panels) is appropriate and would offer alternative environmental benefits.*

*A key issue identified is the uncertainty as to whether the home owner will proceed with the installation of all or any of the initiatives with the subsidy as intended. Generally the method of enforcement of energy efficient initiatives is via the BASIX System. However, it seems that the BASIX certification remains current for the existing homes in the estate, unless a DA is submitted, therefore this method of regulation is no longer available. I am unaware of another method or process with which Council could enforce that the home owner use the subsidy as intended. Therefore there is potentially a significant risk that the home owner may not use the subsidy for the intended purpose, thereby negating any forecasted environmental benefit.*

*In justifying the proposed amendments the report states that adoption of the proposed environmental initiatives will significantly reduce the amount of greenhouse gas emissions emitted by the development. The calculation of the of CO2 emissions was not submitted with the report so I am unable to easily determine how the figures were derived. There are a number of variables and assumptions and without this knowledge it would be time consuming to try and assess its accuracy.*

*I would like to note however that it is very routine practice for homeowners upon installation of a solar photovoltaic system to sign a contract which gives authority to the installer to sell the Renewable Energy Certificates (RECS) on their behalf. This effectively means that the household sells their greenhouse gas emission reductions in RECS to the buyer for a forecasted 10 year period. This means the home owner loses the right to claim the greenhouse gas emissions of the solar system off their household footprint for 10 years. It is unknown whether this was taken into consideration by the consultant when calculating the CO2 emission savings presented in the justification section of the report. This however does not out weigh the environmental benefits of installing solar systems, this is simply something that should be considered when calculating and reporting on greenhouse gas emissions savings.*

## **Conclusion**

*There is some uncertainty as to whether the nominated environmental initiatives will be comparable in terms of the environmental benefits expected from the water reclamation scheme, particularly as the original intention was to showcase water demand management.*

*The retrofit of a rainwater tank per household is the most appropriate alternative environmental initiative which would more adequately satisfy the original intention of the development. It is estimated that 5000L rainwater tank costs around \$1,000. In the event that this is not a suitable option for a household the installation of other alternative energy efficient initiatives (solar panels) is appropriate and would offer alternative environmental benefits. It is accepted that a reduction in greenhouse gas emissions is a positive outcome and in line with the principles of ecologically sustainable development.*

*It is estimated that the subsidy amount of \$7,000 will cover the cost of a rainwater tank at approximately \$1,000 as well as a 1.5kW solar photovoltaic (PV) system (currently around \$4,500 cost to a resident). Therefore ideally each household should be installing both a tank and PV system.*

*If it is possible to put certain conditions on the consent about the use of the subsidy and type of installations, a condition would be beneficial to the effect that:*

- *A suitably sized rainwater tank shall be retrofitted to the home unless it is demonstrated that the land is so constrained that this is not a viable option.*
- *A minimum 1.5kW solar photovoltaic system shall be installed.*

*There is still the issue of the potential risk that the home owner will not use the subsidy for the intended purpose of installing any nominated environmental initiatives which would negate any forecasted environmental benefit as proposed. Unfortunately I cannot offer a solution to this issue at this stage and I am unsure whether Council is in a position to enforce how the subsidy is to be used. Perhaps a condition could be developed which puts the onus on the developer to ensure the appropriate environmental initiatives are installed at the existing households.*

## **Parks and Reserves**

Council's Parks Co-ordinator made the following comments in relation to the CVA component of the proposed modification:

The Parks and Recreation section have considered the application and agree to acquire and maintain the lots 1210, 1410 and 912 from Rous Water upon completion of their embellishment. This is subject to Council approving maintenance funding to the sum of \$9,700 for these allotments. However, there is currently no support to acquire and maintain the lots 1701 and 1801 based on a substantial estimated maintenance burden to the sum of \$28,000 upon Council and in the case of the Equestrian facility minimal functionality to the wider community.

Presently, Council receives an annual fee from Rous Water totalling \$21,006.37 (subject to CPI and lot sales) for the maintenance of Lots 912, 1013 and 116 (Adam Gilchrist Park). Approval of maintenance funds from Council for this amount will also be required upon completion and handover of the subdivision.

## Community Services Officer – Sport and Recreation

Council's Community Services Officer – Sport and Recreation made the following comments in relation to the shared walking/cycling track component of the proposed modification:

- *During research for the Lismore Sport and Recreation Plan 2011 - 2021, there was significant evidence and support for the need for more and improved pathways in both the urban and rural sectors of the LGA.*
- *In a conversation with the LCC Design Engineer, he indicated that if and when the section of Caniaba Road was improved between the School and Perradenya, it was highly likely that any improvements would not include land resumptions or boundary adjustments.*
- *The Design Engineer also indicated that he believed it would be possible to construct the pathway before any improvements were carried out on the roadway.*
- *The LCC Road Safety Officer has also informed me that there is no Council funding available to support this Caniaba Project and the prospect for funding becoming available is remote.*
- *As there is no certainty as to when the upgrading of Caniaba Road will occur and because no LCC funding has been allocated to this project, it would appear that Rous Water should retain responsibility for building the pathway and that the pathway should be constructed as soon as practicable.*

## External Referrals

### Department of Planning and Infrastructure (DoPI)

Council received a letter dated 28th October 2005 from the NSW DoPI advising that they had received and approved a submission from Rous Water to include recycled water supply in BASIX for the Perradenya Estate. The approval to include "reticulated alternative water supply" in the BASIX tool was subject to Rous Water providing an annual update, reporting progress against the proposed implementation program to the DoPI. In view of this, the section 96 application was referred to the DoPI for comment.

The DoPI wrote two (2) letters to Council dated 6 May 2011 and the 5 July 2011. The DoPI considered the proposed modification in relation to the WRS and their comments are summarised as follows:

- The energy and water saving targets established in the BASIX program are not interchangeable. Energy efficient measures cannot be used to compensate for a failure to meet BASIX water saving requirements.
- The provision of solar power or other acceptable environmentally friendly, energy efficient initiatives does not specifically address the loss of residential water saving through the failure of the WRS and therefore does not fulfil the BASIX requirements in relation to residential water savings.
- Instead of establishing a water reclamation program (through specific provision of rainwater tanks or other water saving technologies), the application proposes that the developer can provide funds for residents to go towards 'water and energy saving technologies. This proposal does not adequately address the State Environmental Planning Policy – BASIX requirements regarding residential water savings but rather seeks to intensify sustainability measures directed towards energy as opposed to those required by water. As such, the BASIX commitment in relation to water-saving may not be fulfilled by the developer.
-

The EP&A Regulation 2000 outlines the intent and provisions of the BASIX residential sustainability requirements by identifying water and energy as separate and distinct components of sustainability, towards which a development must take measures in order to achieve compliance with the BASIX scheme.

- A developer must fulfil each of the components of sustainability outlined in the EP&A Regulation 2000 (water, energy and thermal comfort) and any condition of a DA which purports to fulfil a developer's BASIX commitment to one component instead of another would not be a valid condition.
- The Department suggests that the proposed condition be amended to reference only water saving measure and remove all references to the provision of funding for energy saving technologies.

The outcome of the comments from DoPI is that the existing dwellings constructed on the lots already released within the Perradenya Estate will never be able to achieve compliance with BASIX obligations certified for the approval of those dwellings, if this s.96 modification aspect is approved. If this aspect of the proposed modification is considered for approval, it is not practical to redress this situation, or undo these past actions and this non-compliance should be left alone and the future should ensure that the mistakes are not compounded or repeated.

**NB:** A copy of the DoPI letters can be viewed in the Councillors room prior to the Council meeting.

## Notification/ Submissions

The application was notified to all lots within the Perradenya Estate, adjoining and surrounding property owners and advertised in the Northern Rivers Echo.

As a result of the notification and advertising, eight (8) submissions were received detailing concerns and objections to the section 96 application. **Attachment 3** to this report includes a table which provides a detailed summary of all the submissions and assessment comments in response to the objections.

**NB:** Full copies of the submission letters can be viewed in the Councillors room prior to the Council meeting.

The following is a brief summary of the points raised in objection to the DA:

- LCC can't modify the consent unless it is satisfied that it is substantially the same development for which consent was originally granted. The proposed modified development cannot be seen as 'substantially the same' as the original consent by any reasonable person.
- The \$7,000 subsidy for water tanks, solar panels or other energy efficient alternatives conveniently ignores the all-important water conservation and effluent re-use principles that were the main foundation of the estate and the sole reason for the developer to purchase the development.
- Rous Water is not a Crown authority for this application as they are acting as the developer.
- Concerns about the take up of the \$7,000 subsidy & proposing means to guarantee a high level of take up.
- Concerns about the delay in the timing of the construction of the shared walking/cycling track, the possible abandonment of the track and that the proposed contribution will underfund the construction cost.
- The proposal will affect the enjoyment of the respondents land and negatively affect the value of their property by greater than \$7,000.
- Respondent purchased their property with full knowledge, expectation and price tag of getting recycled water.
- Concerns about the problems and costs associated with retrofitting water tanks to dwellings.

- Local community control of the private open space is the best outcome for the community and concern about what will happen to the lots if Council take ownership and the maintenance cost to be incurred by Council.
- The public consultation by Rous Water was not done properly and did not include Caniaba village residents even though the WRS, footpath and CVA were intended for the whole village.
- The surveys by Rous Water show that most Perradenya residents supported the WRS and that such support reduced when residents were advised of the cost of the reclaimed water and that they were to get a \$7,000 subsidy.
- At the time of the original DA, Council promised that Caniaba Village residents would be involved in any consultation.
- The proposed modifications, particularly the WRS affect the whole Caniaba Village and not just Perradenya.
- Rainwater tanks were originally opposed due to legitimate community health concerns and are now no longer innovative.
- The capital cost of the WRS should be recouped in the sale of the lots as with other infrastructure.
- Rous Water's cost benefit analysis was done on Perradenya and not the future sized Caniaba Village.
- How will the proposed removal of the CVA affect the Adam Gilchrist Oval Plan of Management.
- Rous Water should fulfil their obligation to set-up the CVA and have all avenues been exhausted to do this.
- The private open space lots need to be accessible to the residents of Caniaba.
- The proposed modification leaves Perradenya just another standard development with none of the social and environmental benefits as was grandly flagged by Council and the developers and the WRS is the only feature that still resembles the environmentally sustainable goals.
- The proposed modification to the WRS guarantees no benefits in terms of water saved and Rous Water needs to develop a water re-use scheme that will benefit the residents. Rous Water has the funds to commit to the more recent Ballina Heights but not the funds to support the WRS.
- Rous Water purchased the development as it allowed them to demonstrate an environmentally sustainable water efficient residential community and the WRS was to be the jewel in the crown.
- The requirement of WRS to be deferred until release of last stage and may well be achievable as more lots are sold, technologies increase, the cost of water decreases and attitudes change towards the use of recycled water.
- A lot of residents have purchased solar panels on the assurance of the subsidy from Rous Water and the rejection of such subsidy will impact upon families financial situations.

## Section 96(2) of the EP&A Act 1979

The application is made pursuant to section 96(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act). Section 96(2) states:

### **96 Modification of consents—generally**

.....

#### **(2) Other modifications**

***A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:***

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and***

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
  - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

Before granting consent to the section 96 application to modify consent, Council must be satisfied that, if approved, the modified consent is “substantially the same” development as approved in the original development consent. In this regard, the particular matter for Council to decide is whether a modification of the consent to relieve Rous Water of the requirement to establish:

- the WRS (and replace it with other environmental initiatives); and
- the Caniaba Village Association.

will result in a development that is substantially the same as the development for which consent was originally granted.

## Is the Development Substantially the Same?

There are a number of matters that Council can legitimately consider in making a decision as to whether the development to which the consent as modified relates is “substantially the same” development as the development for which consent was originally granted.

The first matter that Council can legitimately consider is the description of the development as stated in the development consent and how such description is proposed to be modified if the section 96 application is approved and whether such modification will be substantially the same development.

Secondly, it is also legitimate for Council to go beyond a simple comparison of the development described in the development consent and also consider the context in which the consent was granted and the function and purpose of each of the elements, being the WRS and the CVA.

These two matters are considered under the below headings.

### Proposed Modifications to the Description of Development Consent

As abovementioned, one of the matters to consider is the impact of the proposed modifications on the description of the development as stated in the development consent.

On the 4 August 1998, Council first granted consent to DA 1998/7 for:

- **168 Village Allotments,**
- **2 Integrated Allotments,**
- **1 Village Centre Allotments,**
- **1 Water Reservoir Allotment,**
-

**2 Drainage Reserve Allotments,**

- 5 Public/Private Open Space Allotments,
- 5 Sewer Pump Station Lots (numbered 3000 - 3004),
- Associated earthworks and staging.

Since the granting of this original consent, Council has granted consent to five (5) section 96 applications to modify consent. Accordingly the current description of the development consent as modified is:

- 168 Village Allotments
- 2 Integrated Allotments
- 1 Village Centre Allotments
- 1 Water Reservoir Allotment
- 2 Drainage Reserve Allotments
- 6 Public/Private Open Space Allotments
- 5 Sewer Pump Station Lots (numbered 3000 - 3004)
- 5 Development Area Allotments - Titled A - E inclusive
- Associated earthworks and staged as follows:

**(Stages 1 and 1A and, under Stage 1A, Area A – Area F)**

In relation to the current section 96 application it is considered that if the proposed modifications were approved then the consent description would not need to be modified in any way. In this respect, it is considered that the development description to which the consent as modified relates will remain substantially the same as the development for which consent was originally granted.

#### Context of Development Consent and Function and Purpose of WRS and CVA

In making its decision as to whether the development to which the consent as modified relates is “substantially the same” as the original development, it is also legitimate for Council to consider the context in which the consent was granted and the function and purpose of the WRS and CVA.

**Attachments 4 and 5** include points relevant to the development history of the WRS and CVA which assist in establishing the function and purpose of the WRS and CVA and their role in the context in which the consent was granted.

#### Water Reclamation Scheme (WRS)

Following consideration of the relevant development history in **Attachment 4**, it is clear that the development of the Caniaba Village, including the Perradenya Estate, was to be based on sustainable development principles. In relation to the water and wastewater servicing of the estate it is evident from the rezoning Council report, the Caniaba Village DCP (DCP) and the DA Council report that the sustainable development intent was to be achieved by the construction of an integrated water and wastewater system in the form of the WRS. The development consent reflected this in requiring the construction of the WRS and detailed that the dual water reticulation was to be provided to meet the requirements of both the Perradenya Estate and the future Caniaba Village.

The Caniaba Village and particularly the Perradenya Estate was seen as presenting an opportunity for Lismore City Council and Rous County Council to trial innovative water and wastewater options on a Greenfield site.

The WRS was a mandatory requirement of the ‘water supply’ and ‘wastewater’ sections of the DCP and in proposing a WRS the DA was assessed as complying with these sections of the DCP and therefore contributing to the development satisfying the broader ecologically sustainable development aims. The DA was in part recommended for approval given it satisfied the aims of the DCP.

Since the granting of consent and the commencement of the Perradenya subdivision residents have purchased into the estate on the understanding that the WRS was approved and would be constructed.

Furthermore, a dual reticulation network to facilitate the WRS has been installed in the developed parts of the estate.

It is derived from the development history in **Attachment 4** that the objectives and intent of the water and wastewater servicing of the site was to:

- minimise the usage of reticulated town water; and
- achieve a high standard of treatment and reuse of effluent.

The approved WRS achieved this objective and intent.

The proposal is to delete the requirement for the WRS and replace it with the requirement that the owners of existing lots within the estate be provided with a \$7,000 subsidy for the provision of water tanks, solar panels or other acceptable environmentally friendly, energy efficient initiatives. The objective and intent of this proposed modification is considered to be the facilitation of the provision of a range of environmentally friendly, energy efficient initiatives.

There is considered to be a substantial difference between the objective and intent of the approved WRS and the objective and intent of the proposed \$7,000 subsidy, despite both fitting under the broad umbrella of 'environmental sustainability'.

The \$7,000 subsidy focuses on environmental initiatives generally with only one option relating to water supply (water tanks) and none relating to wastewater, whereas the WRS specifically had the objective and intent to minimise water usage and achieving a high standard of treatment and reuse of effluent (water and wastewater sustainability).

Given the environmental initiatives subject of the \$7,000 subsidy is proposed to be at the discretion of the individual landowners and that the retrofitting of dwellings with a water tank may be problematic, it is a reality that a proportion of landowners will choose solar panels or other acceptable environmentally friendly, energy efficient initiatives, which have no direct association with water and wastewater sustainability.

The water and wastewater sustainability benefits of the approved WRS that were a mandatory requirement of the DCP at the time of determination (since repealed) and that formed an important aspect in the determination of the proposal, will not be achieved if the proposed modifications are approved.

DoPI advised that the energy and water saving targets established in the BASIX program are not interchangeable. Energy efficient measures cannot be used to compensate for a failure to meet water saving requirements.

It is relevant to note that GeoLINK, engaged by Rous Water, stated in their document 'Summary of Investigation into Alternative Water Supply Options' that "*Lismore City Council has indicated that a section 96 application to amend the condition that requires the construction of a water reclamation plant would need to propose an alternative water supply solution that results in similar or better potable water savings than those achieved by the water reclamation plant*". The current section 96 application clearly does not propose an alternative water supply solution that results in similar or better potable water savings than those achieved by the water reclamation plant.

It is acknowledged that the circumstances in relation to the WRS have changed in that NSW Health do not support direct potable re-use. Such change in circumstances however, is not considered to negate the need for the approved development to meet the objective and intent of the water and wastewater servicing of the site as outlined by the original DCP and development consent. The following provisions from the now repealed DCP support this:

- **4.5.20(M) Integrated water use systems**  
*Houses, buildings and public facilities will be designed to minimise use and waste of water. Water will be harvested in the landscape and stored in dams and lagoons, as well as from building roofs to supplement and reduce demand on reticulated water from the Lismore City System. Potable water, wastewater and stormwater are required to be treated as an integrated system and Council will require development to address this.*
- **4.5.27(M) Other preferred scheme options**  
*"In the event of the full reclamation scheme not proceeding, and further until the reclamation plant commences, an alternative sewerage scheme which seeks to achieve a high standard of water efficiency treatment and re-use of effluent is to be implemented in which developers of the proposed reticulated village scheme area will be required to participate".*

Without a WRS or some alternative water and wastewater service which minimises water usage and achieves a high standard of treatment and reuse of effluent, the development would not have been seen as complying with the mandatory requirements of section 4.5 of the DCP and would have substantially compromised the developments ability to satisfy the aims of the DCP, being ecological sustainable development.

A non-potable reuse scheme is a possible alternative option to the approved potable reuse scheme that would address the relevant water and wastewater sustainability criteria. Given that the dwellings already constructed have dual reticulation network connections and internal plumbing to facilitate dual reticulation supply, this option should not be readily excluded.

Given there are indications that the WRS was also to be available to the Caniaba Village and not just Perradenya, then any alternative water and wastewater proposal should ideally be one that could also be utilised in the future development of the Caniaba Village so as to meet to original intent that the development of the Caniaba Village, including the Perradenya Estate, should be based on sustainable development principles.

When considering the function and purpose of the WRS and its role in the context of the original development, it is considered that the approved development without a water and wastewater service which minimises water usage and achieves a high standard of treatment and reuse of effluent is not substantially the same as the development that was consented to and included a WRS.

To be assessed as substantially the same development, it is considered that any proposal to delete the WRS would have to nominate an alternative proposal that has as its objective and intent the minimising of water usage and the achieving of a high standard of treatment and reuse of effluent and not just environmental initiatives generally, by an achievable method that could be properly administered and enforced.

### **Caniaba Village Association (CVA)**

Following a consideration of the relevant development history in **Attachment 5**, it is evident that the CVA was to be made up of three groups (Perradenya residents and both existing and future Caniaba Village residents) and that the objective and intent of the approved CVA was the:

- a. use of the private open space allotments by the members of the CVA; and
- b. local/community management and maintenance of five (5) private open space allotments within the Perradenya Estate by the members of the CVA.

The members of the CVA were to be subject to by-laws to incorporate: environment and land management, utility and infrastructure service facilities and community facilities and services. The by-laws would ensure the objective and intent of the CVA was achieved by ensuring legal access to the private open space lots whilst guaranteeing the lot's management and maintenance.

The proposal is to delete the requirement to establish the CVA and replace it with a new Condition that requires the developer to continue to manage and maintain the five (5) allotments until the subdivision is completed when at such time the lots are proposed to be dedicated to Council.

In dedicating the private open space allotments to Council, access to the allotments would be available to the public and the management and maintenance obligations would be undertaken by Council.

While the proposed modification does not result in the local/community governance and management by the existing and future residents of Caniaba, it does continue to ensure that the open space allotments are managed and maintained and are available for use by the Perradenya residents and both existing and future Caniaba Village residents.

In view of the above, the proposed modification to dedicate the private open space allotments to Council is considered to be substantially the same as the development that was consented to and included the establishment of the CVA.

## Consideration of other planning matters

Section 96(3) of the EP&A Act 1979 states:

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

The matters referred to in section 79C(1) of the EP&A Act 1979 include:

- the provisions of the Lismore Local Environmental Plan 2000, State Environmental Planning Policies, the Draft Lismore Local Environmental Plan 2010, the Lismore Development Control Plan;
- the likely impacts of the development;
- the suitability of the site for the development;
- any submissions made;
- the public interest.

### Lismore Local Environmental Plan (LEP)

The section 96 application is not considered cause the development to be inconsistent with the objectives of the 2(v) Village Zone. There are no other provisions of the LEP that are considered to be directly applicable to the section 96 application.

### Draft Lismore Local Environmental Plan 2010 (DLEP)

The DLEP proposes to zone the Perradenya Estate RU5 Village, which is generally consistent with the current LEP. The proposed modifications are not considered to cause the development to be inconsistent with the objectives of the RU5 Zone or any other provisions of the DLEP.

### State Environmental Planning Policies (SEPP's)

There are no SEPP's that are considered to be directly applicable to the section 96 application, other than the SEPP (BASIX) which has been addressed previously in this report.

## Lismore Development Control Plan (DCP)

### Part A, Chapter 6 – Subdivision and Infrastructure (Village and Rural Subdivision)

The proposed modifications are not considered to be contrary to this chapter of the DCP.

### Part A, Chapter 10 – Notification and Advertising of DA's

The section 96 application was publicly exhibited generally in accordance with the requirements of this Chapter.

## Likely Impacts of the Development

### Water Reclamation Scheme (WRS)

As above-mentioned in this report the proposed modification to delete the requirement to construct the WRS and replace it with a \$7,000 subsidy to existing landowners of the Perradenya Estate for rainwater tanks, solar power or other acceptable environmentally friendly, energy efficient initiatives is not considered to be substantially the same as the development that was consented to and included the WRS.

If however the Council were of a contrary opinion and considered that the proposed modification in relation to the deletion of the WRS, if approved, would be substantially the same as the development that was consented, then further assessment needs to be made in relation to a number of matters. Council would need to be satisfied that the environmental/sustainability outcomes of the originally approved development are equivalent to those proposed in this modification.

Further assessment needs to be undertaken in relation to whether the environmental benefits of the proposed \$7,000 subsidy to existing landowners for rainwater tanks, solar power or other acceptable environmentally friendly, energy efficient initiatives are comparable in terms of the environmental benefits expected from the WRS. In this regard, Council's Environmental Strategies Officer stated:

.....

*While it is accepted that there are positive environmental benefits from the installation of the nominated environmental initiatives (solar panels or rainwater tank), or other acceptable energy efficient environmentally friendly initiatives (which have not been defined in the report), there is some uncertainty as to whether these initiatives will be comparable in terms of the environmental benefits expected from the water reclamation scheme.*

.....

*In justifying the proposed amendments the report states that adoption of the proposed environmental initiatives will significantly reduce the amount of greenhouse gas emissions emitted by the development. The calculation of the CO2 emissions was not submitted with the report so I am unable to easily determine how the figures were derived. There are a number of variables and assumptions and without this knowledge it would be time consuming to try and assess its accuracy.*

*I would like to note however that it is very routine practice for homeowners upon installation of a solar photovoltaic system to sign a contract which gives authority to the installer to sell the Renewable Energy Certificates (RECS) on their behalf. This effectively means that the household sells their greenhouse gas emission reductions in RECS to the buyer for a forecasted 10 year period. This means the home owner loses the right to claim the greenhouse gas emissions of the solar system off their household footprint for 10 years. It is unknown whether this was taken in consideration by the consultant when calculating the CO2 emission savings presented in the justification section of the report. This however does not outweigh the environmental benefits of installing solar systems, this is simply something that should be considered when calculating and reporting on greenhouse gas emissions savings.*

In addition to the above, prior to a decision being made on the merits of deleting the WRS, further assessment is required in relation to:

- how the proposed \$7,000 subsidy will be administered. In this regard, an assessment needs to be made as to whether the proposed condition of consent is enforceable upon existing dwellings and if the condition is enforceable, whether its enforcement can practically be carried through and be effective;
- the adequacy of the s64 contributions applied to the original development, given the discount to these levies appeared to have been linked to the consent including the WRS; and
- the responsibility and cost of removing the unnecessary WRS plumbing (above ground piping, metering and devices).

## **Shared Walking/Cycling Track**

Condition 63 of the Development Consent requires the applicant to construct the shared walking/cycling track between the Perradenya Estate and the Caniaba Public School upon the completion of the upgrading of the relevant section of Caniaba Road or the release of the last lot of the estate, whichever occurs first.

The section 96 application proposes that Council undertake the construction of the shared walking/cycling track in conjunction with the realignment of Caniaba road and that section 94 contributions be paid in lieu of the developer constructing the walking/cycling track.

The section 96 application stated that Rous Water have engaged civil engineers to review the construction of the shared walking/cycling track and provide a construction cost. The cost of the shared walking/cycling track was estimated to be \$296,485.

The section 96 application proposes that the developer pay a contribution of \$293 per lot and also pay any outstanding contributions (being the balance between \$296,485 x CPI less the paid contributions) current as at the date of completion of the upgrading of the relevant section of Caniaba Road or the release of the last residential allotment within the estate, whichever shall occur first.

The proposed construction of the shared walking/cycling track will require considerable earthworks, retaining and the removal of trees in some parts. While the application has estimated the cost of construction, a plan showing the location / route and detailed design of the shared walking/cycling track has not been submitted and therefore Council is unable to assess the accuracy of the \$296,485 estimated cost of construction.

Without an approved design that is fully costed, Council runs the risk that the proposed section 94 contributions to be paid as part of the section 96 application will not cover the eventual cost of the footpath, which will result in Council having to pay for the balance of the construction cost. In this regard, it is recommended that Council not support the proposed modification in relation to the shared walking/cycling track without an approved design that is fully costed.

It is also recommended that Council not support the proposed modifications to Condition 63 for the following reasons:

- the proposed modifications to Condition 63 do not include a time as to when the walking/cycling track is to be constructed, but only a time as to when the s94 contributions are to be paid. In this regard, if the proposed modifications to Condition 63 were approved, then there is a possibility that the Perradenya Estate could be completed and the walking/cycling track still not be constructed as Council may not have upgraded the relevant section of Caniaba Road (utilising s.94 funds from the development), leaving the Caniaba community without a shared walking/cycling track; and
-

If the proposed condition was to be amended to address the above point and require the construction of the footpath prior to the release of the final lot of the estate, then if by such time the relevant section of Caniaba Road had not been upgraded, Council could be in the same situation as the developer in having to construct the footpath adjacent to the un-upgraded Caniaba Road.

Notwithstanding the above, given the present rate of development (75 lots in 12 years) it may take another ten (10) years or more before the release of the final lot of the estate and by such time Council may have upgraded the subject section of Caniaba Road to allow the developer to construct the footpath (as per Condition 63) with no risk that parts of it may have to be reconstructed. Given the likely timeframe for the estate to be finalised, there is not considered to be any particular urgency for the Council to make a determination in relation to this component of the section 96 application.

The provisions of Section 2.4.6 of Council s.94 Contributions Plan contains the following provisions in relation to the provision of the footpath/cycleway:

*The trunk footpath / cycleway works are being provided as a work in kind by the developer of DA 98-7. No contributions for this work are to be levied against DA 98-7. As new development occurs within the Caniaba catchment a contribution at the applicable rate shall be levied on each new ET. As the developer of DA 98-7 will forward fund all of the necessary works Council shall refund the contributions received from other new developments the Developer of DA 98 - 7. This refund shall be up to the maximum of the other new developments share of the cost of works. The refund shall be made to the developer of DA 98- 7 within six months of receipt of the contributions paid by the other development.*

**The provisions Council's s.94 Contributions Plan would need to be amended before favourable consideration could be given to the proposed modification, as s.94 levies can only be applied to development in accordance with the provisions of Council's adopted plan under the provisions of the EP & A Act.**

### **Caniaba Village Association (CVA)**

The proposed modification seeks approval to delete Condition 89 which requires five (5) private open space allotments (Lots 912, 1210, 1410, 1701 and 1801) within the Estate to be available for the use of and management by the members of the Caniaba Village Association, and replace it with a new Condition that requires the developer to continue to manage and maintain the five (5) allotments and their facilities until the subdivision is completed when at such time the lots are proposed to be dedicated to Council.

Lots 912, 1210, 1410, 1701 and 1801 are illustrated on the plans in **Attachment 1**.

It is accepted that as the CVA has not been established (due to legal complexities) that there are no legal grounds to retrospectively incorporate the existing landowners within the association to comply with the requirements of Condition 89. The legal and practical obstacles include how to require existing owners in the Perradenya Estate to voluntarily join the CVA, particularly in light of the funding obligations that would result from the creation of the CVA.

In view of the above, Council needs to determine whether or not it accepts the dedication of the private open space lots. If Council does not accept the lots then the ownership would be retained by the land owner, which is currently Rous Water.

Following a review of the original DA Report to Council and stamped approved plans it is identified that:

- Lots 912, 1210 and 1410 in addition to being areas of open space, are each to function as drainage reserves and wildlife corridors, with Lot 1410 also to be benefitted by a cycleway.
-

Lot 1701 is the largest open space allotment, being the residue parcel of land within the subdivision. The majority of the allotment has slopes of greater than 20%. The lot includes an existing forest which was classified by the Caniaba Village DCP as an Environmental Protection area. There is also an approved fire buffer between the forest and the residential lots and proposed wildlife corridors connecting to Lots 912, 1210 and 1410. This lot is also approved to be part of the subdivisions network of pedestrian ways, cycle ways and bridle paths.

- Lot 1801 was to provide facilities for an equestrian centre / pony club, which was to consist of horse yards, buildings for storage of equestrian equipment and stabling of horses. Lot 1801 is also used to manage stormwater and in this regard also includes dams and first flush detention basins. Lot 1801 also includes the former Kopp's dip site.

### **Lots 912, 1210 and 1410**

Lots 912, 1210 and 1410 in addition to being areas of open space, are each to function as drainage reserves and wildlife corridors, with Lot 1410 also to be benefitted by a cycleway.

Council's Parks and Reserves section raise no objection to Council taking ownership and maintenance of these lots, subject to Council approving maintenance funding to the sum of \$9,700.

Condition 89 which is proposed to be modified, requires Lots 912 and 1410 to be under the ownership and control of the CVA. Contrary to this condition however, Condition 29 of the Development Consent requires Council to accept responsibility for the ongoing management of Lots 912 and 1410 after the release of the final stage of the development.

It is also noted that:

- Lot 1410 is approved to connect to Lot 1312 which is a similar type allotment that is required by Condition 29 to be dedicated to Council;
- Lot 1210 is approved to connect to Road 8, which will be dedicated to Council; and
- Lot 912 is approved to connect to Lot 1013 which is a similar type allotment that is required by Condition 29 to be dedicated to Council.

Given the abovementioned conflict in the conditions of consent, the function of these lots as drainage reserves and the fact that they connect with other lots (Lot 1312, Road 8 and Lot 1013) that have a similar configuration and function it is considered reasonable that Council accept the dedication of these allotments as proposed in the application.

### **Lot 1701**

Lot 1701 is the residual lot within the subdivision and was approved with the requirement to protect the existing forest (Environmental Protection area), establish a fire buffer and wildlife corridors and include pedestrian ways, cycle ways and bridle paths.

The proposal for Council to accept Lot 1701 will result in additional maintenance costs that Council would have to bear. Council's Parks and Reserves have estimated the maintenance cost to be \$9,000 per annum and advise that they do not support the acquisition given the maintenance costs, however do acknowledge that the lot would be of benefit to the community of Caniaba, particularly given that walking and similar activities rated extremely highly in the current Draft Sport and Recreation Plan Review being undertaken by Council.

The development consent requires a network of pedestrian and cycle ways within the streets of the estate as well as the requirement for the developer to construct the footpath from the estate to the public school. The estate also provides the Adam Gilchrist Park for recreational purposes. These pedestrian and cycle ways and open space lot are and will all be under Council ownership and maintenance.

In the context of the s96 application, the failure of the CVA is not considered sufficient justification for Council to accept dedication of this lot, particularly when having regard to the ongoing maintenance costs that Council would have to incur and the existing maintenance liabilities Council already has within the estate, and the level of existing public community facilities already provided in the estate for which Council has responsibility for maintaining.

## **Lot 1801**

Lot 1801 was to provide facilities for an equestrian centre / pony club, which was to consist of horse yards, buildings for storage of equestrian equipment and stabling of horses. Lot 1801 is also used to manage stormwater and in this regard also includes a dam and first flush detention basins. Lot 1801 also includes the former Kopp's dip site.

The implementation of the equestrian facility was to be the subject of a separate DA.

Council's Parks and Reserves Section advise that an equestrian facility is considered to be of less importance to the community of Caniaba than the approved uses of Lot 1701, although, there may be a number of community members who will support it. Parks and Reserves also advise that Council does not have technical expertise in running such an equestrian facility and therefore suggest that Council would need to consider the possibility of leasing such a facility, which raises the issue of whether community land can be leased. Alternatively, the land may have to be classified as operational.

Council's Parks and Reserves Section have estimated the maintenance cost of the lot to be \$19,000 per annum and advise that they do not support the acquisition given the maintenance costs as well as the lots abovementioned lack of functionality to the wider community.

When considering residential or village subdivisions it is preferable, however not necessary, for Council to take on infrastructure associated with stormwater management. An example of this is DA 2010/123 (23 Lot Village Subdivision in Dunoon) where Council approved the stormwater detention basin on private land.

The failure of the CVA is not considered to be sufficient reason for Council to take on the ownership and management of this lot, particularly given: the concerns of Council's Parks and Reserves (maintenance cost and the equestrian centre) and the fact that the retention of the stormwater infrastructure on private land is not an unacceptable planning and engineering outcome.

Council however may give future consideration to taking ownership of this lot if the concerns in relation to the equestrian centre can be resolved and following further technical consideration of the stormwater infrastructure, including consideration of the maintenance requirements and a risk assessment for the stormwater infrastructure.

## **Suitability of the Site for the Development**

The WRS was an important component of the original DA, was consistent with the mandatory requirements of the Caniaba Village DCP and helped meet the sustainable development intent of the subdivision.

The proposed deletion of the WRS and replacement with a \$7,000 subsidy to existing landowners for rainwater tanks, solar power or other environmentally friendly, energy efficient initiatives is not considered to be substantially the same as the development that was consented to and included the WRS. This conclusion therefore raises the question as to whether the subject site would have been assessed as being suitable for the original DA if the DA did not include the WRS but other environmentally friendly, energy efficient initiatives.

## Public Submissions

The received public submissions are addressed above in this report and also in **Attachment 3**.

## Public Interest

The grant of consent to the proposed modifications in relation to the WRS, the shared walking/cycling track and the transfer of community land to Council are not considered to be in the public interest for the reasons outlined above in this report.

There are issues relating to the public interest arising from this subdivision, which relate back to Rous Water and Lismore City Council incurring costs in order to deliver this development as originally proposed and approved. As public authorities, these costs will ultimately be funded by the community to deliver this subdivision in its final form, and the matter of whether expenditure of public funds is appropriate to deliver the aspirational sustainability outcomes of this estate should not be disregarded. Many of these costs arise from Rous Water taking on a developer role, and the hidden costs that were probably not anticipated at the initial concept phase.

Given that the proposed modification is not considered to result in substantially the same development, this issue is not considered determinative of this application.

## Section 94 Contributions Plan

The proposed modification in relation to the shared walking/cycling track does include the payment of additional s94 development contributions in lieu of the developer constructing the footpath. This aspect of the section 96 application however is recommended to be refused.

## Council Policies

No policies are considered to be directly applicable.

## Roads Act Approvals

No additional approvals required as a result of this application.

## Local Government Act Approvals

No additional approvals required as a result of this application.

## Environmental Appraisal

	<b>CONSIDERED</b>
1. Statutory Controls	YES
2. Policy Controls	YES
3. Design in relation to natural environment	YES
4. Landscaping/Open Space Provision	YES
8. Site Management Issues	YES
9. ESD Principles & Climate Change	YES
10 All relevant S79C considerations of Environmental Planning and Assessment Act 1979	YES

## Sustainability Assessment

### Sustainable Economic Growth and Development

If the proposed modification was approved there would be no ongoing costs associated with maintaining the WRS. There would however be ongoing costs in relation to the maintenance of the 5 CVA lots and any shortfall in the cost of constructing the walking cycling track to the public school that the proposed s94 contributions may not cover.

In respect to the WRS, Council's only opportunity for cost recovery is in relation to the potential to recover s64 contributions in relation to the modification to delete the WRS.

It needs further investigation to determine whether the proposed modification in relation to the WRS (being the \$7,000 in lieu of constructing the WRS) would result in additional investment in the sustainable development sector.

If the proposed modification to delete the WRS were approved then the sewerage from the estate would be piped to the South Lismore Treatment Plant, which would impact Council's infrastructure.

The proposed modifications are not considered to impact the amenity and/ or use of public space.

### Social Inclusion and Participation

If the proposed modification in relation to the CVA is accepted then Council will own the 5 private open space allotment and they will be available for public access to the entire community and not just members of the CVA.

If the proposed modification in relation to the shared walking / cycling pathway between the estate and the school is accepted then there would be uncertainty as to the timing of the construction of the pathway, which if delayed would adversely affect the local communities access to such a pathway and the pedestrian safety of Caniaba Road.

The proposal does not impact upon the heritage and cultural values of the natural or built environment.

The proposal relates specifically to the village of Caniaba and not all sectors of Lismore's communities. The proposal does not relate to the interconnectedness of Lismore's diverse communities or the diverse needs of all sectors of Lismore's community.

### Protect, Conserve and Enhance the Environment and Biodiversity

As discussed in the report, the proposed modification to delete the WRS does have implications in relation to: water consumption, sewerage management (effluent re-use), energy efficiency and greenhouse gas emissions. In particular:

- The applicant argues that the proposal to delete the WRS will reduce the emission of greenhouse gases.
- The proposal to delete the WRS will not facilitate the reuse and / or recycling of effluent to the same degree as if the WRS was constructed.

The proposal is not considered to have an adverse impact upon bushland, biodiversity or the protection of environmentally sensitive areas.

### Best-Practice Corporate Governance

The community is considered to have been appropriately informed of the proposed modifications by the public exhibition of the application.

The purpose of this report is to provide an appropriately detailed and thorough assessment of the application to best assist the Council in its determination of the DA, which is considered to be in line with best practice corporate governance.

The assessment of the application required multi-disciplinary input from Council staff.

## Comments

### Finance

The modifications requested relate to the Water Reclamation Scheme (WRS), shared walking/cycling track and Caniaba Village Association (CVA).

As consideration of the WRS is not supported due to this modification would result in a development that is not substantially the same development as the development for which consent was originally granted, no comment is provided.

In regards to the modification of the condition for the shared walking/cycling track, the issues raised by the Development Engineer in this report indicate that if the modification was adopted, Council may be exposed to significant financial risks associated with providing the shared walking/cycling track that under the existing condition is the developer's responsibility. Due to these risks, this modification is not supported.

As to the impact of the change to the CVA condition, if approved, Council will need to find at least \$37,700 per annum to fund maintenance costs associated with these lots (912, 1210, 1410, 1701 & 1801). In addition, there may also be asset provision, renewal, upgrade or expansion costs associated with these lots sometime in the future.

In regards to open space at Perradenya, it is important to note that Condition 29 states lots 116, 912, 913, 1013, 1312, 1410 & 1411 shall be Council's responsibility when the Subdivision Certificate for the final stage of the development is released. At the moment, as this condition has not been satisfied, the developer pays Council approximately \$21,000 per annum to maintain some of these lots, but at the completion of the subdivision, all costs for all lots will need to be fully funded by Council.

Due to the financial burden the proposed change to the CVA condition would place on Council, in addition to the commitment already in place to open space imposed by Condition 29, it is not supported.

### Manager - Development & Compliance

There are a number of issues with the implementation of the original consent that have resulted in uncertainty in relation to the timing, cost, provision and ownership of community infrastructure, as well as recurrent costs that may now not be considered desirable as the development has progressed. The recommended determination of this application does little to resolve many of these issues, or provide certainty as to how they may be resolved. Many of the issues with the implementation of the consent are likely to remain unresolved until a future point in time when decisions will be forced as the estate reaches completion. Those outcomes may be undesirable, and with little or no options available to resolve them.

As part of determining its position regarding the proposed modification, it may be beneficial for Council to consider whether it is desirable to persist with the current consent requirements and framework. An alternative would be for Council staff to enter into discussions with Rous Water regarding future development of this estate with a review to resolving uncertainty regarding outcomes, and establishing a program of actions to respond to the issues arising from this modification application.

It is important to note that if Council does proceed with this action, it may result in some of the sustainability initiatives and aspirations of this estate being abandoned in order to deliver a more fiscally responsible outcome that can be delivered with practical outcomes. Such actions would require a high level of community consultation to ensure any change in direction for this estate is accepted by the community.

## Conclusion

The modifications proposed as part of the section 96 application to modify consent relate to the approved WRS, shared walking/cycling track and CVA.

To grant consent to a section 96 application to modify consent, the Council as the consent authority must be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.

The applicant submits that the proposed modifications will result in a development that is substantially the same development as the development for which consent was originally granted.

To the contrary, for the reasons abovementioned in this report it is concluded that if approved the proposed modification in relation to the WRS will result in a development that is not substantially the same development as the development for which consent was originally granted. As a consequence, the proposed modification in relation to the WRS is not supported.

The proposed modification in relation to the shared walking/cycling track is also not supported given concerns in relation to the accuracy of cost of construction and cost liability, the timing of the footpaths construction and the considerable time the developer still has to complete the footpath, which therefore reduces the urgency for Council to determine this aspect of the application at this time.

Following consideration of the proposed modification to Condition 89 and the requirement to delete the CVA, it is concluded that Council accept the dedication of Lots 912, 1210 and 1410, however reject the dedication of Lots 1701 and 1801 for the reasons outlined above in this report.

The application is a Crown application as it is made on behalf of Rous Water who is recognised as a Crown authority. Sections 89 and 89A of the EP&A Act, which are quoted in **Attachment 6**, deal with the determination of Crown development applications.

In accordance with the provisions of Section 89 and 89A of the EP&A Act, Council must not refuse the grant of consent to parts of, or the entire application, except with the approval of the Minister. In addition however, Council must not refer the application to the Minister unless it is first referred to the applicable regional panel, which for Lismore City Council is the Northern Region Joint Regional Planning Panel (JRPP).

The JRPP may exercise the functions of the Council as a consent authority with respect to the application and a decision by a regional panel in determining a Crown development application is taken for all purposes to be the decision of the council. In this regard, it is understood that the JRPP can approve the section 96 application.

The JRPP however, cannot refuse its consent or impose a condition on its consent, except with the approval of the Minister. In this regard, if the JRPP determines to refuse the grant of consent to all or any part of the application then it must also refer the application, with a report, to the Minister. Upon receipt of the application from the JRPP, the Minister will consider the application and may direct the relevant consent authority to:

- (a) approve the Crown development application, with or without specified conditions, or
- (b) refuse the Crown development application.

## Attachment/s

1. Approved Plans
2. Applicants justification for the proposed modifications
3. Summary of submissions and planning comments
4. Context of the Development Consent and functions and purpose of WRS
5. Context of the Development Consent and function and purpose of CVA
6. Section 89 and 89A of the EP&A Act 1979: Determination of Crowns applications

## Recommendation

That:

1. Council, as the consent authority, considers that the application to modify Development Consent 1998/7 received by Council on 8 November 2010 should be determined in the following manner:
  - a) **refuse** the grant of consent to the proposed amendments to: Conditions 51, 76, 77 (Water Reclamation Scheme), Condition 63 (shared walking/cycle track) and Condition 89 (only as it relates to Lots 1701 and 1801) of Development Consent 1998/7 for the reasons outlined in the report; and
  - b) **approve**, in part, the grant of consent to the proposed amendment to Condition 89 (Caniaba Village Association) of Development Consent 1998/7, by deleting existing Condition 89 and replacing it with the following new conditions 89 and 89a for the reasons outlined in the report:
 

*89 The open space identified as Lots 912, 1210 and 1410 shall be maintained by the developer at no cost to Council until the release of the Subdivision Certificate for the final stage of the development at which time Council shall accept responsibility for the ongoing management of the parcels. All infrastructure works or property embellishments shall be completed by the developer pursuant to the conditions of this consent prior to the dedication of the land to Council.*

*89a The open space identified as Lots 1701 and 1801 shall be retained by the developer at no cost to Council. All infrastructure works or property embellishments shall be completed by the developer pursuant to the conditions of this consent prior to the release of the subdivision certificate.*

And grants delegated authority to the Manager – Development & Compliance to determine the application in this manner upon receipt of written concurrence of this proposed determination from Rous Water as a Crown Authority under the provisions of the Environmental Planning and Assessment Act.

2. The above resolution be advised formally to Rous Water seeking concurrence to the proposed determination as a Crown Authority under the provisions of the Environmental Planning and Assessment Act.
3. In the event that concurrence is not provided from Rous Water as a Crown Authority under the provisions of the Environmental Planning and Assessment Act to Council's proposed determination, that delegation be granted to the Manager – Development & Compliance to take any further action necessary (including referrals to the JRPP/Minister for Planning) to finalise the determination of the application to modify Development Consent 1998/7 received by Council on 8 November 2010, with reference to the contents of this report and this resolution of Council.



## Attachment 2 – Applicants justification for the proposed modifications Water Reclamation Scheme (WRS)

The section 96 application provided the following justification of this aspect of the proposed modification.

### **Environmental Considerations**

*The deletion of the water reclamation scheme and the adoption of the proposed environmental initiatives by the landowners of Perradenya, will significantly reduce the amount of greenhouse gases emitted by the development.*

*This is illustrated by the results of an analysis to compare the environmental effectiveness of the proposed environmental initiatives with the water reclamation scheme.*

*The analysis shows that the construction and ongoing operation of the water reclamation scheme for the 75 lots currently developed will generate in the order of 24 tonnes of CO<sub>2</sub> per annum.*

*The carbon footprint of the 75 lots currently developed inclusive of the proposed environmental initiatives will result in a reduction in greenhouse gas emissions by 63 tonnes per annum. Accordingly, the deletion of the water reclamation scheme and adoption of the proposed environmental initiatives will result in a total reduction in CO<sub>2</sub> emissions of 87 tonnes per annum.*

*The beneficial environmental outcomes achieved through the proposed amendment further contributes to the environmental attributes of the Perradenya Estate and thereby strengthens the environmentally sustainable foundations upon which Lismore City Council approved the subdivision.*

### **Economic Considerations**

*Following the research completed by GeoLINK and to address concerns associated with the environmental and economic components of the water reclamation scheme, Rous Water has undertaken a cost-benefit analysis of the proposed scheme. The analysis identified rainwater tanks as the preferred option over grey water recycling or stormwater harvesting.*

*The cost benefit analysis estimated the initial and ongoing costs for a water reclamation plant as follows:*

- *Construction: \$2 - \$3 million*
- *Maintenance & Operation: \$126,000 per annum*

*In addition, the overall cost of production per kilo litre of water produced from the plant would equate to \$5 - \$8 which is significantly greater than the current production cost of treated water by Rous Water of \$1 per kilo litre. It is unlikely that this cost inequity will be borne by the Perradenya landowners, and will, in all probability be borne by the rate payers of Rous Water constituent Local Government Areas.*

*Importantly, the cost of production identified within the cost benefit analysis was based on the full development of the Perradenya estate. As the subdivision is less than 50% released, the cost of production will in fact be higher until such time as the subdivision is fully developed indicating a higher level of subsidy for the Perradenya landowners. Based on current stage release full development is between 5-10 years away.*

### **BASIX Considerations**

*The consultation process undertaken by Rous Water with the residents of Perradenya identified concerns with the status of BASIX Certifications for existing and future dwellings. The position of the BASIX certification as it relates to the sought amendment is established below.*

- *The BASIX compliance of established houses on the estate would not be affected by changes to the alternative water supply.*
- *Houses built after July 2005 require BASIX Certification, the water component of which is satisfied by provision of an appropriate rainwater tank. This requirement was deemed to be satisfied by the eventual operation of the water reclamation plant.*

- Existing BASIX certificates, issued with the understanding that the water reclamation plant would proceed, remain current regardless. However, if a dwelling 're-enters' the planning system (e.g. for an alteration or addition) its BASIX compliance will be re-assessed but only for the alteration or addition. This applies to houses built both prior to and after July 2005.
- Accordingly, the deletion of the reclamation scheme has no impact on the current BASIX status of any approved dwelling.

### **Consultation with Property Owners**

- Rous Water has taken an active role in communicating with the landowners of Perradenya Estate. Three public meetings have been held to keep them informed of Council's direction in relation to the water reclamation plant and alternative environmental initiatives.
- All 75 existing landowners were invited by letter to each of the public meetings and in excess of 30 landowners were present at each of them.
- Rous Water recognised from the outset the removal of the provision of a reclamation plant would not be acceptable to landowners without providing acceptable environmentally friendly alternatives.
- Initially landowners were reluctant to forego a reclamation plant and if so required full compensation for any alternative option. Rous Water initially offered a subsidy towards provision of a rainwater tank but this was not favoured by those residents who already had a tank or could not easily fit one on their land. The physical constraint to the placement of rainwater tanks on already developed village lots was also established in the research completed by GeoLINK.
- Rous Water accepted this community view and broadened its alternatives to include solar panels and other acceptable energy efficient environmentally friendly initiatives on the basis that the alternatives offered fitted with the initial ESD principles upon which the subdivision was established.
- The most recent public meeting was held on 1 September 2010 at Perradenya. The meeting was attended by some 35 landowners and focused on the proposed amendments to Development Application 98/7. In relation to the Water Reclamation Scheme, Rous Water offered landowners a subsidy of up to \$7,000 for provision of rainwater tanks, solar panels or other environmentally friendly energy efficient alternatives subject to the requirement to provide a water reclamation scheme being removed from the Development Consent. The following motion from the floor was put to the meeting and was supported by all landowners present, with the exception of two:

*MOTION: That landowners accept the \$7,000 subsidy, and support the Section 96 proposal to Lismore City Council.*

- This motion forms the basis for the following proposed amended Condition to the Development Consent, and maintains the strong environmental/energy efficient principles upon which the Estate was originally based.

### **Shared Walking/Cycling Track**

The section 96 application provided the following justification for this aspect of the proposed modification.

*The basis for seeking modification of this condition is associated with the poor road alignment of Caniaba Road and the associated poor pedestrian safety of the route between Perradenya and Caniaba School. To this end, the proponent does not support developing the pathway on the alignment parallel to the existing Caniaba Road as a preferred outcome.*

*The pedestrian networks provided within Development Control Plan No. 35 were provided as conceptual networks within the Caniaba locality. The alignments were based on basic topographical plans with limited "ground truthing" of the pathways due to the time constraints to develop the consent conditions associated with Perradenya in 1998. It is therefore logical as further works are completed through the development of the estate with associated investigations into civil works, that the imperfections of previous conceptual Development Control Plan requirements associated with pathways are identified and subsequently rectified.*

We submit the **preferred strategy** is to develop a footpath in association with Lismore City Council upon the staged upgrade of Caniaba Road. This approach will provide the benefits of:

1. *Shaping the footpath alignment to best fit with the final road form,*
2. *Negating the possibility of having to remove sections of the footpath as a result of upgrading works to Caniaba Road,*
3. *Responding to the future subdivision connection points upon lands identified within the Village Strategy fronting Caniaba Road in a more integrated manner.*

*This strategy is best achieved by the developer providing funding for the footpath via developer contributions and construction being carried out by Lismore City Council rather than the current condition which provides for construction of the footpath by the developer.*

### Caniaba Village Association

The section 96 application provided the following justification for this aspect of the proposed modification:

1. Legal complexities prevented the associated being formed as required by the condition.
2. The CVA has not been set up, approximately 70 lots have already been released and it is the applicants understanding that no legal grounds exist to retrospectively incorporate the existing landowners into the CVA as required by the condition.
3. The private open space allotments continue to be maintained by the developer while the estate is developing.
4. By eventually dedicating the private open space allotments to Council, the proposed modification ensures that the Perradenya Estate and surrounding areas of Caniaba will have access to the private open space land.

## Attachment 3 – Summary of Submissions &amp; Planning Comments

Name of Submitter	Issues raised	Planning Comment
Michael McKenzie	<p>Supports the nature of the application, however has concerns in relation to:</p> <ul style="list-style-type: none"> <li>• Does not believe that Rous Water in this case is the “Crown” or that this constitutes a “Crown Application”, which cannot be refused unless ministerial approval is given. Rous Water is a public authority acting as a developer for a private development.</li> <li>• Proposed condition 85 should require Rous Water to offer the subsidy and get accepted to at least 80% of the existing lots and offer for a minimum of three year or which occurs last.</li> <li>• Council should collect sufficient funds so that the cycleway can be constructed in a timely manner. The applications proposed method of collection via s94 contributions may take decades.</li> </ul>	<ul style="list-style-type: none"> <li>• Issue addressed above in the report.</li> <li>• The issue of how the \$7,000 subsidy is administered is a matter for further assessment as detailed above in this report.</li> <li>• The issue of the funding and timing of construction of the shared walking/cycling track is addressed above in the report.</li> </ul>
Caniaba Public School Council, 387 Caniaba Rd, Caniaba	<p>In the original planning of the Perradenya estate there was a commitment to:</p> <ul style="list-style-type: none"> <li>• construct a cycleway linking the estate with the school and local hall; and</li> <li>• remove the hump in the road immediately north of the school within the speed zone area to improve visibility and safety.</li> </ul> <p>The respondent seeks an update on the expected timeframe for implementation of these matters.</p>	<ul style="list-style-type: none"> <li>• In accordance with Condition 63 the timeframe for the construction of the shared walking/cycling track between the Perradenya Estate and the Caniaba Primary School is prior to the release of the last lot of the estate.</li> <li>• The upgrading of Caniaba Road is to be undertaken in accordance with the “Plan of Management for the upgrading of Caniaba Road from Bruxner Highway to Fredericks Road” and will be co-ordinated and undertaken by Council’s Infrastructure Section.</li> </ul>
Two (2) submissions by: L Keane, resident of Perradenya Estate	<ul style="list-style-type: none"> <li>• Respondent lives in the Perradenya Estate and the amendments will have a negative effect on their property greater than \$7,000 and negatively affect the enjoyment of their land.</li> <li>• Purchased the property with full knowledge, expectation and price tag of getting recycled water. The proposed amendment will negatively affect the enjoyment of their land.</li> <li>• No practical way on their block to fit a water tank.</li> </ul>	<ul style="list-style-type: none"> <li>• The impacts of the proposed modifications have been considered in the above report.</li> <li>• It is noted and a relevant point that existing residents purchased into the estate with an expectation of getting recycled water.</li> <li>• Issue noted and addressed in the above report.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
	<ul style="list-style-type: none"> <li>• In relation to the footpath, the contribution from the developer seems to be underfunded and may cause delays and possible abandonment of the project and leave the village with no footpath and therefore no safe pedestrian path.</li> <li>• LCC has no fixed timeframe to construct the footpath.</li> <li>• Local community control of the open space lots is the best outcome for the community.</li> <li>• The amendment does not specify what will happen to the community land and is it possible that it may not be used for community purposes but rather LCC use some or all of the land commercially.</li> <li>• If Council took ownership of the private open space it would be taken away from the community and residents would have set up the CVA if it weren't for opposition from LCC.</li> <li>• The public consultation undertaken by Rous Water was not done properly and did not constitute an acceptable standard of consultation.</li> <li>• The last two surveys by Rous Water show that most Perradenya Residents do not support the proposal with regards to the WRS.</li> <li>• The WRS, footpath and private open space were to be community infrastructure intended to be for the whole Caniaba Village, however the only residents invited to meetings were those in the Perradenya Estate.</li> <li>• At the time of the DA, LCC promised that all Caniaba village residents would be involved in any consultation and have input and access to community infrastructure and this promise has been broken.</li> </ul>	<ul style="list-style-type: none"> <li>• Issue noted and addressed above in the report.</li> <li>• Issue noted and addressed above in the report.</li> <li>• Noted as a comment. However it is also noted that if Council control the open space areas then they would be available for public use.</li> <li>• It is understood that the proposed modification seeks to dedicate the open space lots to Council and that they generally continue to function in accordance with their approved uses, possibly with the exception of the equestrian centre.</li> <li>• If Council were to accept the open space lots then they would be open to the public and generally continue to function in accordance with their approved uses, possibly with the exception of the equestrian centre.</li> <li>• Noted as a comment.</li> <li>• The results of the surveys are noted. The developer surveyed the residents of Perradenya in relation to alternative water supply options, which included the WRS. 48 of the 64 households surveyed identified the WRS as their preferred water supply option.</li> <li>• Noted as a comment.</li> <li>• Noted as a comment in relation to the determination of the original DA.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
Jenny Rose, 35 Dougan Rd, Caniaba	<ul style="list-style-type: none"> <li>• The WRS was a sustainable concept for the Caniaba Village and not just Perradenya and Council should take into considerations the concerns of all Caniaba residents.</li> <li>• Rous Water have held meetings informing and consulting residents in Perradenya but not existing residents within the Caniaba Village, some of whom supported the original DA as it was to meet the needs of the Caniaba Village.</li> <li>• The decision on the subject modification affects the Caniaba Village and not just Perradenya residents and a financial gain by Perradenya residents and Rous Water shouldn't be reason for approval of the amendment.</li> <li>• Following requests of Rous Water to be informed of meetings concerning Perradenya, Rous Water failed to notify the respondent.</li> <li>• Rainwater tanks were originally opposed by the community with legitimate concerns raised by members of the community.</li> <li>• Rainwater tanks may be the cheapest option for Rous but were the residents given the option of potable water for inside use and reclaimed water for outside use.</li> <li>• It appears that Rous Water's cost benefit analysis was done on Perradenya only and not the future sized Caniaba.</li> <li>• The CVA was to play a major role in the plan of management (POM) for Adam Gilchrist Oval. How will the proposed modification affect the POM for the Adam Gilchrist Oval.</li> <li>• The respondent was informed the delay in formalizing the CVA was the collapse of HIH Insurance Ltd.</li> </ul>	<ul style="list-style-type: none"> <li>• It is noted that the dual water reticulation was to be provided to the Perradenya Estate and the future Caniaba Village and therefore the concerns of Caniaba residents are relevant and being considered as part of this assessment report.</li> <li>• Noted as a comment.</li> <li>• It is acknowledged that the assessment of the proposed modification needs to give consideration to the function of the WRS and CVA in the context of the Perradenya Estate and also the broader Caniaba Village.</li> <li>• Noted as a comment.</li> <li>• It is noted that at the time the DA was approved there were health concerns about the use of water tanks.</li> <li>• Given NSW Health has not approved reclaimed water for potable use (December 2003) then the only option for residents with the WRS was to provide town water (potable) for inside use and reclaimed water for outdoor use. The developer surveyed the residents of Perradenya in relation to alternative water supply options, which included the WRS. 48 of the 64 households surveyed identified the WRS as their preferred water supply option.</li> <li>• Noted as a comment.</li> <li>• Question is not considered to be relevant to the assessment of the s96 application. In particular, the Adam Gilchrist Park is already in Council ownership and Condition 89 of the consent, which relates to the CVA, does not refer to Adam Gilchrist Oval.</li> <li>• Noted as a comment.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
	<ul style="list-style-type: none"> <li>• Have all avenues been exhausted to form the CVA and what were they.</li> <li>• The removal of the CVA would erode the village atmosphere, cost Council for the ongoing maintenance of lots 1701 and 1801 once dedicated to them, and what will Council do with the lots.</li> <li>• Objects to the amendment to Condition 63 unless Council guarantees in writing that they will contribute to the shortfall that may arise when building the cycleway/pedestrian way.</li> <li>• While the cost of the cycleway has increased so has the value of the blocks of land.</li> <li>• Seeks assurance that any LCC Councillor who is on the board of Rous Water will not be voting on the proposed amendment due to the perceived conflict of interest.</li> </ul>	<ul style="list-style-type: none"> <li>• It is accepted that the CVA cannot be set-up due to legal complexities. In particular, the problem remains how do you make any of the existing 75 residents of the estate to now retrospectively sign up to the CVA if they don't want to.</li> <li>• If Council accept the lots, there will be a maintenance burden. Council will ensure the lots are generally used for their approved use (possibly with the exception of the equestrian centre) and make them available to the public and therefore not unreasonably erode the village atmosphere.</li> <li>• This issue is addressed above in this report.</li> <li>• Noted as a comment.</li> <li>• Not a relevant consideration for the assessment of the s96 application.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
Chris Moran, 615 Caniaba Road, Caniaba	<ul style="list-style-type: none"> <li>• To date Rous Water has benefitted financially and the Caniaba community has lost out by the dropping of the Caniaba Village DCP and the proposed amendment leaves Perradenya as just another standard development with none of the social and environmental benefits as was grandly flagged by Council and the developers.</li> <li>• The amendment in regard to the water reclamation is empty rhetoric and guarantees no benefit in terms of water saved or reclaimed within the village or the LCC area, but savings in the Ballina Shire.</li> <li>• Given the lack of take up by residents of good building design and other environmental benefits of the defunct DCP, then future involvement by residents in other water saving plans is doubtful.</li> <li>• The retrofitting of dwellings with water tanks is unlikely due to the cost impact of ripping up gardens, etc...</li> <li>• Rous Water needs to develop a water reuse scheme that will benefit the residents as originally proposed – perhaps stormwater reuse is possible as originally proposed.</li> <li>• Rous water should pay for the entire footpath as was the original condition and not ask other developments or ratepayers to contribute.</li> <li>• Rous Water purchased the estate with the condition to establish the Caniaba Village Association and should fulfil the management of these open space areas.</li> <li>• The management of the larger open space allotments provide Rous Water an opportunity to make up for its loss of environmental credibility by management that will help the environment.</li> <li>• Urge Council not to further compromise the development from the original proposal.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted as a comment.</li> <li>• Noted as a comment and the issue of the developments benefits in terms of water saved is addressed above in this report.</li> <li>• Noted as a comment and it is acknowledged that there have been issues associated with enforcing compliance with the now repealed Caniaba Village DCP.</li> <li>• The application and this report acknowledge there are issues associated with the retrofitting of water tanks on already developed lots.</li> <li>• This issue is addressed above in the report.</li> <li>• This issue is addressed above in the report.</li> <li>• This issue is addressed above in the report.</li> <li>• Noted as a comment.</li> <li>• Noted as a comment.</li> </ul>
W Sheaffe & R Irwin, 32 Dougan Rd, Caniaba	<ul style="list-style-type: none"> <li>• Respondent's legal advice claims that RCC claim as a 'Crown' development is irrelevant as in this instance RCC should be considered in the same way any other land owner or developer would be considered.</li> </ul>	<ul style="list-style-type: none"> <li>• This issue is addressed above in the report.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
	<ul style="list-style-type: none"> <li>• The s96 application affects the whole Caniaba Village, which was envisaged to be up to 1000 people (300-350 lots).</li>   <li>• Perradenya was developed in conjunction with the Caniaba Village DCP and despite some strong concerns by local residents, was ultimately accepted because it offered benefits such as the WRS, shared pathway to the school, extensive tree plantings, and proper community consultation.</li>   <li>• After the DA was approved, Rous County Council purchased the development as it gave them the ability to demonstrate this 'environmentally sustainable, water efficient residential community'.</li>   <li>• Market research on the viability of such village for home buyers showed there was a substantial niche demand for a development as required by the DCP and the Perradenya DA and that purchasers were prepared to pay a premium for the land.</li>   <li>• Although the DCP was repealed, Council's then Planning Manager advised the developer that the conditions should be read as if the DCP still existed.</li>   <li>• LCC can't modify the consent unless it is satisfied that it is substantially the same development for which consent was originally granted. The proposed modified development cannot be seen as 'substantially the same' as the original consent by any reasonable person. Rather the showcase environmentally sustainable community will be nothing more than a quasi urban residential development.</li>   <li>• The \$7,000 subsidy for water tanks, solar panels or other energy efficient alternatives conveniently ignores the all-important water conservation and effluent re-use principles that were the main foundation of the estate and the sole reason for the developer to purchase the development.</li>   <li>• Objects to the proposed deletion of Condition 51 and suggest that it be deferred until the release of the last linen plan given the developer could proceed with the WRS except that it is not cost effective and the developer</li> </ul>	<ul style="list-style-type: none"> <li>• It is acknowledged that the approved dual water reticulation for the Perradenya Estate was to be constructed to also meet the requirements of the future Caniaba Village and therefore in this respect the s96 application does affect the future Caniaba Village.</li>   <li>• Noted as a comment.</li>   <li>• This issue is addressed above in the report.</li>   <li>• This issue is addressed above in the report.</li>   <li>• Noted as a comment, however, the s96 application seeks to delete the requirement for the WRS and it is in relation to that proposal that Council is making its assessment.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
	<p>has a moral and legal obligation to construct the WRS.</p> <ul style="list-style-type: none"> <li>• Rous Water has the funds to commit to a WRS at Ballina Heights but not less funds to support to honour the WRS for Perradenya made years earlier.</li> <li>• GeoLINK's survey of Perradenya Residents showed that the 48 of the 64 landowners supported the WRS. However the applicant claims that the resident's current support at the September meeting (of which only 35 people attended) for the amendment justifies the application.</li> <li>• It is the respondents understanding the support of the residents for the proposed deletion of the WRS was gained after the developer advised them of the cost to produce the recycled water and that as an alternative they would receive a subsidy of \$7,000 towards water tanks, solar panels or other environmental friendly initiative. Water tanks are no longer considered innovative and would residents still be as supportive of solar panels given the recent reduction from 60 to 20 cents per kw.</li> <li>• The high cost of the recycled water must include the cost of constructing the WRS as the ongoing operation costs would equate to \$2.60 per kl.</li> <li>• The capital cost of the WRS should be recouped in the sale price of the lots and not through water rates.</li> <li>• The WRS was to be the jewel in the crown of the subdivision as confirmed by the application, which states the estate was to be a "showcase of environmentally sustainable, water efficient residential community". The WRS is the only feature of the estate that still bears resemblance to the environmentally sustainable goals of the DA because the developer and LCC failed to ensure the development complied with the DCP and the DA.</li> <li>• Believe the WRS may well be achievable in the future as more lots are sold, technologies improve, the cost of recycled water decreases and attitudes towards the re-use of waste water changes and therefore it is desirable to defer the need to construct the WRS until the</li> </ul>	<ul style="list-style-type: none"> <li>• Noted as a comment.</li> <li>• Noted as a comment. It is agreed that the WRS was an important component of the approved subdivision and that there have been issues associated with enforcing compliance with the now repealed Caniaba Village DCP.</li> <li>• Noted as a comment.</li> </ul>

Name of Submitter	Issues raised	Planning Comment
	<p>end of the estate, which could be a decade away.</p> <ul style="list-style-type: none"> <li>• No objection to the footpath modification apart from the lack of certainty as to when LCC will complete the upgrade of the relevant section of Caniaba Road.</li> <li>• Understood that the developer never intended to set up the CVA, however given it was never set-up accepts that the condition needs to be modified, but that the lots need to be able to be accessible by all residents of Caniaba.</li> </ul>	<ul style="list-style-type: none"> <li>• This issue is addressed above in the report.</li> <li>• This issue is addressed above in the report and it is understood that if Council accepts ownership of the open space lots then they will be accessible to the public.</li> </ul>
J O'Brien, 16 Gardenia Cr, Caniaba	<ul style="list-style-type: none"> <li>• Respondent purchased a \$7,000 solar power system on the assurance from Rous Water that he would receive \$7,000 for the solar system in lieu of the WRS not going ahead. The respondent says that a lot of families have done similar and that Council's rejection of the application would greatly impact upon his family's financial situation.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted as a comment.</li> </ul>

## Attachment 4 – Context of the Development Consent and Function & Purpose of WRS

The following points help establish the function and purpose of the WRS and its role in the context in which the consent was granted.

### 1. **Rezoning Report (July 1997)**

In commenting on the history of the land rezoning, the Council report states that in February 1997:

“Council resolved .....; to agree that the proposed Village of Caniaba be based on sustainable development principles; and to agree that Council participate with Rous County Council in an investigation of effluent reuse, water efficiency conservation measures, and on-site provision of potable water”.

The rezoning Council report, in response to objections received, made the following comments in relation to ‘water’ and ‘sewerage’:

*In accordance with Council’s resolution to base the development on sustainable development principles, a study was commissioned to examine the potential source of water for the Perradenya Estate and the appropriate disposal or reuse options for wastewater. This study has been jointly funded by Rous County Council as part of the Rous Regional Water Conservation Program. Rous County Council looks upon the development as an opportunity to trial conservation measures that can be applied to other areas.*

*With respect to the water supply, the investigation had as a principal aim, to reduce to a minimum the amount of water that is to be sourced from Rous County Council Headworks. The report shows that a combination of rainwater tanks backed up by a small diameter reticulation supplying “town water” during dry spells produces a scheme with an affordable capital cost, whilst producing a sizeable reduction in demand on Rous Headworks. Some questions regarding the economic effect the loss of water sales would have on the Council whilst still needing to maintain the infrastructure and some health issues still remain unanswered. These would be addressed and answered prior to any development consent for Perradenya being issued.*

*The study also found that with the exception of potable reuse, the development did not present an opportunity to trial effluent reuse schemes in a manner that has not been trialled elsewhere. This is particularly the case with a scheme which incorporates rainwater tanks as these will meet the majority of demand. Therefore the potential to reuse effluent is minimal. Given this situation and the concerns the existing residents have concerning wastewater pollution, the appropriate solution appears to be pipe sewage to South Lismore Treatment Plant for treatment and reuse/disposal.*

*It is possible for the pipe route to following existing road reserves. In addition, the proposed water supply pipeline could follow the same route thus alleviating the concern with the proposed pipeline route from the Tuncester brewery to the development. The option of having all pipelines in the one route should be Council’s preferred position, and incorporated in any Development Consent.*

*Although the above proposal addresses the sustainable development principles for Perradenya it does not constitute a trial that could be replicated on a widespread basis as rainwater tanks are not seen as applicable to urban areas. The local Public Health Unit considers that in urban areas rainwater tanks may be polluted by fallout which would be washed from roofs into the tanks.*

*Rous County Council has offered to fund the construction and operation of a water reclamation plant which would intercept the wastewater flows from Perradenya to South Lismore Treatment Plan, and treating these to potable standard.*

*The reclaimed water would then be returned to Perradenya for potable and non potable use. Connection to the reclaimed water would be voluntary with consumers having the choice of a water supply comprising “town water” and rainwater tanks, “town water” and reclaimed water or reclaimed water on its own. In order that the Water and Sewerage ESD principals can be preserved in the long term, it will be necessary for the purchasers of each lot to select one of the water supply options at the time of purchase. This choice would then be attached to the parcel of land by some legal instrument.*

*Initially it was considered that the reclamation plant be positioned close to or within the Perradenya Estate. As the plant involves considerable investment and is intended to be a trail for future application in urban areas, the plant may be better located at South Lismore Wastewater Treatment Plant. From this location reclaimed water could be pumped to the Perradenya Estate and supplied to the industries in South Lismore.*

*The period of time for the investigation, construction and commissioning of the reclamation plant is expected to exceed the lead time for the development, so it will be necessary to provide the water and sewerage infrastructure in stages which would accommodate the introduction of reclaimed water at a later date.*

*In conclusion it is recommended that an approval should be incorporate the following conditions:*

- *Water supply initially comprise a combination of rainwater tanks and reticulated town water.*
- *Wastewater be initially piped to South Lismore for treatment and reuse/disposal.*
- *Rous County Council and Lismore City Council undertake the investigation, construction and operation of a water reclamation scheme with funding being provided by Rouse County Council.*
- *The Estate be marketed in a manner that requires purchasers to nominate the type of water supply they require for their property. Rouse County Council provide incentives for purchasers to connect to the reclaimed water scheme.*
- *The provision of the reclaimed water scheme be undertaken in a manner which does not impede the development.*
- *The DCP for Perradenya Estate identify a possible site for the reclamation plant with this site being vested in Council's name should it provide to be the better location.*
- *The water and sewerage scheme for Perradenya Estate have as a principal the zero discharge of effluent on the Estate.*
- *The choice of water supply for each lot be made at the time of purchase and attached to the lot by legal instrument.*

*These requirements will be included in the Development Control Plan and attached as conditions to any consent given.*

Council resolved to recommend and implement the rezoning of the land. The Council resolution, which included ten components, was essentially that the Council adopt draft amendment to the LEP, but prior to the adoption that the following documents are finalised to the satisfaction of Council:

- A Village Structure Plan;
- A Development Control Plan for the Caniaba Village;
- A Section 94 Contributions Plan for the Caniaba Village; and
- Arrive at a formal agreement with the developer on the works required and costs of those works and infrastructure.

The resolution also included a component that the above quoted comments and recommendations under the heading "sewerage" be noted and forwarded to the Caniaba Village Steering Committee for its consideration.

## **2. Development Control Plan 35 – Caniaba Village (DCP) (June 1998)**

The aims of the DCP were:

1. *Ensure Caniaba village develops as an ecologically sustainable settlement providing innovative, practical and achievable examples of Ecologically Sustainable Development (ESD) principles for residential living and resource management.*

The DCP included a specific chapters for Utility Services (water and sewer). Each chapter contained: 'Objectives', 'Concept' and 'Strategies' and each of the Strategies set out actions that were either "mandatory" or "recommended".

When considering the below requirements of the DCP, it is noted that the Council report recommending the adoption of the DCP stated that "*Details regarding water supply and waste water treatment, as agreed between the Perradenya Developer, the Manager Water and Sewerage, and Rous County Council have been inserted in the DCP*".

In relation to water supply the mandatory actions of the DCP were:

### **Water Supply**

#### **4.5.20(M) Integrated water use systems**

Houses, buildings and public facilities will be designed to minimise use and waste of water. Water will be harvested in the landscape and stored in dams and lagoons, as well as from building roofs to supplement and reduce demand on reticulated water from the Lismore City System. Potable water, wastewater and stormwater are required to be treated as an integrated system and Council will require development to address this.

#### **4.5.21(M) Water Supply Options**

Lismore City Council has considered the most appropriate manner to provide the village with a sustainable water supply system. An integrated water supply and sewage treatment strategy has been prepared for the village. The proposed scheme will utilise reclaimed water to minimise the demand exerted on the current Rous County Council Headwork's. Extraction of ground water is not acceptable.

#### **4.5.22(M) Preferred supply option.**

Water used for domestic and commercial purposes will be supplied by a combination of means. There are four options from which the customer can choose. They are:

1. The provision of reticulated town water for indoor use and rainwater tanks for outdoor use.
2. The provision of reticulated town water for indoor use and the provision of reticulated reclaimed water for outdoor use.
3. The provision of reclaimed water for both indoor and outdoor use.
4. ....

Properties within the development known as Perradenya Estate may choose from option A, B or C. Certain incentives may be offered to property owners who choose option B or C. The incentive will be provided by Rous County Council. The developer of the Perradenya Estate will enter into agreement with Rous County Council and Lismore City Council to make the provision of Options 2 and 3 available.

In relation to wastewater the DCP States:

*"The challenge for the whole village to be connected into a water reclamation scheme to recycle water. For Perradenya ....., this concept is to be achieved by a reticulated collection system".*

The mandatory actions of the DCP in relation to wastewater were:

#### **4.5.26(M) Waste water reclamation scheme**

*"For properties within the development known as Perradenya Estate, water recycling is to be achieved by participation in a reticulated wastewater collection system. This wastewater shall form the feed source for the water reclamation options". ...*

**4.5.27(M) Other preferred scheme options**

*"In the event of a full reclamation scheme no proceeding then an alternative sewerage scheme which seeks to achieve a high standard of water efficiency, treatment and re-use of effluent shall be implemented in which developers of the proposed reticulated village scheme area will be required to participate".*

**3. Development Application 1998/7 and Report to Council (August 1998)**

In relation to water and sewer, the Council report stated:

*The provision of water and sewer and stormwater drainage facilities to service the Perradenya Estate have been the subject of extensive assessment by Lismore City Council, the applicant and Rous County Council, with regard to (especially) water reticulation. A brief overview summary of the proposal, as contained in the development application is as follows:*

*(a) Water Reticulation – this will involve three options that are available for water use for domestic purposes for Perradenya Estate residents. The property owner may choose either:*

- (i) the provision of reticulated town water for indoor use and rainwater tanks for outdoor use;*
- (ii) the provision of reticulated town water for indoor use and the provision of reticulated reclaimed water for outdoor use.*
- (iii) the provision of reclaimed water for both indoor and outdoor use.*

*(b) Sewer Reticulation – provision of this facility will involve the transportation of sewage effluent from the estate via a series of pumping stations and rising carrier mains to the South Lismore Treatment Plant for treatment and subsequent disposal of the effluent.*

The Council report included the following comments from the 'Manager – Water and Sewerage Section':

*The Caniaba village development presents this Council and Rous County Council with the opportunity to trial innovative water and sewerage options in a Greenfield site.*

*Council has previously resolved to join with the developer of the Perradenya Estate to construct a water and sewerage infrastructure for the whole village. Whilst this entails some financial risk to Council, Council's up-front commitment is a vote of confidence for the whole development.*

*The water and sewerage conditions of consent for the Perradenya development are in conformity with the Development Control Plan which calls for the supply of water to the development to be reclaimed from the sewerage system or from rainwater tanks. The choice being at the sole discretion of the customer.*

*Rous County Council is proceeding with the water reclamation plant and will lodge a Development Application for this in the future.*

In relation to the DA's compliance with the Utility Services (water and wastewater) section of the DCP, the Council report stated:

*The utility services have been based around Ecologically Sustainable Development (ESD) principles, providing for a more efficient living, with particular attention to global issues of greenhouse gas emissions, water wastage, over-consumption and the waste stream in general.*

.....

*An integrated water supply and sewerage treatment strategy has been prepared for the village, whilst compliance with DCP No. 35 is acknowledged.*

*In the event of the full reclamation scheme not proceeding and further until the reclamation plant commences, an alternative sewerage scheme, which seeks to achieve a high standard of water efficiency treatment and reuse of effluent is to be implemented in which developers of the proposed reticulated village scheme area will be required to participate. It is proposed that sewage will be reticulated to the South*

*Lismore Treatment Plant, at which the option remains to utilise the treated effluent upon the approved Tea Tree and Turf Farm establishment located adjoining the Lismore Airport.*

The Council report identifies that the proposed WRS satisfies the mandatory 'water supply' and 'wastewater' requirements of the DCP and concludes that the DA is generally in accordance with the DCP and therefore satisfies the aims of the plan to develop an ecological sustainable settlement, providing innovative and achievable ecologically sustainable development principles for residential living and resource management.

The Development Consent included conditions requiring the construction of the WRS.

#### **4. Repeal of Development Control Plan 35 – Caniaba Village**

A report was prepared to the August 2006 Council meeting with the purpose of outlining the intent of DCP 35 and outlining a means for ensuring that the intent of the DCP can be carried forward into the future despite the fact that the Perradenya subdivision has already been approved. The report to Council on the repeal of DCP 35 made the following background comments:

*“Council resolved in early 1997 that, should village development proceed at Caniaba, it was to be based on sustainable development principles particularly in relation to energy efficiency, stormwater management, water conservation, effluent re-use, landscaping, forestry and public transport.*

*The DCP was required to be produced within a short time frame to accommodate the Perradenya developers' timeframe for achieving approval of the DA. It exceeded normal parameters for such a plan and comprised a visionary master plan for environmentally sustainable development but it was not possible to rigorously evaluate all contents of the DCP. As a result some of its provisions have subsequently been shown to be impractical to implement. Due to time constraints it was finalised in mid-1998, six months after lodgement of the development application”.*

In relation to 'future actions' the report stated:

*“While DCP 35 Caniaba Village was considered to be at the forefront of sustainability requirements in 1998, it has been superseded by many of the State and Council initiatives outlined above. Most of these initiatives would override the provisions of any DCP. Accordingly it is recommended that Council repeal DCP 35 Caniaba and replace it with a simplified site specific DCP addressing only those issues not addressed in other legislation or planning controls. These would be:*

- .....
- .....
- Water supply and waste water management options as described in S4.5 of DCP 35”.

On the 8 August 2006 Council adopted the following recommendation:

*That Council:*

1. *Note the legislative and policy changes regarding sustainability which have superseded the requirements of DCP 35 Caniaba Village;*
2. *Resolve to repeal the current DCP 35; and*
3. *resolve to prepare a new DCP for the proposed Caniaba village area, to focus on:*
  - .....
  - .....
  - Water supply and waste water management options as described in s4.5 of DCP 35.

While a new DCP has not been prepared it is clear from Council's resolution that the new DCP was to specifically focus on Water supply and waste water management options as described in s4.5 of DCP 35 and that these requirements were not considered redundant.

## Attachment 5 - Context of the Development Consent and Function & Purpose of CVA

The following points help establish the function and purpose of the CVA and its role in the context in which the consent was granted.

### 1. **Development Control Plan 35 – Caniaba Village (DCP)**

Section 4.11 of the DCP related to 'Community Resource Management'.

The 'objectives' of this section of the DCP were:

1. *Encourage the local governance and management of natural features, open space, community facilities and activities, both at village and where required individual residential cluster levels.*
2. *Encourage sustainable community action and community involvement in Landcare activities, bushfire management, emergency services, recycling, community transport and business and other community development programs.*

The 'concept' of this section of the DCP was:

*A village association of which all residents and landowners in the village are automatically members operates and manages a range of facilities including the sports recreation club, community centre and the hall, the food co-operative and bushfood cafe (the latter which is leased out to an operator) and bushfood forest enterprises.*

*The association manages a range of large areas of village open space and conservation areas on behalf of Council, and contracts its services to a number of body corporates for open space, drainage reserves and parkland areas.*

....

In relation to the Community Resource Management a mandatory action of the DCP was that a village association be established:

4.11.3(M) *The following key aspects of local community resource management will apply to development:*

- ...
- *In general, areas and facilities are to be retained initially by a developer, then handed to a village association or a neighbourhood association. This includes minor drainage reserves and dam sites, linking and secondary buffer areas and nature corridors, open space areas for community use including agroforestry, nature conservation, and hamlet level parklands and community facilities. These will benefit community movement and access, as well as create opportunities for social and economic benefit to the village or a neighbourhood.*
- *In general, areas and facilities to be retained as private open space and facilities by a body corporate or company. This would include small sites of private open space surrounded by Strata or Community Title lots...*

### 2. **Discussion Paper Perradenya Estate Association**

A discussion paper was prepared (by the applicant's solicitor 'Mallesons Stephen Jaques') to examine from a legal perspective a title, management and operational structure for the development and continuing operation of the Perradenya Estate as a Masterplanned development.

The following excerpts from the discussion paper are provided to assist in establishing the history of the CVA.

*The structure which is described in the paper is a contractual arrangement based on the ownership of common areas (such as roads) by an incorporated association or company limited by guarantee. All owners*

and occupiers of land in the Perradenya Estate become association members. Owners or occupiers of land outside the Perradenya Estate (for example, owners of existing homes or other land in Caniaba Village could be entitled to be members of the Perradenya Estate Association under a different category of membership to land owners within the Estate). They are bound to the association or company and to each other by the memorandum and articles of the company of the constitution of the association.

...

A contractual scheme based on an incorporated association or company limited by guarantee can provide private services for its members or accommodate the provision of public services or a combination of both. For example, the usual range of utility services such as roads, electricity, gas and water could be provided by public service providers with other services being provided by the Perradenya Estate Association.

...

### **Need**

Subdivision and ultimate sale of housing lots within the Perradenya Estate mean that some or all of the following characteristics become necessary or desirable to ensure a legally stable and flexible operating environment for future owners within a structure that accommodates the objectives of local planning instruments and the ongoing needs of the local community:

- (a) setting aside common areas for use by future owners or occupiers of the Perradenya Estate or other members according to their membership category;
- (b) establishing essential or optional services and facilities (or both) for use by future owners or occupiers or other members;
- (c) establishing a suitable body to own and manage common areas and essential facilities;
- (d) establishing a system of payment for the operation, management, insurance and maintenance of common areas and essential facilities. This system should be appropriate to the different categories of membership of the association and fairly apportioned costs according to use of relative benefit;
- (e) establishing and maintaining a central theme to preserve the essence of the Perradenya Estate and the surrounding Caniaba Village and appropriate controls on future land use and activities within the Perradenya Estate; and
- (f) providing a centralised management arrangement.

Properly structured and documented, these arrangements should enhance the value and reputation of the Perradenya Estate and provide tangible benefits for the existing members of Caniaba Village.

...

The owners (and through them occupiers) of each lot obtain the right to use common areas (or to have access to services or facilities provided by the association or company) through their membership of the company or incorporated association. Use of the common areas or the services is regulated by the terms of the memorandum and articles of association or the constitution.

The obligation to become and remain a member of the association (in the case of any category or compulsory membership) is also reinforced by restrictions on use applying to each lot. These restrictions usually prohibit use or occupation of a lot unless the owner has become (and remains while an owner) a member of the company or the association and complies with its memorandum and articles of association or constitution.

**Benefits for Council**

*The existence of (or intention to create) an appropriate structure which includes an entity having the responsibility for the centralised management and co-ordination of common areas and facilities in the Perradenya Estate can provide significant benefits to Council in its ongoing administration of the Estate and surrounding areas. The benefits include the following:*

- (a) the association can become the relevant point of contact for Council instead of Council having to deal with a group of individual owners on local issues;*
- (b) the Perradenya Estate Association can be the body responsible for maintenance and operation of common facilities and areas in the Estate or preservation of sensitive or essential site utilities or restrictions. This minimises the prospect of non-compliance with Council's requirements or dispute between individual owners which may ultimately involve Council if not settled; and*
- (c) the Perradenya Estate Association can be vested with the capacity, at first instance to, enforce standards or restrictions relating to the use and occupation of land (for example, architectural or landscape standards or other matters relating to development or use of the land).*

**3. Development Application 1998/7 and Council Report**

In describing the 'proposal' the Council report states:

*The private open space area will remain in the ownership of CorPol Properties until Stage 20 is developed, where the land will be Transferred to the proposed Community Association. The applicant intends that the membership of the Association will initially comprise of the future residents of the Perradenya Estate, however, as the Caniaba Village is developed additional members from outside the estate will add to the association, which is to be an incorporated body created in accordance with the Association Incorporation Act 1984. Those residents who become members of the Caniaba Village Association will be required to comply with by-laws outlining management guidelines for the private open space. The details incorporated within the by-laws are to be submitted to Council as a condition of consent to ensure that all appropriate provisions concerning maintenance, access and amenity issues are adequately addressed.*

*It is proposed that Lots 1702 and 1801 (private open space) will provide the facilities for an equestrian centre/pony club which will consist of horse yards, buildings for storage of equestrian equipment and stabling of horses. The implementation of the equestrian facility etc will be the subject of a separate Development Application.*

In relation to Clause 4.7 – Open Space of the DCP the Council report stated:

*The applicant has also identified private open space allotments which are located upon Lots 912, 1210, 1410, 1701 and 1801. The applicant proposes that the private open space lots will cater for an equestrian centre, horse and walking trails, landscaping, reforestation and retention of existing timbered areas.*

*In the short term, the private open space will remain in the title of CorPol Properties P/L as the development company, until such time as both the construction of the various facilities and the development of the Perradenya Estate is completed. Further, it is also the developer's intention that the company will be responsible for the ongoing maintenance and management of the land and associated facilities until the properties are transferred to the Caniaba Village Association upon the release of Stage 20.*

In relation to the DA's compliance with the Community Resource Management section 4.11 of the DCP, the Council report stated:

*It is considered that the proposal is inconsistent with DCP No. 35, Clause 4.11 – Community Resource Management. It is acknowledged, however, that the proposed subdivision is not to be created under Community Title as required by Clause 4.11.1 as a mandatory provision.*

*However, it is considered that whilst the creation of the private open space allotments has not been undertaken in a conventional form as prescribed by the Community Title Legislation, that the proposed development meets the community resource management objectives by encouraging local governance and*

management of natural features, whilst promoting sustainable community action and community involvement. The Caniaba Village Association to be created to govern the private open space allotments shall be made up of three (3) groups:

- a) Future Perradenya Estate residents (mandatory membership); and
- b) Existing residents of Caniaba Village (optional membership); and
- c) Future residents of the Caniaba Village (optional membership).

All members shall be subject to by-laws which are to be submitted to Council for approval and as previously discussed within this report, shall incorporate environment and land management, utility and infrastructure service facilities and community facilities and services. The by-laws will ensure legal access to the private open space lots whilst guaranteeing the lot's management and maintenance. Conditions of consent have been included to attend to the legal framework of the neighbourhood by-laws and its application to the Caniaba Village Association.

In its 'Conclusion' the Council report made the following comments in relation to the CVA:

*It is acknowledged that the major variation of the development from the DCP is in regard to the creation of lots for the purpose of private open space to be utilised by members of the Caniaba Village Association. Section 4.11 of DCP No. 35 identifies the requirements for the community resources management of private open space where it is a mandatory requirement that the applicant provide a Community Title subdivision for the establishment of private open space allotments. It is considered in this instance that whilst the applicant has not created the Perradenya Estate subdivision as a Community Title subdivision, rather a Torrens Title freehold subdivision, that the objectives have been achieved with a greater capacity to incorporate ESD Principles and public use than required by the DCP. As discussed previously within this report, the applicant, as a condition of consent is required to transfer all lots highlighted for private open space to the Caniaba Village Association. The Caniaba Village Association will be created from residents of the Perradenya Estate where it is a mandatory requirement to be a member of the association, whilst residents of the broader Caniaba village may join the Association, subject to adherence with the bylaws which shall be established for the management and operation of these private open space lands.*

*Whilst this differs from the DCP requirements, it is considered that allowing the land to be open to residents outside the Perradenya Estate who wish to join the Caniaba Village Association to take an active role in the management and maintenance of the land, is a positive outcome. Further, by potentially increasing the possible membership, the creation of additional finance for the ongoing maintenance and management for the private open space areas is considered advantageous.*

It is noted that the report recommended six (6) conditions in relation to the CVA. The Council resolved not to adopt these six (6) conditions, but rather a single condition in relation to the establishment of the CVA, which is the subject of this application to modify consent.

#### **4. Operation of Consent and Review of Performance Memo**

This memo did identify the following problems with the approved CVA:

- The concept of the CVA was placed in jeopardy when the DA was approved as a Torrens Title and not a Community Title subdivision, as there was and is no mechanism to force land owners within the estate to join such a committee much less pay into a fund to maintain the facilities and cover public liability insurance.
- Council was at the time negotiating with Rous regarding the cost of maintenance of the facilities and ownership and indicated that the likely outcome was that Rous Water would manage the association as a 355 committee and will retain ownership of some of the facilities and that Council will own other components (i.e. the sports oval) and will charge Rous a pro rata rate based on the number of lots released to maintain the reserve until all lots are sold whereupon Council will bear the full maintenance costs.
- The intent of the DCP and the original DA for a community association can never be implemented but the abovementioned alternative would lead to a manageable and workable arrangement which will be of benefit to the wider community.

## Attachment 6 – Section 89 & 89A of the EP&A Act 1979: Determination of Crowns applications

### **89 Determination of Crown development applications**

- (1) A consent authority (other than the Minister) must not:
- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or
  - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.
- .....
- (2A) A Crown development application for which the consent authority is a council must not be referred to the Minister unless it is first referred to the applicable regional panel.
- (3) An applicable regional panel to which a Crown development application is referred may exercise the functions of the council as a consent authority (subject to subsection (1)) with respect to the application.
- (4) A decision by a regional panel in determining a Crown development application is taken for all purposes to be the decision of the council.
- (5) If an applicable regional panel fails to determine a Crown development application within the period prescribed by the regulations, the applicant or the panel may refer the application to the Minister.
- (6) The party that refers an application under this section must notify the other party in writing that the application has been referred.
- (7) When an application is referred under this section to an applicable regional panel or the Minister, the consent authority must, as soon as practicable, submit to the panel or the Minister:
- (a) a copy of the development application, and
  - (b) details of its proposed determination of the development application, and
  - (c) the reasons for the proposed determination, and
  - (d) any relevant reports of another public authority.
- (8) An application may be referred by a consent authority or applicable regional panel before the end of a relevant period referred to in subsection (2) or (5).

### **89A Directions by Minister**

- (1) On a referral being made by a consent authority or an applicable regional panel, or an applicant, to the Minister under this Division, the Minister may direct the relevant consent authority, within the time specified in the direction:
- (a) to approve the Crown development application, with or without specified conditions, or
  - (b) to refuse the Crown development application.
- (2) A consent authority must comply with a direction by the Minister.
- (3) If the consent authority fails to comply, the consent authority is taken, on the last date for compliance specified in the direction, to have determined the Crown development application in accordance with the Minister's direction.
- (4) Despite subsection (2), a consent authority may vary a condition specified by the Minister with the approval of the applicant.

## Report

<b>Subject</b>	<b>DA2011/310 - Change of Use to a Boarding House at 18 Kruseana Avenue, Goonellabah</b>
<b>TRIM Record No</b>	BP11/955:DA11/310
<b>Prepared by</b>	Development Assessment Officer (Planning)
<b>Reason</b>	For Council determination.
<b>Community Strategic Plan Link</b>	Sustainable Economic Growth and Development

### Overview of Report

The proposed development involves a change of use from a dwelling to a boarding house. The use of the premises as a boarding house has already commenced. The public notification of the development application resulted in 42 submissions which raised a number of issues, including impacts on the amenity of the area, car parking and traffic safety, and the management of residents of the premises.

The assessment of the application has identified issues relating to car parking and the character of the locality that should be addressed. Council's options for determining the development application include outright refusal, amending the proposal to reduce the number of bedrooms in the boarding house or approving the application as submitted. It is recommended that the application be approved subject to a reduction in the number of bedrooms to ensure improved compatibility with the character of the area and compliance with the applicable car parking development controls.

The application is reported to Council on the basis of the significant public interest and the subjective nature of the submissions which are unlikely to be resolved by the imposition of conditions of consent.

### Background

Preliminary advice was provided to the applicant following compliance action relating to the unlawful operation of this property as a boarding house, which was brought to the attention of Council staff via complaints received. This was in the form of a discussion at the counter relating to SEPP (Affordable Rental Housing) 2009, fire safety and car parking. At that time Mr Bowles was also advised of Council's pre-lodgement meeting service.

The application was lodged concurrently with DA2011/311 for a boarding house at 16 Chilcott Drive. This application received no submissions and both applications resulted in further discussions with the applicant relating to Section 64 contributions. The application has been delayed as a result of these communications and the concern expressed in the submissions as well as the need to draw a comparison in relation to the result of public notification of both proposals.

The history of the property is approval of a Building Application in 1980 for a brick veneer dwelling with a tile roof comprising 4 bedrooms (main with walk-in robe), 1 x bathroom, laundry with toilet and shower, kitchen, dining room, family room, lounge room and double garage. In 1987 approval was granted for the addition of a roof over the existing paved area, in 1989 for a swimming pool and in 1993 for a single carport being 2.85m wide with a length of 9.35m.

There are no more recent approvals relating to the subject property.

## Locality Map



## Statutory Controls

Lismore LEP 2000

- Zoning – 2(a) Residential
- Item of Heritage – No
- In vicinity of Heritage Item – No
- Conservation Area – No

Draft Lismore LEP 2010

S94 Contributions Plan and S64 Contributions are applicable

Environmental Planning & Assessment Act 1979

SEPP (Affordable Rental Housing) 2009

North Coast REP

Local Development

## Policy Controls

Lismore DCP

2.1.3 Fire Safety of Buildings

5.2.29 Development Application Determination

Lismore City Council

Meeting held 13 December 2011 – DA2011/310 – Change in use to Boarding House - 18 Kruseana Avenue, Goonellabah

## Description of Locality

The land has an area of 823m<sup>2</sup> and comprises a brick veneer and tile dwelling with double garage and single carport with lawns and established vegetation on the site. Adjoining development consists predominantly of single residential dwellings, with some duplexes in the vicinity, on land sloping to the west. Access is proposed by way of the existing driveway off Kruseana Avenue. The streetscape amenity of Kruseana Avenue is considered to be generally comprised of well maintained dwellings with leafy, ornamental gardens and manicured lawns. This is shown in the photographs below.



## Internal Referrals

### Building

The application has been reviewed and comments provided, with no objections raised subject to the imposition of appropriate conditions which have been included in the draft conditions attached to this report.

### Environmental Health

#### **Noise Impacts**

The proposed boarding house is of a scale (number of boarding rooms) that does not trigger the requirement for an on-site manager as per *SEPP (Affordable Rental Housing) 2009*. The standard submission(s) received to date identify that the dwelling is currently being used for student accommodation and that the unregulated nature has resulted in an impact on the amenity of the area from noise, waste and social behaviours.

The statement of Environmental Effects notes that a formal tenancy agreement will be used to manage the occupancy. Although a tenancy agreement is standard management practice for rental properties it is considered that a proactive approach from the developer is required for this style of development. It is recommended that the boarding house be identified by appropriate signage at the property boundary. This signage would identify the property and provide contact details for the person responsible for the management of the property (owner or managing agent). This level of notification will provide an avenue for adjoining property owners who may be impacted by inappropriate behaviour to make direct contact with the owner/manager to generate an appropriate response in the first instance.

In addition it is recommended that the owner prepare a management plan for the boarding house that clearly defines the obligations of all parties in relation to occupancy (maximum occupancy levels, expectations of lodgers and management, premises maintenance (pool, waste, gardens etc), limitation on-site activities (social functions, timing etc) and management response to complaints of inappropriate behaviour. The management plan should also identify the undertaking of routine inspections to ensure

that the management plan expectations are being achieved and the use is not unreasonably impacting upon the amenity of the area.

## **Public Health**

The Statement of Environmental Effects nominates that the development does not satisfy the development standard nominated within *SEPP (Affordable Rental Housing) 2009* for the minimum floor area of a one (1) person boarding room being 12m<sup>2</sup>. The bedrooms in the proposed development have floor areas ranging from 7.56m<sup>2</sup> to 11.55m<sup>2</sup>. This development standard can be compared to the *Public Health Regulation* Clause 22 that nominates a minimum 5.5m<sup>2</sup> per person for sleeping rooms.

The floor presented with the application when scaled appears to satisfy the standard nominated by the *Public Health Regulation*. The standard nominated by the SEPP is read as a discretionary standard to be so determined by Council. The recommended absolute minimum standard acceptable in the circumstances is therefore considered the *Public Health Regulation* requirement of 5.5m<sup>2</sup> per person.

As a commercial premises the swimming pool will require formal management to achieve compliance with the NSW Health Guideline for Swimming Pools and Spas. A standard condition has been nominated.

As a commercial boarding house registration as a commercial premises will also be required.

## Social Planner

The social impact comments provided in the Statement of Environmental Effects are inadequate, however, having reviewed the available documentation, I am satisfied that:

1. There is a demand for this type of housing in Lismore
2. Mitigating strategies are available to address local community concerns.

Given the above, and following discussions with the Development Assessment Officer (Planning), I do not require any conditions of consent to be imposed.

## Housing Project Officer

The provision of affordable housing is a key issue for Lismore, which has been demonstrated through the Lismore Housing Analysis. There are various forms of housing that can deliver affordable housing options including secondary dwellings, boarding houses, manufactured estates and multi-unit complexes.

With reference to boarding house accommodation, the location and context of this type of accommodation is important in delivering a form of housing that is suitable for its occupants, is accessible to shops, employment and transport services and fits within its local context (i.e. number of occupants, density and amenity).

Given the need for this type of accommodation it is important that Lismore delivers good, appropriate and functional examples to encourage more of this housing and promote positive community acceptance. Failure to provide good forms of housing may have an adverse effect on the delivery of more boarding houses.

## Compliance Officer

In relation to the determination of this application, there are several aspects of compliance and enforcement that should also be considered.

Should the proposal to establish a “boarding house” as proposed, be refused, Council may have to address the continued use of the premises to house students on a long term basis.

At the present time each room in the house is let out individually on separate leases / agreements and falls under the definition as a “boarding house” and not as a “share house” which is a house let out to multiple tenants under one lease. Under the Building Code of Australia (BCA) once a dwelling house becomes a “boarding house” (i.e. separate leases) it changes the BCA classification of the building from a 1a (single dwelling) to a 1b classification (boarding house) which requires certain fire safety measures to be installed.

The owner of the premises is able to change the way he lets out his premises to comply with the requirements of the “share house” and is not required to comply with any fire safety requirements, therefore Council is unable to take any further enforcement action to ensure the safety of the occupants and may be limited in its compliance responses regarding amenity impacts in the locality.

It should be noted that the original development consent was for the construction of a 4 Bedroom residence. Internal works which do not comply with the exempt and complying codes of Council or NSW legislation have been undertaken to convert an approved lounge room and walk in robe into an extra 3 bedrooms. It is unknown when these works were undertaken, however, it is considered that Council has only recently been made aware of this issue, and is able to take follow up compliance action in relation to these works.

Council will, in any event, issue a Notice of Intention (2) to have the unauthorised works referred to above removed, or alternatively may be asked to consider a building certificate application if lodged for the construction of the rooms and to certify the structural adequacy of the works.

In relation to complaints regarding noise and parking issues, Council has several options to address any complaints including:

- monitor and take action on any complaints on an individual basis to ensure the inhabitants are within limits considered normal within the community, under the provisions of applicable legislation.
- condition appropriate limits and requirements within a development consent.

A complaint based approach could be time consuming and open to interpretation if the matter were to be challenged or brought to a conclusion in Court. Obtaining evidence in the absence of clear conditions can be problematic for enforcement activities by Council staff. If the proposal is approved, Council would be able to address any perceived problems and have enforceable provisions in place to assist in enforcing any non compliance with the applicable conditions of consent.

It could be considered beneficial from a compliance and enforcement perspective, that adjacent residents and the occupants of the boarding house, would benefit from site specific conditions, expressed within a development consent, which address the fire safety, noise, parking and general management issues relating to the operation of the premises.

It is also important to note, that if the development application is refused in its entirety, the owner has the option of changing the lease arrangements of the dwelling to separate lease agreements for each tenant which would make compliance and enforcement responses more problematic for Council.

## Water and Sewer

The application has been reviewed and comments provided, with no objections raised subject to the imposition of appropriate conditions which have been included in the draft conditions attached to this report. The conditions of consent in the Notice of Requirements include Section 64 contributions payable in the amount of \$32,424 for a 7 bedroom boarding house or \$17,717 for a 5 bedroom boarding house.

## Engineering/Traffic/Stormwater Drainage

The application has been reviewed and comments provided, with no objections raised.

## Notification/ Submissions

The application was notified to adjoining and surrounding property owners and advertised in the Northern Rivers Echo in accordance with the provisions of the Lismore DCP for the Notification and Advertising of Development Applications. As a result of the notification, twelve (12) individual submissions and a petition with forty-nine (49) signatures were received which raise identical issues and are summarised as follows:

Name of Submitter	Summary of Issues Raised	Assessment Comment
<ul style="list-style-type: none"> <li>• Steven &amp; Katrina Clarke</li> <li>• Gwenda Hagan</li> <li>• Robert &amp; Una Robinson</li> <li>• John &amp; Gwen Moehead</li> <li>• Arthur Marrone</li> <li>• Jeff &amp; Michelle McMahon</li> <li>• Ted &amp; Rhonda Moule</li> <li>• Janelle Patch</li> <li>• Brad Tucker &amp; Nadia Lisetto</li> <li>• Errol Warren Green</li> <li>• Norma Wyndham</li> <li>• Victor &amp; Janice Ellis</li> <li>• A petition signed by 49 residents generally residing in the immediate locality, including some of the residents who also put in a submission objecting to the proposed boarding house</li> </ul>	<p>On a regular basis there are cars parked on the kerb by "boarding" residents and visitors which has the following issues associated:</p> <ul style="list-style-type: none"> <li>• the house is located on the apex of a sweeping bend of the street, when cars are parked on the kerb clear driver vision is not possible</li> <li>• abnormal residential numbers of cars parked outside of the boarding residence on either side of the street create a single lane for which traffic travelling in both directions must negotiate</li> <li>• many residences in the vicinity have children of varying age and excess vehicles spilling out onto the street causes serious concern for safety due to blind spots between vehicles</li> <li>• other residents in the street lose "visitor" spaces in front of their own properties due to residents or visitors of the boarding house parking anywhere they can along the street</li> <li>• Council Policy on car parking requires 1 space per 3 beds plus 1 visitor space per 5 beds or 1 space per room plus 1 visitor space per 5 rooms (whichever is the greater)</li> </ul>	<p>Council cannot require car parking in accordance with Lismore Development Control Plan Part A Chapter 7 – Off Street Carparking, as the SEPP (Affordable Rental Housing) 2009 prevails on this matter.</p> <p>Provided cars are parked legally on the street this matter is out of Council's control.</p>
	<p>Waste collection - local residents in the immediate vicinity of 18 Kruseana Avenue regularly find rubbish that has "overflowed" out of the waste and recycling bins of the boarding house. Neighbouring residents also have to clean up alcohol and takeaway waste discarded by residents and visitors of the property. A fortnightly 240 or 360 litre recycling bin plus a fortnightly 140 litre waste bin collection service is not sufficient to meet the needs of the multi occupied boarding house residence and as such the following recommendations are suggested:</p> <ul style="list-style-type: none"> <li>• the residence is allocated extra waste and recycling bins and that an extra weekly pick up service at the landlord's expense is initiated to adequately meet the needs of the boarding house residents;</li> <li>• that the landlord at his/her expense initiates a private waste disposal company to install a commercial waste bin on the premises and for it to be serviced weekly;</li> </ul>	<p>This issue could be regulated by conditions of Development consent relating to the management of the boarding house if required</p>
	<p>Residents in the immediate vicinity believe that approval of the DA for boarding house will cause loss of value to neighbouring properties.</p>	<p>This is not a valid or relevant planning assessment consideration.</p>

	<p>Noise Mitigation and objectionable behaviour - This property is primarily a student's accommodation residence and there have been numerous incidences reported to the owner of unruly and objectionable behaviour observed that makes the neighbouring residences both uncomfortable and concerned for safety, these include:</p> <ul style="list-style-type: none"> <li>• excessive loud noise due to large numbers of youths congregating inside and outside the residence on regular occasions;</li> <li>• young females sunbaking topless on the front lawn of the premises, local children have witnessed this on occasion;</li> <li>• youths jumping from the roof of the premises into the swimming pool in the back yard;</li> <li>• cars and people coming and going at all hours;</li> <li>• rubbish thrown out onto the streets</li> <li>• swimming pool overflowing into the downside neighbouring property</li> </ul>	<p>This could be controlled to a degree by the imposition of conditions on development consent relating to the management of the "boarding house"</p>
	<p>The property owner has been notified on many occasions regarding many incidences, however his general answer is "he'll deal with it" or for residents to "notify the police". Of concern to neighbouring residents is that if Mr Bowles is "dealing with it" that it is having little to no affect on minimising the noise or objectionable behaviour and the latter remedial course of action to ring the Police is not only placing extra burdens on the local Police Force it is also putting an untenable pressure on the immediate neighbours that must face this large group of youths daily. The immediate and neighbouring residents of 18 Kruseana Avenue object to being subject to excessive noise, crude behaviour, and unsafe practices that impede on their and their children's quiet enjoyment of the street.</p>	<p>This could be controlled by the imposition of conditions on development consent relating to the management of the "boarding house" and follow up compliance action taken in the event that the manager of the premises has not taken any action</p>
	<p>Although the property at 18 Kruseana Avenue is currently tenanted by students the concern from local residents is that should DA consent for a boarding house be granted that at some stage in the future the tenancy could change to government Housing and tenants with objectionable or criminal past histories could be placed there. This may put local residents and their children in an undue safe environment that will impede on their quiet enjoyment of their homes and neighbourhood.</p>	<p>Council is unaware of any government departments that run boarding houses, however, understand that "group homes", as defined in the SEPP (Affordable Rental Housing) 2009 are licensed by the Department of Community Services. Development consent for a "boarding house" does not give approval for use of the premises as a "group home"</p>

Full copies of the submissions referred to above can be viewed in the Councillors room prior to the Council meeting.

## Consideration

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

### Lismore LEP 2000

The proposed development is permissible as “Boarding House” within the 2(a) Residential zone under the provisions of the Lismore LEP 2000.

### Zone objectives and zoning control tables

Having regard to the provisions of Lismore LEP 2000, it is considered that:

- (a) The development is in accordance with and promotes the specific aims of this plan, the objectives of the zone and the objectives of the controls, and
- (b) The development proposal comprising 7 bedrooms is not considered to promote the character of the neighbourhood within which the development is to be carried out, and it is considered that the application should not be supported in its submitted form.

As such, consent to the development should not be granted, unless the application is amended.

### Residential zones

The application particularly meets objective (a) of LLEP 2000 2(a) Residential zone by encouraging a wide range of housing densities and types to ensure maximum utilisation of infrastructure and equitable distribution of housing densities.

### Draft LEP 2010

The proposed development is permissible as a Boarding House within the R1 General Residential zone under the provisions of the Draft Lismore LEP 2010.

### SEPP 55 & Contaminated Land Management Issues

Following a review of available information, Council is unaware of any contamination affecting the site. The subject site has been considered in the context of Clause 7 of State Environmental Planning Policy 55 and the Contaminated Lands Management Act and is considered unlikely the subject site presents contamination issues such that remediation would be required for the development to proceed.

### SEPP (Affordable Rental Housing)

Division 3 Boarding Houses Clause 29 lists standards that cannot be used to refuse consent and comment is provided on the relevant subsections as follows:

*Landscaped area* – the landscape treatment of the front setback area is compatible with the streetscape.

*Private open space* – adequate areas of open space is provided for the use of the lodgers

*Parking* at the rate of 0.4 space per bedroom is required to be provided where the property is not located in an “accessible area”, which is within 400 metres walking distance of a bus stop used by a regular bus service. In this case there are two bus stops located near the corner of Invercauld Road and Cynthia Wilson Drive and one in Figtree Drive near the intersection with Invercauld Road. These bus stops are located at least 600 metres walking distance from 18 Kruseana Avenue and therefore, 2.8 car parking spaces are required with one space to be available for a motorbike and cycle.

The subject property has only 2 carparking spaces and one space available for a motorbike and cycle and therefore is 0.8 spaces below the requirement in this SEPP.

In accordance with Clause 29(2) a consent authority must not refuse consent to development on parking grounds if in the case of development not in an accessible area at least 0.4 parking spaces are provided for each boarding room. In this instance should the boarding house be limited to five (5) bedrooms then compliance with the parking requirements would be achieved.

Clause 30A refers to the “character of the area” and the proposed use of the dwelling house for a boarding house is considered to be out of character with this area even though it is located relatively close to public transport and within walking distance of the University.

The character of the area appears to be typified by single residential dwellings with established ornamental gardens that are well maintained and has approximately 75% owner occupied properties. This would explain the number of submissions received in this instance as opposed to a similar development proposed at 16 Chilcott Drive, which has approximately 30-43% owner occupied properties.

Additionally, the lot sizes in Chilcott Drive range from 599 to 694m<sup>2</sup> and in Kruseana Avenue lot sizes range from 696m<sup>2</sup> to 947m<sup>2</sup>. The streetscape amenity in Kruseana Avenue is enhanced by underground power in comparison to a streetscape with overhead power lines as in Chilcott Drive. Given the larger lot sizes in Kruseana Avenue there have been development applications approved for additions to dwellings, new decks and garages as well as the installation of swimming pools.

It is concluded, in conjunction with the parking non-compliance identified above, that a reduction in number of bedrooms from the current seven to five bedrooms would be more in character with the local area and have the capacity to house a similar number of residents as a single family with four children, or an extended family.

## Lismore Development Control Plan

There are no DCP controls directly applicable to the proposed development.

## Section 94 Contributions Plan

The nature of the proposed development is considered to result in increased demand for public services and amenities, and therefore Section 94 Contributions are applicable. Such contributions are not applicable to alterations and addition to single dwellings, however, boarding houses and similar developments of a commercial nature are considered to create additional demand as a result of the increased capacity of accommodation provided.

The contributions are calculated on the basis of 0.25 ET per room i.e.  $7 \times 0.25 = 1.75$ , 1 ET applies to the existing dwelling as a credit, therefore the additional levies relate to the balance of 0.75 ET.

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

Levy Area	Acc No.	No. of	ET's/m <sup>2</sup>	Cost Per ET/m <sup>2</sup>	Amount Levied
<b>Recreation and Community Facilities</b>					
Citywide All Areas	542		0.75	975	731
Urban Catchment (East) - Local	551		0.75	1684	1263
<b>Transport Plan</b>					
<b>Strategic Urban Roads</b>					
Residential	576		0.75	5489	4117
<b>SES</b>					
All areas	584		0.75	66	49
<b>Total</b>					<b>\$6,160</b>

**Calculations for a 5 bedroom boarding house are as follows:**

The contributions are calculated on the basis of 0.25 ET per room i.e. 5 x 0.25 = 1.25, 1 ET applies to the existing dwelling as a credit, therefore the additional levies relate to the balance of 0.25 ET.

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

Levy Area	Acc No.	No. of	ET's/m <sup>2</sup>	Cost Per ET/m <sup>2</sup>	Amount Levied
<b>Recreation and Community Facilities</b>					
Citywide All Areas	542		0.25	975	244
Urban Catchment (East) - Local	551		0.25	1684	421
<b>Transport Plan</b>					
<b>Strategic Urban Roads</b>					
Residential	576		0.25	5489	1372
<b>SES</b>					
All areas	584		0.25	66	17
<b>Total</b>					<b>\$2,054</b>

### Applicable Regulations

The EPA Regulation 2000 requires that Council take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use. Appropriate conditions relating to fire safety and lighting have been recommended by DA Officer (Building) to be incorporated into any development consent.

### Relevant Council Policies

#### 2.1.3 Fire Safety of Buildings

Considered as part of the assessment of the application by DA Officer (Building)

### All Likely Impacts of the Development

All likely impacts of the proposed development have been considered within the context of this report.

#### ENVIRONMENTAL APPRAISAL

#### CONSIDERED

- |  |     |
|--|-----|
| 1. Statutory Controls  | Yes |
| 2. Policy Controls   | Yes |
| 3. Design in relation to existing building and natural environment | Yes |
| 4. Landscaping/Open Space Provision                                | Yes |
| 5. Traffic generation and Carparking provision                     | Yes |

6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	ESD Principles and Climate Change	Yes
10.	All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposed boarding house will provide affordable rental housing, particularly for students attending University in Lismore and provide the availability of a greater variety of housing choice in Goonellabah for residents of the area.

### Social Inclusion and Participation

The proposal involves the provision of boarding house accommodation in accordance with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 that is close to public transport and education establishments. Appropriate conditions of consent will be imposed to ensure a plan of management for the ongoing operation of the development is put in place to minimise any impact on other residents in the vicinity of the proposed boarding house.

### Protect, Conserve and Enhance the Environment and Biodiversity

The proposal will have a minimal impact on the environment and no long term detriment to threatened or vulnerable species or endangered ecological communities.

### Best-Practice Corporate Governance

The recommendation of this report supports best practice management principles, and the efficient and proper use of Council's resources. The purpose of this report is to obtain Council's decision on the approval or refusal of the proposed boarding house development.

## Comments

### Finance

Not required.

### Public consultation

The matters raised in submissions have been addressed in the body of this report.

## Conclusion

Outright refusal of this application is considered difficult to justify, as the basis for such a refusal is whether the boarding house is "compatible with the character of the local area" and the non-compliance with the parking requirements of *SEPP (Affordable Rental Housing) 2009*.

A boarding house with seven bedrooms (some of which arise from unauthorised works) and insufficient car parking provision, that is not managed appropriately, could be seen as incompatible with the existing residential character of the area. However, a “share house” may also not be compatible with the character of the area either but is permissible without development consent.

Approval of the application for boarding house would give Council the means to better regulate this use by the imposition of appropriate conditions on consent and by further compliance action, where required. To ensure compliance with the car parking requirements it is recommended that consent be granted on a deferred commencement basis. This will require the removal of the unauthorised works that created an additional two bedrooms in the ground floor lounge room and the use of only five (5) bedrooms for let as boarding rooms.

On balance approval of the application for proposed change of use from dwelling to boarding house with five bedrooms is recommended subject to the imposition of rigorous conditions on consent to ensure the amenity of the neighbourhood is not detrimentally impacted by the proposal.

## Attachment/s

1. Confidential Attachment - Floor plans - *This matter is considered to be confidential under Section 10A(2) (a) of the Local Government Act, as it deals with personnel matters concerning particular individuals (other than councillors)*

## Recommendation

That:

- A. Council as the consent authority, grant development consent on a deferred commencement basis to Development Application No. 2011/310 proposing a boarding house at 18 Kruseana Avenue, Goonellabah, subject to the following conditions.

The 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):**

#### **Note:**

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

- a) **Prior to activation of this consent and the commencement of use as a boarding house** the unauthorised works to create additional bedrooms in the ground floor lounge room area are to be removed and the submission of an amended floor plan for inclusion in condition 1 of an operational consent reducing the number of bedrooms available for letting to a maximum of five (5).

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

### **STANDARD**

1 In granting this development consent, Council requires:

- All proposed buildings and works to be constructed 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 in accordance with the stamped approved plan(s):

## Plan reference

Refer to deferred commencement condition plans.

## Issue

## Date

and supporting documents submitted with the application. Copies of the approved plans are attached to this consent.

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

## OPERATIONAL MANAGEMENT PLAN

2 **Prior to the issue of any Occupation Certificate** the applicant shall submit to and receive written approval from Council for a site operational management plan for the proposed boarding house. The management plan shall be of sufficient detail to demonstrate:

- communication methods that will be employed to effectively inform lodgers of the 'terms & conditions of occupancy' (i.e. occupancy numbers, good neighbour policy in relation to noise generation, visitor hours, hours of use of guest facilities, playing of musical instruments and other operational matters),
- operational management resources to ensure 'terms & conditions of occupancy' are reasonably satisfied, and
- identification of procedure(s) to ensure that the proposed boarding house facility will not adversely impact upon the amenity of the locality by reason of the emission of noise, vibration, smell, smoke, dust, waste water, waste products or otherwise, and
- limit of the number of tenants to a single lodger per room.

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

3 **Prior to the issue of any Occupation Certificate** the applicant shall have erected within the front building, so as to be clearly visible from the public road, a sign no greater than 0.75m<sup>2</sup> in area, identifying the development (as a boarding house) and contact number(s) for enquiries relating to operational/management matters of the development.

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

## AMENITY

4 The proposed land use shall not result in the emission of offensive noise.

Offensive noise means:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

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

## COMMERCIAL PREMISE (BOARDING HOUSE) REGISTRATION

5 **Prior to commencement of operations**, the boarding house must be registered with Council as a commercial premise. (Form is attached).

**Reason:** *To comply with Councils statutory requirements.*

## SWIMMING POOL

6 The operation of the swimming pool must meet the performance standards nominated within the NSW Health Guideline for Swimming Pools and Spas.

**Reason:** *To ensure public health and safety.*

## FIRE SAFETY

- 7 **Prior to the issue of any Occupation Certificate** provide a smoke alarm system which complies with AS3786, and is connected to the 240 volt mains electrical power and have a stand-by power supply. Smoke alarms must be installed on or near the ceiling in every bedroom and in every corridor or hallway. **Prior to issue of any Occupation Certificate** a certificate from a licensed electrician must be provided upon completion of the installation of the smoke alarms, certifying that the smoke alarm installation complies with AS 3786 "Smoke Alarms".
- 8 **Prior to the issue of any Occupation Certificate** a system of lighting must be installed to assist evacuation of occupants in the event of a fire, and
- (a) be activated by the smoke alarm, and
  - (b) consist of:
    - i) a light incorporated within the smoke alarm; or
    - ii) the lighting located in the corridor, hallway or area served by the smoke alarm.

**Reason:** *To ensure adequate provision for escape in the event of fire or other emergency from the building to a place of safety.*

## WATER & SEWER

- 9 A Certificate of Compliance issued by Lismore City Council, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to Council **prior to the issue of any Occupation Certificate**.

*Notes:*

- a) *A Notice of Requirements advising of the matters that must be completed prior to issuing the Certificate of Compliance should have been forwarded to the applicant with this notice of determination.*
- b) *Applicants are advised via the Notice of Requirements of any water authority requirements that must be met prior to being issued with a Construction Certificate, prior to construction commencing, during construction and prior to occupation.*
- c) *If you are intending to act upon this consent and have not obtained a Notice of Requirements please contact Lismore Water. Go to web site [www.lismore.nsw.gov.au](http://www.lismore.nsw.gov.au), or telephone Lismore Water on 1300 87 83 87.*

**Reason:** *To ensure compliance with the statutory requirements of Lismore City Council.*

- 10 A Certificate of Compliance from **Rous Water**, under the provisions of Section 305-307 of the Water Management Act 2000, must be obtained and submitted to the Principal Certifying Authority and Council **prior to the issue of any Occupation Certificate**.

*Notes:*

- a) *The Certificate of Compliance confirms all money payable to Rous Water in respect of the load the development imposes on the Regional Bulk Water Supply has been paid.*
- b) *Lismore City Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.*
- c) *Rous Water's Development Servicing Charge is set out in the Notice of Requirements attached to this notice of determination.*

**Reason:** *To ensure compliance with the statutory requirements of Rous Water.*

## LEVIES

- 11 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 **\$2,054**, 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 levies, fees, contributions, bonds etc. shall be paid **prior to any Occupation Certificate being granted**.

The levies 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.

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)*

- B. In the event that this consent is not acted upon prior to the lapsing date of the deferred commencement condition, Council takes appropriate compliance and enforcement action to require unauthorised works at the premises to be removed, and confirm the premises is not operating or being let as a "boarding house".

# Report

<b>Subject</b>	<b>Coal Seam Gas Exploration on Council Land - Metgasco Application</b>
<b>TRIM Record No</b>	BP11/974:EF09/489
<b>Prepared by</b>	Executive Director - Infrastructure Services
<b>Reason</b>	Council resolution to report all applications to test or explore for Coal Seam Gas on Council owned or administered land.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

An application for seismic data acquisition has been received from Metgasco. It would appear Council has no ability to refuse permission for Metgasco to undertake exploratory work along Rock Valley, Chelmsford and Bungabbee Roads other than requesting routine traffic management requirements.

## Background

Council at the ordinary meeting of 8 November 2011 resolved *“that pending further guidelines from State and Federal Governments an application made to Council for testing or exploration for Coal Seam Gas or minerals on Council owned or administered land be reported to Council.”*

An application to carry out work within the road reserve was received from Metgasco Ltd on 17 August 2011. The application was initially approved by staff subject to conditions including submission of Traffic Control Plans, public liability insurance and payment of a permit fee to cover administration. As none of the conditions had been actioned, approval was withdrawn pending further consideration by Council in accordance with the above Council resolution.

The Mayor and Executive Director–Infrastructure Services met with representatives from Metgasco on 24 November 2011. The Mayor expressed the concerns of Council and the community in relation to Coal Seam Gas and Metgasco provided further information regarding the proposed work.

## Proposed Works

Approval has been granted to Metgasco to conduct seismic testing by the consent authority – NSW Government, Resources & Energy (formerly Department of Industry and Investment NSW-Mineral Resources). Refer to attached Approval (Attachment 1) and Review of Environmental Factors (REF) – Attachment 2.

An application has been received from Metgasco to work within the road reserve to undertake seismic data acquisition along Rock Valley, Chelmsford and Bungabbee Roads (refer to Attachment 3).

A seismic survey is a low impact method of gathering information about the location and characteristics of geological structures beneath the earth’s surface. This information is used to produce maps of structures identifying areas where gas deposits may be found.

The seismic testing is carried out by a specially configured truck (called a vibroseis truck), that lowers a plate onto the road. This plate generates an acoustic sound signal that is transmitted into the earth's surface which then reflects off the various geological layers. The returning sound waves are recorded by small microphones (geophones) strung together that are laid along a predetermined and prepared path called a seismic line.

Thin cables are used to transmit the data from the geophones to a recording vehicle (small van), which is usually positioned on the road verge. The geophones will be spaced several metres apart and comprise small cylinders 5-10cm in diameter.

The array of geophones and connecting cables will be approximately 4-5km in length and are laid beside the roads. The geophones, vibroseis truck and recording vehicle progressively move along the seismic lines in 12m steps at a rate of 8-10km per day (refer to Attachment 3 for further information).

Metgasco has advised there will be a requirement for some up-holes to be drilled in the three lines proposed for the Lismore City Council area but it is very difficult to determine the actual number of up-holes until the testing commences. Up-holes will generally be between 15-20m deep. A down-hole phone is lowered into the hole to measure the travel time of the energy generated on the surface by a small weight drop. This measurement is made at regular intervals of 5m down the hole. After completion of the measurement, the down-hole phone is retrieved and the hole refilled with cuttings.

Any surface expression of drilled up-holes will be rehabilitated in accordance with requirements of the Department of Industry and Investment NSW - Mineral Resources. Any rutting or surface damage by vehicle movements will be filled in and appropriately contoured. Rapid regeneration of the site to its original state will be promoted by backfilling of any excavations and re-spreading of any stockpiled topsoil. If necessary, mulching and seeding with natural grasses will follow.

The entire process of seismic testing, which requires the use of two vehicles, is structured around the use of a road or track.

The use of a road assists in meeting licence conditions which requires that when carrying out seismic surveys there must be as little disturbance as possible to the vegetation and topsoil.

## Legal Advice

Council has received some legal advice on this matter. There appears to be limited scope for Council to stop the exploration licence works proceeding in the designated Rock Valley area or to impose any conditions on Metgasco in relation to the works. If Council decide to challenge the matter in court, legal costs are likely to be high and the outcome uncertain. A copy of the legal advice is attached as a confidential document, refer to Attachment 4.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Development of the gas resources in New South Wales will establish an industry capable of delivering jobs, economic growth and business opportunities to regional centres and to meet growing NSW power requirements.

### Social Inclusion and Participation

There appears to be considerable community opposition to Coal Seam Gas mining. However, there are members of the community who are in support.

## Protect, Conserve and Enhance the Environment and Biodiversity

It is claimed Coal Seam Gas produces up to 70% less greenhouse gas emissions than coal-fired power generation. Generating electrical power from gas is the cheapest means of reducing greenhouse gases (\$/tonne of GHG) other than curtailing consumption.

There are, however, community concerns about Coal Seam Gas mining regarding the long term effects on the environment.

## Best-Practice Corporate Governance

By considering this issue in open Council it provides a degree of transparency for the community's information.

## Comments

### Finance

Not required.

## Other staff comments

### Coordinator – Environmental Strategies

Council's stated position on coal seam gas is described in Council's submission to the NSW Inquiry on the impacts of coal seam gas, as delivered by Mayor Dowell on 21 September 2011 in Alstonville. This submission also outlines a wide range of environmental and social concerns. Whilst Council is not the consent authority, the undertaking of this activity on Council land would be contrary to Council's stated position.

It should be noted also that claims by the coal seam gas industry that using the gas as a fuel produces up to 70% less CO<sup>2</sup> emissions than coal-fired power generation may be true. However, it is refuted that any benefits are neutralised by the loss of methane (which has 25 times the greenhouse potency than CO<sup>2</sup>) to the atmosphere during the extraction of coal seam gas.

## Public consultation

Metgasco will undertake stakeholder consultation which includes negotiating an Access Agreement with relevant landholders where physical access is required to complete the survey. Metgasco then obtains Consent Agreements (essentially a no objection agreement) from residents who have a dwelling within 200m of the proposed seismic line and also obtains a clearance from the local Aboriginal Land Council.

Metgasco has advised it will not carry out any seismic work closer than 50m to a residence.

## Conclusion

Legal advice has confirmed Council has no ability to refuse permission for Metgasco to undertake seismic data acquisition along Rock Valley, Chelmsford and Bungabbee Roads other than requesting routine traffic management requirements such as submission of Traffic Control Plans, public liability insurance, notification of completion of works and payment of a permit fee to cover administrative costs.

It should be noted under Section 72(1)(a) of the *Petroleum Onshore Act, 1991* (NSW) Metgasco is required to obtain the "written consent" of land owners for any petroleum title, which includes an exploration licence, for works that are within 200m of a dwelling-house that is a principal place of residence of the person occupying it.

Also under conditions in the REF Metgasco is required to obtain a clearance from the local Aboriginal Land Council.

There are also several other mitigation measures required by the REF to safeguard the environment. These form conditions of consent for the approval by the NSW Government, Resources & Energy.

## Attachment/s

1. NSW Department of Resources and Energy approval dated 19 October 2011 - Metgasco to conduct seismic data acquisition
2. Metgasco Review of Environmental Factors Revision 1 dated September 2011 - Seismic Data Acquisition (Over 7 pages)
3. Application by Metgasco to carry out work in road reserve of Rock Valley Road, Chelmsford Road and Bungabbee Road (Over 7 pages)
4. Legal advice from Walters Solicitors - Metgasco Ltd coal seam gas exploration application - *This matter is considered to be confidential under Section 10A(2) (g) of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*

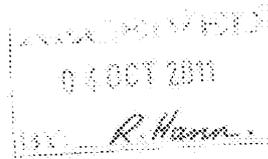
## Recommendation

That:

1. Council note it has no legislative capacity to stop the exploration works proceeding in the designated Rock Valley area or to impose any conditions on Metgasco Ltd in relation to the works (other than requesting routine traffic management requirements);
2. Legal action is not practicable in regard to this application under the current legislative framework;
3. Approval has been granted by the consenting authority NSW Government, Resources & Energy; and
4. Metgasco Ltd has responsibilities under this approval to gain consent from adjacent landholders where applicable and additionally clearance from the local Aboriginal Land Council.



Resources  
& Energy



11/2969  
OUT 11/19489

Michael O'Brien  
Chief Operations Officer  
Metgasco Limited  
Level 3, 32 Walker Street  
NORTH SYDNEY NSW 2060

Dear Sir,

**PEL13, 16 and 426: Approval to conduct seismic data acquisition within the Casino  
and Grafton areas**

In accordance with Condition 1 of PEL 13, 16 and 426 granted under the provisions of the *Petroleum (Onshore) Act 1991*, the titleholder is hereby granted approval to conduct seismic data acquisition, subject to the conditions set out below. These conditions relate specifically to this approval. The conditions are in addition to those previously attached to PEL 13, 16 and 426 and prevail to the extent of any inconsistency. A breach of these conditions is an offence under the *Petroleum (Onshore) Act 1991*.

**CONDITIONS**

**General conditions**

1. The works must be carried out at the location(s) and in accordance with:
  - (a) Review of Environmental Factors – Metgasco Limited 2010 MET10 – Casino - Grafton Seismic Program – Clarence-Moreton Basin, NSW (including all appendices) submitted by Metgasco Ltd dated May 2010; and
  - (b) Review of Environmental Factors – Metgasco Limited 2010 MET10 – Casino - Grafton Seismic Program – Clarence-Moreton Basin, NSW (including all appendices) submitted by Metgasco Ltd - Revision 1 dated September 2011.

If there is any inconsistency between the above documents, the most recent document prevails to the extent of the inconsistency.

Should you wish to discuss any details of this approval, please contact Greg Summerhayes directly on (02) 4933 6705.

Regards

**Michael McFadyen**  
Manager Environment Operations

Date: 19 OCT 11

Environmental Sustainability Unit  
PO Box 674 Wollongong NSW 2520  
Level 3 Block F 84 Crown Street  
Wollongong NSW 2500

ABN 51 734 124 190  
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# Report

<b>Subject</b>	<b>Lismore Memorial Baths</b>
<b>TRIM Record No</b>	BP11/960:EF09/1851
<b>Prepared by</b>	Manager - Arts, Tourism and Leisure
<b>Reason</b>	Report back to Council following the public exhibition of proposed fees over the 2011/12 summer season
<b>Community Strategic Plan Link</b>	Social Inclusion and Participation

## Overview of Report

Proposed fees and charges at the Lismore Memorial Baths were placed on public exhibition for twenty eight (28) days following the November 2011 Council meeting. This report addresses feedback received.

## Background

At Council's Ordinary Meeting of 8 November 2011, the Council resolved not to open the Lismore Lake Pool this summer season, and to provide more affordable access to the Lismore Memorial Baths in December 2011 and January/February 2012. The following strategies will be implemented:

- a. One dollar entry per person on Saturday afternoons and all day Sunday for the months of December 2011 (from 17/12/11) and January/February 2012.
- b. Promoting one Family Fun Day per month in December, January and February, one dollar entry per person.
- c. A Family Swim Pass to the value of \$64.00 is made available for the period 17 December 2011 to 29 February 2012.

In accordance with Local Government Act requirements, the proposed change to fees and charges was advertised for a period of twenty eight (28) days from Saturday 12 November 2011. At the time of writing this report, no formal comments had been received from the public. The public exhibition period closes on Monday, 12 December 2011. If any submissions are received between the business paper being prepared and 12 December 2011, they will be separately reported to Council.

The above range of affordable access options for the community will have cost implications for the Council. An estimate of net costs is being prepared but had not been finalised at the time of finalising this report and will be provided to Councillors prior to the Council meeting.

## Sustainability Assessment

### Sustainable Economic Growth and Development

An increase in visitation to the Lismore Memorial Baths will result in increased employment opportunities for pool staff.

## Social Inclusion and Participation

The lower fees will provide greater opportunities for the Lismore and surrounding community to access Lismore's premier aquatic facility, irrespective of their socio-economic status.

## Protect, Conserve and Enhance the Environment and Biodiversity

Not applicable.

## Best-Practice Corporate Governance

This proposal supports the efficient of Council resources.

## Comments

### Finance

An estimate of the net cost associated with providing affordable access to the Lismore Memorial Baths is being prepared and will be forwarded to Councillors when completed.

### Other staff comments

Not required.

### Public consultation

At the time of writing this report, the proposed fees and charges had been advertised for more than two weeks. No feedback or comments were received at this time.

## Conclusion

No objections have been received regarding the proposed changes to the fees and charges at the Lismore Memorial Baths for the 2011/2012 summer season. There will be cost implications associated with these changes, which will be provided prior to the 13 December 2011 Council meeting. Council should consider these prior to considering the adoption of the proposed changes to the fees and charges.

## Attachment/s

There are no attachments for this report.

## Recommendation

That Council:

1. Note the estimated costs associated with the proposed changes to the 2011/12 fees and charges for the Lismore Memorial Baths as outlined in the separately circulated memo to this report.
2. Adopt the following changes to the 2011/12 Lismore Memorial Baths fees and charges namely;
  - a. One dollar entry per person on Saturday afternoons and all day Sunday for the months of December 2011 (from 17/12/11) and January/February 2012.
  - b. Promoting one Family Fun Day per month in December, January and February, one dollar entry per person.
  - c. A Family Swim Pass to the value of \$64.00 is made available for the period 17 December 2011 to 29 February 2012.

# Report

<b>Subject</b>	Request for Donation - "Our House" - Hunter Street, Lismore
<b>TRIM Record No</b>	BP11/961:EF09/2202
<b>Prepared by</b>	Manager - Development & Compliance
<b>Reason</b>	Financial Assistance and Corporate Governance
<b>Community Strategic Plan Link</b>	Sustainable Economic Growth and Development

## Overview of Report

At the meeting of Council held on 8 November 2011 a report in response to a request for a donation or in kind amount of \$100,000 from Council towards funding and completion of the "Our House" project in Hunter Street, Lismore, where Council resolved to provide 'in principle' support to making a donation of \$68,378. This report has been prepared in response to the previous resolution of Council and is required so that these actions can proceed in December 2011, otherwise they will not proceed until after the February 2012 Council meeting.

## Background

Council considered a report at the its ordinary meeting held on 8 November 2011 in relation to assisting funding for the "Our House" project in Lismore, where is was resolved that:

1. Council provide 'in principle' support to making a donation of \$68,378 towards the "Our House" project to be undertaken in Hunter Street, Lismore.
2. Council does not apply Council Policy 1.5.10 Reserves (Internally Restricted Assets) with respect to the full allocation of interest to reserves held as at 30 June 2012. Instead, the full allocation is to be reduced by \$68,378 to fund the "Our House" project donation.
3. The proposed donation of \$68,378.00 towards the "Our House" project is to be advertised for 28 days seeking public submission and a report be submitted with any submissions received to Council's 13 December 2011 meeting for final consideration.
4. Staff prepare a report on the cost of repairing Sheppard Lane for consideration of Council.

In accordance with item 3 of the above resolution, the proposed donation was advertised in the Northern Star, and this matter is further addressed later in this report.

In relation to item 4 of the Council resolution, the works required to Shepherd Lane involve the provision of a 15mm overlay of asphalt over the existing pavement in order to prolong the life of the pavement and rehabilitate likely damage from construction vehicles using this area. The existing road pavement is in a worn/deteriorated condition that will only further degrade as a result of construction activity.

The estimated cost of providing this asphalt overlay across the Shepherd Lane frontage of the development site (approximately 75m in length) are broken down as follows:

Establishment (road preparation)	\$350.00
Traffic Control	\$300.00
Asphalt overlay (supply and lay – incl. plant and labour) based on calculation below: 75m x 5.5m road width = 413m <sup>2</sup> equates to 14.9t (413 x 0.015 x 2.4t/m <sup>3</sup> ) = 14.9 tonnes 14.9t x \$84 / t = \$1251	\$1,251.00
Contingency	\$200.00
<b>Total cost of repairing Shepherd Lane frontage of 'Our House' Development</b>	<b>\$2,100.00</b>

NB. It should be noted that the development proposal includes an asphalt seal for the internal car park, and there may be some economies achieved in undertaking this internal work and lane sealing at the same time.

## Sustainability Assessment

### Sustainable Economic Growth and Development

A donation would have a positive impact on health services sector growth and encourage additional investment in local/regional health services. Such a donation would be one-off cost to Council, but may encourage other community services/facilities to seek similar donations, which, if considered favourable, may have further implications for Council's financial position.

### Social Inclusion and Participation

The proposed donation towards funding costs associated with the "Our House" project has been publicly exhibited and supports the principles and intent outlined in the Community Strategic Plan 2008-2018.

### Protect, Conserve and Enhance the Environment and Biodiversity

Any proposed donation by Council will not impact the environment.

### Best-Practice Corporate Governance

The proposed donation has been advertised in accordance with these principles.

## Comments

### Finance

If Council were of the view to increase the donation to the Our House project by an extra \$2,100 for works in Sheppard Lane, this could be accommodated by the funding source nominated for this donation.

### Other staff comments

Not required.

### Public consultation

In accordance with item 3 of the above resolution, the proposed donation was advertised in the Northern Star on Saturday 12 November 2011, (for a period of 28 days) and the period for submissions close on 12 December 2011. At the time of writing this report, no submissions had been received, and any submissions received after the preparation of this report will be forwarded to Council separately for consideration.

## Conclusion

In accordance with the resolution of Council on 8 November 2011, the request for a donation of \$68,378 towards the "Our House" project to be undertaken in Hunter Street, Lismore is submitted to Council for final determination.

In regards to the cost of repairing Sheppard Lane, it is estimated that to provide an asphalt overlay across the Sheppard Lane frontage of the development site (approximately 75m in length), it would cost \$2,100. If Council were of the view to donate this to the Our House project, then the amount donated to the Our House project would need to be increased to \$70,478.

## Attachment/s

There are no attachments for this report.

## Recommendation

That Council:

1. Make a donation of \$68,378 towards the "Our House" project to be undertaken in Hunter Street, Lismore.
2. Does not apply Council Policy 1.5.10 Reserves (Internally Restricted Assets) with respect to the full allocation of interest to reserves held as at 30 June 2012. Instead, the full allocation is to be reduced by \$68,378 to fund the "Our House" project donation.

# Report

<b>Subject</b>	<b>Energy Efficient Street Lighting Update</b>
<b>TRIM Record No</b>	BP11/844:EF09/1417
<b>Prepared by</b>	Asset Engineer
<b>Reason</b>	To update Council on the offer from Essential Energy to replace existing street lighting with more energy efficient street lighting.
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

This is an update of the report titled “Energy Efficient Street Lighting” and reported to Council at the February 2011 Council meeting. Its main purpose is to advise Council of changes in the upfront costs, proposed savings, project timing and the payback period of the proposed street lighting upgrade.

## Background

This matter was reported to Council at its February 2011 meeting when Council resolved to accept a proposal from Country Energy to replace a range of existing street lights throughout the city area with more energy efficient lighting.

Council’s annual charges for street lighting in the 2010/11 financial year were \$563,598 which consists of:

- Approximately \$105,928 in energy consumption
- Approximately \$239,327 in Network Use of System Charges (NUOS)
- Approximately \$218,343 in Street Light Use of System Charges (SLUOS)
- The generation of approximately 2,115 tonne of greenhouse gas emissions per annum.

Lismore City Council has now received a revised proposal from Essential Energy to replace the majority of street lighting within the city area with more energy efficient lighting. The main points to be considered out of the revised proposal are:

- Essential Energy no longer owns the retail arm of its former business (Country Energy) which supplied street light energy and network charges levied to Council.
  - When the original proposal was provided to Council from Country Energy, the projected savings were based on Country Energy’s charging regime at the time. On 1 July 2011 Council entered into a new retail supply agreement with Origin Energy which resulted in substantial reductions in energy, NUOS and other charges. This reduction in the ¢/kWh rate of Council’s energy and NUOS charges has resulted in lower than expected savings. The proposed savings from the SLUOS charges which are still controlled by Essential Energy has increased slightly. In essence Country Energy’s (now Essential Energy) initial estimates for savings were not based on the correct charging regime.

- The works are now scheduled to be undertaken in the period January – March 2012.
  - Original estimates for the savings that were to be realised in the 2011/2012 budget were based on the works being completed by September 2011. This would have given Council nine months worth of savings. It is now expected that Council will receive only three months of the amended projected savings for the 2011/2012 financial year.
- An increase in the upfront capital cost of the works.
  - Essential Energy has revised the upfront cost of the project. It is now approximately \$21,500 more expensive to proceed with the project.
- A decrease in the proposed savings from the upgrade.
  - Due to Council changing its electricity provider and realising substantial savings, there is a decrease in the proposed savings from the upgrade regarding energy, NUOS and other charges.
- Increase in the payback period for Council.
  - The reduction in the proposed savings will impact on the payback period for Council.

In summary the changes compared to the original proposal is for Council to pay an upfront cost of \$291,137 (previously \$269,784) to have the lighting upgraded. Under the terms of Council's new electricity contract with Origin Energy this proposal will:

1. Reduce Council's energy bill by approximately \$31,744 per annum (previously \$76,424) or 30% (previously 42%)
2. Reduce Council's NUOS charge by approximately \$98,970 per annum (previously \$137,658) or 41% (previously 42%)
3. Reduce Council's SLUOS charge by approximately \$68,177 per annum (previously \$67,652) or 31% (previously 39%)
4. Reduce greenhouse gas emissions by approximately 896 tonnes per annum or 42% (unchanged)
5. Reduce Council's energy consumption by 843 MWh/year.

The total savings to Council would be approximately \$198,892 per annum (previously \$281,734) or 35.3% (previously 41.5%). It should be noted that the above figures are based on the total street light electricity consumption for 2010/2011. This represents a payback period of approximately 1.5 years (previously just under one year). As per the previous report the capital cost of the works will be met from Council's existing budget allocation for street lighting although there will be some cash flow issues as Essential Energy will require an upfront payment for the work. Further, the timing of the installation means that the first year of savings occurs across financial years.

The financial and sustainability benefits from the proposed project are still very significant and results in an additional six-month payback period when compared to the original proposal. Should Council agree with the revised proposal, the work would be undertaken in the period January–March 2012 as part of Essential Energy's already scheduled bulk lamp replacement program.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Street lighting is an important part of the infrastructure that Council provides throughout the city area. In commercial areas such as the CBD, street lighting is important to the security and safety of patrons using those areas in the evening and at night. This proposal is not considered to have any positive or negative effects on sustainable economic growth and development.

## Social Inclusion and Participation

This proposal is not considered to have any positive or negative effects on social inclusion and participation.

## Protect, Conserve and Enhance the Environment and Biodiversity

The electricity costs for street lighting are the single biggest electricity charge that Council pays. It is therefore a substantial contributor to Council's overall greenhouse gas emissions. The current proposal will reduce Council's greenhouse gas emissions by approximately 896 tonne per annum which is a very positive outcome.

In addition, the removal of the mercury vapour lighting is regarded as a positive outcome. The mercury contained in those lights would be disposed of by Essential Energy in a responsible manner and the various metal components of the lights would be recycled.

The proposal is not regarded as having any negative effects on the environment and biodiversity.

## Best-Practice Corporate Governance

Council has an obligation to ensure that the services it delivers to its community represent value for money and are the most economic available. This proposal is consistent with that obligation.

## Comments

### Finance

There is an impact on the 2011/12 Budget as a result of the revised annual savings, delayed implementation and increase in capital cost associated with the energy efficient street lighting upgrade.

Based on a letter from Country Energy dated December 2010, the 2011/12 Budget anticipated savings of approximately \$211,500 to be achieved from October 2011 to June 2012 (\$281,700 per annum). These savings and an internal loan of \$58,500 were planned to fund the capital cost of approximately \$270,000. The internal loan would be repaid in full in 2012/13 from the ongoing savings, a payback period of 0.95 years.

Based on current information from Essential Energy, the implementation is to be delayed with savings of approximately \$54,700 anticipated from April 2012 to June 2012 (\$198,800 per annum). In addition, the capital cost has increased by approximately \$21,500 to \$291,200. Based on the revised annual savings and increased capital cost, a payback period of 1.47 years is anticipated. While the payback period has increased, it is still considered a very good investment due to the ongoing favourable benefit beyond the payback period.

As to net impact on the 2011/12 Budget, there will be an unfavourable variance of \$8,800 representing the difference between the revised savings and the full capital cost being fully funded by the internal loan. The following changes will be reported as part of the December 2011 Budget Quarterly Review Statement to Council in February 2012:

- *Street Lighting Expenses* – Increase budget by \$220,000 to recognise increased energy, NUOS and SLUOS charges for 2011/12 due to the delay of and reduced savings from implementation.
- *Energy Efficient Street Lighting Upgrade* – Increase by \$21,500 to recognise increased capital cost.
- *Internal Loan Funding* – Increase by \$232,700 to recognise decrease in street light expense savings available and increase in capital cost up. The change will increase the internal loan up to the full implementation cost of \$291,200.

## Other staff comments

### Environmental Strategies Coordinator

Council's 2001-02 greenhouse gas (GHG) inventory, undertaken as Milestone 1 of the Cities for Climate Protection (CCP) program, identified electricity consumption as accounting for 60% of total corporate GHG emissions. Street lighting accounted for 18% of Council's total corporate emissions and represents a similar portion of total energy costs.

This revised proposal still provides a very cost effective opportunity for Council to almost halve the GHG emissions associated with street lighting. The adoption of this proposal will also demonstrate Council's commitment to reduce 2001-02 level emissions by 20% by 2012. It is estimated that this action alone will reduce total corporate emissions by over 7%, representing the single biggest reduction since commencing the CCP program.

Further substantial reductions in costs and GHG emissions could be achieved with the installation of newer lighting technology. Therefore, Council's continued work with Essential Energy is essential to ensure that newer technology, such as LED lights, are approved for possible future installation.

## Public consultation

Not applicable.

## Conclusion

The proposal from Essential Energy is attractive as it will deliver to Council substantial ongoing cost savings in both the energy use, and infrastructure charges compared to Council's current costs. Substantial reductions in greenhouse gas emissions can also be achieved.

Whilst there is no doubt that at some point in the future more energy efficient lighting will become available and approved for use, the very short payback period of this proposal at approximately 1.5 years is compelling and it is recommended that Council agree to proceed.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council accept the revised proposal from Essential Energy for replacement of street lighting throughout the Lismore City Council area with energy efficient street lighting.
2. The General Manager progress the matter and finalise discussions with Essential Energy on implementing the proposal.

# Report

<b>Subject</b>	<b>Asset Management Strategy</b>
<b>TRIM Record No</b>	BP11/954:EF11/452
<b>Prepared by</b>	Asset Engineer
<b>Reason</b>	The Asset Management Strategy is presented to Council for adoption.
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

Council is the custodian of approximately \$1.1 Billion of community assets, which enables Council to provide services to our community. These assets include roads, drains, footpaths, community facilities, recreational facilities, parks and gardens, water and sewerage networks. Council has invested substantial resources to the maintenance of these assets over many years in order to service the needs and enhance the quality of life of the communities of the Lismore Region.

The purpose of the Asset Management Strategy is to provide direction in developing ongoing processes for managing these assets for the next 10 year horizon.

Lismore City Council has an acceptable level of cooperation at the management level to implement good asset management practices. However, the need to develop the internal asset management capacity of Council, which is being driven by the National Frameworks and the NSW Integrated Planning and Reporting requirements create the need for a formal corporate approach to monitor and guide the integration of planning and asset management.

The Asset Management Strategy and the individual asset management plans that will be developed as a result of this strategy will provide Council with detailed comprehensive information and knowledge to assist it with its short and long term planning and achieve its vision for Lismore City.

It is intended that the strategy be a living document that helps to guide the activities and decision making of the organisation into the future. The initiatives will be reviewed on a regular basis to ensure applicability in the changing environment and to also incorporate community feedback.

## Background

The majority of Council's existing infrastructure stock was built when the provision of essential housing and infrastructure was the priority. During these past periods of infrastructure expansion, little or no analysis was done to determine a strategy to sustain this infrastructure stock by matching future maintenance and renewal expenditures with future income projections. Additionally there has not been a good understanding of the long term cumulative consequences of decisions to build infrastructure.

To maintain their current assets, most councils will need to double their renewal spending now and provide for much larger renewal spending in the next 10 to 15 years. Without asset renewal, services we take for granted will decline in quality and (eventually) cease. Large expenditures are needed but there are no new funds available. Whilst funding must be increased this is only part of the answer. A fundamental change in the way assets are managed is essential.

Local councils in NSW are required to undertake their planning and reporting activities in accordance with the *Local Government Act, 1993* and the *Local Government (General) Regulation, 2005*. Council's Asset Management Strategy is prepared in accordance with the requirements of the 2010 Integrated Planning and Reporting guidelines for NSW (IPR). This Asset Management Strategy is a continuation of a process of improving asset management to ensure that Council is able to bring its Infrastructure and Asset Management practices, processes and systems to a reasonable level. This will be required if Council is to successfully implement the visions identified in Council's Community Strategic Plan and Delivery Plan.

The strategy has been prepared following completion of a gap analysis through the Institute of Public Works Engineers Australia's (IPWEA) NAMS Plus Program. The outcome of that process is a series of actions in priority order which is effectively a road map for Council to continuously improve its asset management practices and procedures and to progressively complete its asset management plans.

The strategy was presented to the Infrastructure Assets Policy Advisory Group (IAPAG) at the meeting held on 17 November 2011. The IAPAG resolved to endorse the Asset Management Strategy and report it to Council for adoption. Further, quarterly reports are to be prepared for the IAPAG on progress with implementing the various actions contained within the strategy. It should be noted that some members of the IAPAG did not support the strategy, being of the belief that they had not been provided with sufficient time to fully assess the document before the meeting.

A copy of the complete Asset Management Strategy is attached, including a timeline for the completion of the various actions within it.

## Sustainability Assessment

### Sustainable Economic Growth and Development

All councils, irrespective of size or location, need to ensure that the sustainable management of assets is a 'whole of council' responsibility, and recognised as such at all levels within individual councils. Much of the infrastructure that Council owns and operates contributes to the economic success of the city and region, eg road network, parks and open space, community buildings etc.

### Social Inclusion and Participation

Asset management is a continuous process covering the full life of the asset. It is seen as a practical and financially responsible means of managing assets through the creation, acquisition, maintenance, operation, rehabilitation and disposal of assets to provide for present and future community needs. Without asset renewal, services we take for granted will decline in quality and (eventually) cease. A fundamental change in the way assets are managed is essential for the present and future community.

### Protect, Conserve and Enhance the Environment and Biodiversity

It is anticipated that the adoption of the draft Asset Management Strategy will have a positive impact on the protection of Council's environment and biodiversity.

### Best-Practice Corporate Governance

Local councils in NSW are required to undertake their planning and reporting activities in accordance with the *Local Government Act, 1993* and the *Local Government (General) Regulation, 2005*. Council's Asset Management Strategy is prepared in accordance with the requirements of the 2010 Integrated Planning and Reporting guidelines for NSW (IPR).

## Comments

### Finance

The adoption of the Asset Management Strategy is supported as it will provide clear direction on the development of ongoing processes to manage Council's \$1 billion+ in infrastructure assets. This formal structure will result in accurate and reliable information being provided on a timely basis to inform the development and ongoing management of a robust and realistic Long Term Financial Plan for Council.

### Other staff comments

Not required.

### Public consultation

Not applicable.

### Conclusion

The Asset Management Strategy and the individual asset management plans that will be developed as a result of this strategy will provide Council with detailed comprehensive information and knowledge to assist it with its short and long term planning and achieve its vision for Lismore City.

The adoption of the Asset Management Strategy will enable Council to show how its asset portfolio supports the service delivery needs of their communities into the future, enable Council's Asset Management Policy to be achieved, and conform to the Integrated Planning and Reporting recommendations. In that respect, an Asset Management Strategy is presented for the Council's consideration.

### Attachment/s

1. Draft Asset Management Strategy - Lismore City Council (Over 7 pages)

## Recommendation

That the Asset Management Strategy be adopted by Council.

# Report

**Subject** Closure of Pathway between Nos. 5-7 Redwood Grove, Goonellabah

**TRIM Record No** BP11/883:R6589

**Prepared by** Property Services Administrative Assistant

**Reason** To seek Council approval to the closure and disposal of a public pathway.

**Community Strategic Plan Link** Best-Practice Corporate Governance

## Overview of Report

This pathway has been identified as unnecessary to Council requirements. The adjoining owner of 7 Redwood Grove, Goonellabah, Mrs J Meeve, has written to Council requesting that Council consent to the closure and sale of the site of the pathway.

## Background

This pathway was dedicated as an access to a Council owned public reserve comprised in Lot 75 in DP 730306 in a plan of subdivision registered in December 1992. The pathway was never constructed.

At that time public access to the public reserve was very limited. However, in subsequent years Council has acquired additional land and there is currently five means of public access to the reserve from Carramar Drive, Redwood Grove and Hillcrest Avenue.

In 2008 Council staff identified the pathway as being unnecessary and wrote to the owners of the adjoining properties at Nos. 5 and 7 Redwood Grove enquiring if they were interested in acquiring the strip of land either in whole or part with the other adjoining owner. No response was received from the owner of 5 Redwood Grove. The owner of 7 Redwood Grove expressed an interest in acquiring the site at that time and has subsequently written to Council requesting Council consent to the closure and sale of the pathway.



## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposal is not considered to have any positive or negative effects on economic growth and development.

### Social Inclusion and Participation

The proposal is not considered to have any positive or negative effects on social inclusion and participation. Access to the rear public reserve is available from a number of other locations in the street nearby.

### Protect, Conserve and Enhance the Environment and Biodiversity

The proposal is not considered to have any positive or negative effects on the environment or biodiversity.

### Best-Practice Corporate Governance

Disposal of the property is consistent with reducing the administrative and operational workloads of maintaining properties which are surplus to Council's requirements.

## Comments

### Finance

As all costs associated with the closure, sale and consolidation process are to be met by the owner of No. 7 Redwood Grove, Goonellabah, the recommendations are supported.

### Other staff comments

Not applicable

## Public Consultation

On 6 April 2011 letters were sent to 20 property owners in Redwood Grove advising of the proposed closure and sale of the pathway and calling for submissions in relation to this proposal. A response was received from eight property owners advising that they had no objection to the proposal. Objections were received from two property owners. These objections were on the following basis:

1. Objector stated that they and their children used the pathway for walking exercise and that the pathway was used by local children to catch the bus on the main street.
2. Objection was based on the loss of access to the Council reserve at the rear of the properties facing Redwood Grove.

In relation to the first objection, it is felt that the objector has misunderstood which pathway is proposed to be closed as they also refer to children using the pathway to "catch buses from the main street". The signature of the objector was not legible and therefore contact could not be made to verify this. It would appear unlikely that local children access this pathway to catch buses.

In relation to the second objection, there are four other Council-owned properties in Hillcrest Avenue, Redwood Grove and Carramar Drive which provide access to the Council reserve at the rear of the pathway. An aerial photograph of the area is provided below – the area bounded by yellow marks the Council reserve and the areas hatched in red comprise the pathway proposed to be closed, plus the remaining other four Council-owned properties that provide access to the reserve.

Councillors may view the submissions by contacting Council staff.



## Conclusion

The pathway is surplus to Council requirements for access to the public reserve at the rear of Redwood Grove. The pathway has never been constructed and because there is no indication of a pathway between the two properties, the pathway is rarely, if ever, used by the public as a means of access to the reserve.

If closure of the pathway is approved by Council, the land would be consolidated with adjoining land owned by Mrs J Meeve. No known existing Council infrastructure or services would be impacted by the closure. However, should any impact become apparent during the closing process, the applicant will be responsible for ensuring that their continuity and integrity is retained either by way of an easement or relocation to the satisfaction of Council.

As Council has not previously undertaken construction of the pathway, in accordance with Section 38(2)(c) of the *Roads Act* 1993, upon closure, the former pathway will become vested in the Crown.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council consent to the application to close the pathway between Nos. 5 and 7 Redwood Grove, Goonellabah, as shown in red colour on the aerial photograph included in this report.
2. All costs associated with the closure, sale and consolidation process to be met by the owner of No. 7 Redwood Grove, Goonellabah.
3. Upon closure of the road, the owner of No. 7 Redwood Grove, Goonellabah, will be required to purchase the land from the Department of Lands and consolidate the portion of closed road with her adjoining property.
4. The Land and Property Management Authority be advised accordingly and requested to progress the application.
5. The Mayor and General Manager be authorised to sign and affix the common seal of Council to any documents deemed necessary to complete the actions contained within this report.

# Report

<b>Subject</b>	<b>MR148 Coraki Road, Coraki - Land Acquisition for Road Realignment</b>
<b>TRIM Record No</b>	BP11/945:R5001-03
<b>Prepared by</b>	Property Services Administrative Assistant
<b>Reason</b>	To seek Council approval for the purchase of land for road realignment.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

This report has been compiled to seek approval for the purchase of land to enable the realignment of a small section of MR148 Coraki Road, Coraki, following a landslip during the May 2009 flood.

## Background

As a result of the May 2009 flood event, a landslip occurred on the bank of the Richmond River adjacent to MR148 Coraki Road, just north of its intersection with Casey Lane. Restoration of this landslip was included in Council's May 2009 Natural Disaster Flood Restoration claim submitted to the Roads and Maritime Services (formerly RTA). Council has recently received approval to undertake the permanent restoration of this landslip, which will require the realignment of a 420m section of Coraki Road. In order to facilitate the proposed realignment, acquisition of adjoining land is required.

The adjoining parcels of land affected by the proposed realignment are:

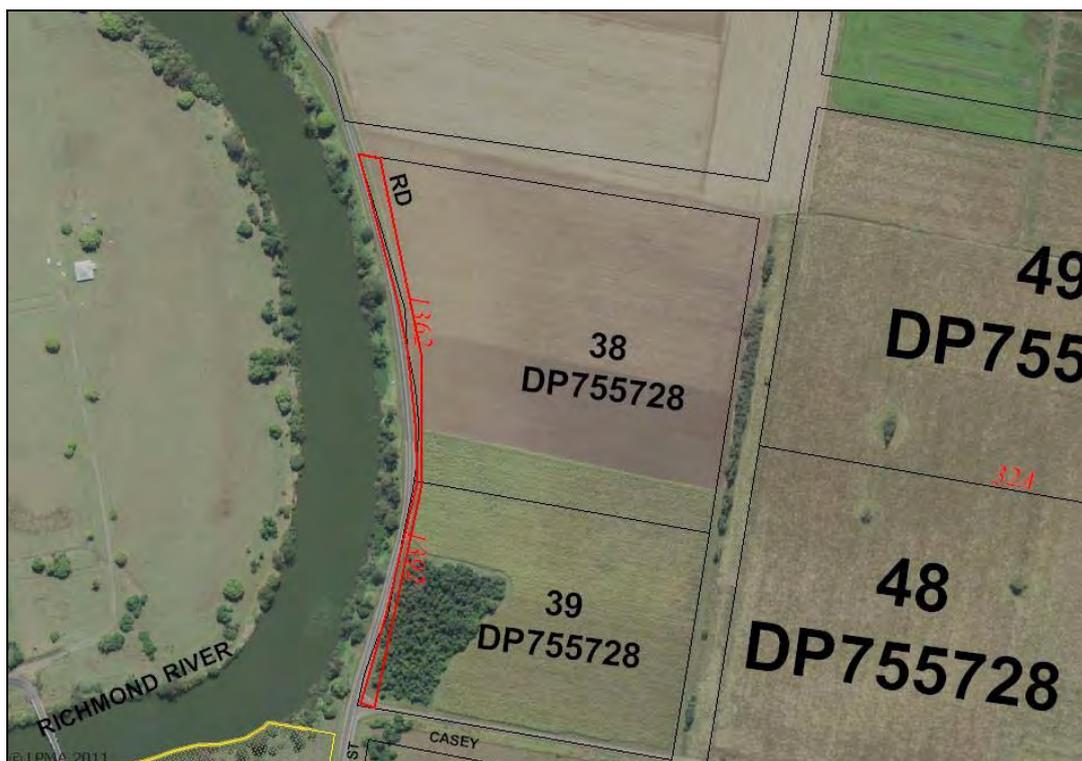
- **First Parcel – Lot 38, DP 755728**  
The proposed realignment will require Council to acquire approximately 3,424m<sup>2</sup> of No. 1362 Coraki Road, Coraki (Lot 38, DP 755728).
- **Second Parcel – Lot 39, DP 755728**  
The proposed realignment will require Council to acquire approximately 3,790m<sup>2</sup> of No. 1392 Coraki Road, Coraki (Lot 39, DP 755728).

The two adjoining parcels of land on which the realignment encroaches are both owned by the same landowner. It should be noted that the land acquisitions are being undertaken on the basis of negotiated agreements with the property owner.

In accordance with the valuation obtained by Council, compensation in the sum of \$11,000 has been offered to the adjoining property owner. Council staff are currently negotiating with the landowner's solicitor to negotiate the Deed of Agreement for road widening.

In addition to the proposed compensation, Council will also pay the landowner's survey costs, Council fees, plan registration fees and the owner's reasonable legal costs in relation to the road realignment.

An aerial photograph of the site is provided below:



## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposal will promote increased road network efficiency and increased level of service to the local and surrounding business community.

### Social Inclusion and Participation

The proposal will provide an increased level of safety for the community by providing an improved road network.

### Protect, Conserve and Enhance the Environment and Biodiversity

The proposed realignment will be constructed utilising recycled rock and pavement materials where appropriate and will incorporate mitigation measures to minimise any effects on the surrounding environment.

### Best-Practice Corporate Governance

All works will be carried out to industry best practice standards.

## Comments

### Finance

As all costs associated with the acquisition and restoration of the landslip will be funded from the May 2009 Natural Disaster Flood Restoration funding, the recommendations are supported.

## Other staff comments

Not applicable

## Public consultation

A letter was sent to the adjoining landowner dated 4 April 2011 notifying of the proposed works, road widening process and requesting comments on likely impacts and other relevant issues. Site meetings to explain the proposal and talk through the proposed road widening, including land acquisition and rehabilitation works, was held with the affected landowner on 22 February 2011 and 15 March 2011.

## Conclusion

The purchase of these portions of land is necessary for the realignment of MR148 Coraki Road, Coraki, as a result of the landslip which occurred during the May 2009 flood event. The proposed realignment will provide a long term increased level of service and safety to the surrounding community and will be constructed to industry best standards.

## Attachment/s

There are no attachments for this report.

## Recommendation

That:

1. Council consent to the acquisition of the two parcels of land for the realignment of MR148 Coraki Road, Coraki, being approximately 3,424m<sup>2</sup> which is part of Lot 38 in DP 755728 and approximately 3,790m<sup>2</sup> which is part of Lot 39 in DP 755728 as shown in red colour on the aerial photograph included in this report
2. All costs associated with the land acquisition are to be met by Council.
3. The Mayor and General Manager be authorised to sign and affix the common seal of Council to any documents deemed necessary to complete the actions contained within this report.

# Report

<b>Subject</b>	<b>State Emergency Service - Appointment of Local Controller</b>
<b>TRIM Record No</b>	BP11/956:EF09/405
<b>Prepared by</b>	Manager - Assets
<b>Reason</b>	To gain Council's endorsement for the appointment of a new Local Controller for the Lismore City SES Unit.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

The Lismore City SES Local Controller has recently resigned due to health reasons. The Regional Controller has written to Council seeking its views and endorsement of his intention to appoint a new Local Controller.

The proposed appointment of Mr Stuart Ferguson as the new Local Controller is recommended for endorsement.

## Background

Mr Brian Griffin has served the Lismore community as Local Controller of the Lismore City SES unit since August 2009. Recently Mr Griffin has been on extended sick leave and subsequently resigned from his position effective 1 November 2011 due to health reasons.

Council has received correspondence from the Regional Controller of the SES, Mr Simon Gregg, seeking Council's endorsement for the appointment of a new Local Controller for the Lismore City SES Unit. The appointment of the Local Controller to a State Emergency Services unit is undertaken by the Commissioner of the NSW State Emergency Service upon recommendation of the Regional Controller and the local council.

Mr Gregg has advised of his intention to appoint Mr Stuart Ferguson to the role. Stuart Ferguson is currently the Unit Controller for the Lismore City SES and has acted as Local Controller whilst Mr Griffin has been on sick leave.

## Sustainability Assessment

### Sustainable Economic Growth and Development

The proposal is not considered to have any positive or negative benefits for sustainable economic growth and development.

### Social Inclusion and Participation

The proposal is not considered to have any positive or negative benefits for social inclusion and participation.

## Protect, Conserve and Enhance the Environment and Biodiversity

The proposal is not considered to have any positive or negative benefits for the environment and biodiversity.

## Best-Practice Corporate Governance

Council is required under the *Emergency Services Act*, 1989 to provide a recommendation on the appointment of a Local Controller for its SES Unit.

## Comments

### Finance

Not required.

### Other staff comments

Not required.

### Public consultation

Not applicable.

## Conclusion

The proposed appointment as recommended by the Regional Controller is supported.

## Attachment/s

There are no attachments for this report.

## Recommendation

That Council:

1. Endorse the proposal from the Regional Controller of the SES to recommend the appointment of Mr Stuart Ferguson to the role of Local Controller of the Lismore City SES Unit.
2. Write to Mr Brian Griffin expressing its thanks for his contribution as Local Controller of the Lismore City SES Unit.

# Report

<b>Subject</b>	<b>Tender No. T2012-07 - Quarry Drill and Blasting Services</b>
<b>TRIM Record No</b>	BP11/836:T12/7
<b>Prepared by</b>	Manager - Commercial Services
<b>Reason</b>	To inform Council of the tenders received for the provision of drilling and blasting services at Council operated quarries.
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

This report outlines the assessment process for T2012-07 Quarry Drill and Blasting Services and recommends that Council accept all tenders and award contracts to form a panel of suppliers for a three-year period with an option of a further three-years.

## Background

Council operates quarries at Blakebrook, Tuckombil and Stokers Siding which require blasting activities to be conducted on a regular basis. Council invited submissions from suitably qualified and experienced companies or individuals to form a panel of suppliers for Quarry Drill and Blasting Services for Northern Rivers Quarry & Asphalt at Blakebrook, Tuckombil and Stokers Quarries.

The contract period is three years with an option at Council's absolute discretion to extend the contract for a further three years.

The request for tender was advertised in the *'Weekend Star'*, the *'Courier Mail'* and the *'Sydney Morning Herald'*, as well as "Tenderlink" through Lismore City Council's web page. At the close of tenders at 2.00pm on Thursday, 15 September 2011, a total of six submissions were received.

## Tender Examination

Tenders were invited on a Schedule of Rates basis for the supply of Drill and Blasting Services.

An evaluation panel comprising the Quarry Operations Coordinator, Quarry Team Leader and Contracts Administration Officer undertook the assessment of tenders.

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

1. Total Price	30%
2. Capability and Experience	40%
3. OHS, Risk Management and Quality	15%
4. Environment and Community	5%
5. Local Content	10%

A summary of the tenders received and tender evaluations is provided below.

### Pricing Schedules

Tender No.	Name	Total Cost Summary	
		89mmø Drilling \$ Per Bulk m <sup>3</sup> Rock on Ground	76mmø Drilling \$ Per Bulk m <sup>3</sup> Rock on Ground
1	Ron Southern Pty Ltd	\$3.80	\$4.40
2	Orica Australia Ltd	\$4.02	\$5.27
3	Optex Drilling & Blasting Pty Ltd	\$4.38	\$4.86
4	Addril Pty Ltd	\$3.80	\$4.28
5	Pacific Drilling & Blasting	\$3.80	\$4.12
6	Donnelly Blasting Services Pty Ltd	\$3.43	\$3.69

### Capability and Experience

- **Ron Southern Pty Ltd** – Has local experience but of recent times generally has a poor performance history, which was taken into consideration when assessing the tender. The company also falls short in areas of methodology, technical skills ability and after sales service, resulting in an increased element of risk.
- **Orica Australia Ltd** – A large multi-national company with 20 years experience in drill and blasting, Orica makes and supplies explosives as well as conducting drill and blast operations. They are currently demonstrating drill and blast capabilities at Lismore City Council operated quarries with good results. Staff have had recent dealings over a six year period with previous employer.
- **Optex Drilling & Blasting Pty Ltd** – The proprietor has 10 years experience working for external companies as engineer and drill and blast coordinator. Currently not operating as a drill and blast business and will only purchase drill rig if successful with this tender - element of risk.
- **Addril Pty Ltd** - Meets all criteria; 29 drill rigs servicing New South Wales, Victoria, South Australia and Queensland. Currently provides drill and blast services for four Shire Councils. Experience includes five major Highway upgrades.
- **Pacific Drilling & Blasting** - Meets all criteria; 29 drill rigs servicing New South Wales, Victoria, South Australia and Queensland. Currently provides drill and blast services for four Shire Councils. Experience includes five major Highway upgrades. Sister company to Addril Pty Ltd.
- **Donnelly Blasting Services Pty Ltd** has 10 years experience in drill and blasting. A list of major projects was provided, including projects conducted for Ballina Shire Council.

### OHS, Risk Management and Quality

- **Ron Southern Pty Ltd** - Recent experiences have resulted in unsatisfactory OH&S practices and environmental results, and poor quality of materials.
- **Orica Australia Ltd** - ISO 9001 accredited Quality Management System. Demonstrated Safety Management System meeting all Council's requirements.
- **Optex Drilling & Blasting Pty Ltd** provided Quality, Safety and Environmental plan. Currently sub-contracted to Leighton Contractors who have a sound knowledge of these systems. Overall however, there is some element of risk.

- **Addril Pty Ltd** - Comprehensive Quality and Safety Management plans. No national accreditations.
- **Pacific Drilling and Blasting** - Comprehensive Quality and Safety Management plans. No national accreditations.
- **Donnelly Blasting Services Pty Ltd** - OH&S Management Plan provided; accredited by Qld Mines Department. Quality plan and policy provided.

## Environment and Community

- **Ron Southern Pty Ltd** - Some community engagement, no Environmental Management Plan. Some recent issues with noise levels – some level of risk .
- **Orica Australia Ltd** - Demonstrated recent experience of management of environmental activities on Council sites.
- **Optex Drilling & Blasting Pty Ltd** provided an Environmental Management Plan. No evidence provided of community engagement. Recently demonstrated high risk blasting techniques within 20 metres of residential areas.
- **Addril Pty Ltd** - Extensive Environmental Management plan provided.
- **Pacific Drilling and Blasting** - Extensive Environmental Management plan provided.
- **Donnelly Blasting Services Pty Ltd** - Environmental Management policy provided.

## Local Content

- **Ron Southern Pty Ltd** generally meets most criteria. The company is not based in Lismore, however the owner lives at Alstonville.
- **Orica Australia Ltd** - Brisbane based company. Local content includes accommodation, mechanical repairs, tyres, fuel and interaction with local neighbours while outlining blasting procedures.
- **Optex Drilling & Blasting Pty Ltd** is located in the Lismore area and will source local labour and supplies when available.
- **Addril Pty Ltd** - Located at Newcastle; will source local labour and supplies when available.
- **Pacific Drilling and Blasting** is located at Burleigh, Queensland, and will source local labour and supplies when available.
- **Donnelly Blasting Services Pty Ltd** - Located at Beaudesert, Queensland, and will source local labour and supplies when available.

Overall, the submission by Orica Australia provides the most suitable long term solution for drill and blasting services due to capability and experience, safe and efficient blasting techniques and environmental controls.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Ongoing efficient operation of Council's quarries provides local employment, employs local service providers and provides resources for the development of the region. Quarry products are used for the development of almost all infrastructure work in the area.

### Social Inclusion and Participation

Council quarries have a strong public inclusion process covering all quarry blasting activities.

### Protect, Conserve and Enhance the Environment and Biodiversity

The contractors will have sustainability and environmental responsibilities embedded in their contract agreement.

### Best-Practice Corporate Governance

An open tender process is considered best practice, and is the most transparent method to appoint a panel of contractors.

## Comments

### Finance

A tender process which encompasses a priority listing outcome is likely to result in the best value for Council for the services tendered. As such, the recommendation is supported.

### Other staff comments

Not required.

### Public consultation

Not required.

## Conclusion

The supply of drill and blasting services has been assessed and ranked according to the evaluation criteria as set out in the tender documentation. As a result, Council is able to engage a contractor from the "Approved Contractors" list based on availability. The list of "Approved Contractors" is ranked as follows:

1. Orica Australia Ltd
2. Donnelly Blasting Services Pty Ltd
3. Addril Pty Ltd
4. Pacific Drilling & Blasting
5. Ron Southern Pty Ltd
6. Optex Drilling & Blasting Pty Ltd

## Attachment/s

1. Tender Scoring Sheet - T2011-07, Quarry Drill and Blasting Services

## Recommendation

That:

1. Council accept all tenders received for the T2012-07 Quarry Drill and Blasting Services based on the schedule of rates in their respective submissions, with works to be offered to suppliers on a priority order basis.
2. Based on the assessment of the tenders received, the priority order of suppliers is:
  1. Orica Australia Ltd
  2. Donnelly Blasting Services Pty Ltd
  3. Addril Pty Ltd
  4. Pacific Drilling & Blasting
  5. Ron Southern Pty Ltd
  6. Optex Drilling & Blasting Pty Ltd
3. Available work will first be offered to the highest priority supplier, and if it is unable or unavailable to undertake the work, it will then be offered to the second through to sixth priority suppliers in turn.

## Tender T201207 Quarry Drill and Blast- Blakebrook 89mm Drill

	Criteria	Weighting from Tender Docs	Southon		Orica		Optex		Adrill		Pacific		Donnelly	
			Raw Score	Weighted & calculated										
1	Total Price (out of 10; against average)	30%	6.86	2.06	6.68	2.00	6.38	1.91	6.86	2.06	6.86	2.06	7.17	2.15
2	Capability and Experience (out of 10)	40%	5	2.00	9	3.60	4	1.60	8	3.20	8	3.20	8	3.20
3	Quality and Safety (out of 10)	15%	4	0.60	9	1.35	7	1.05	8	1.20	8	1.20	8	1.20
4	Environment and Community (out of 10)	8%	6	0.30	7	0.35	7	0.35	7	0.35	7	0.35	7	0.35
5	Local Content Minimum 10% (Out of 10)	10%	8	0.80	5	0.50	8	0.80	5	0.50	5	0.50	5	0.50
		100%		5.76		7.80		5.71		7.31		7.31		7.40
	<b>Overall score out of 100</b>			57.58		<b>78.03</b>		57.14		73.08		73.08		74.00

# Report

<b>Subject</b>	<b>Tender No. T2012-04 - Supply of Various Materials and Services</b>
<b>TRIM Record No</b>	BP11/944:T12/4
<b>Prepared by</b>	Rural Works Engineer
<b>Reason</b>	To inform Council of tenders received for the supply of various materials and services for the period to November 2012 with a one year option.
<b>Community Strategic Plan Link</b>	Efficient Use of Council Resources

## Overview of Report

This report details the evaluation of tenders received in relation to the provision of various materials and services for the period to November 2012, including a recommendation to award the tender.

## Background

Tenders were advertised for the provision of various materials and services to enable Council to compile a list of "Approved Suppliers" offering specific materials and services at a fixed price for a stated period. The materials and services included in the tender document are:

- Supply of Soil, Sand and Metal Dust,
- Supply of Ready Mixed Concrete,
- Supply of Traffic Control Personnel and Traffic Management Solutions,
- Material Testing,
- Vegetation Services,
- Supply of Turf,
- Kerb & Gutter Extrusion, and
- Supply of Chemicals.

The request for tender was advertised in the '*Weekend Star*', the '*Courier Mail*' and the '*Sydney Morning Herald*', as well as "TenderLink" through Lismore City Council's web page.

## Tender Examination

Due to the varying nature of the materials and services included in this tender, a number of Council staff from different sections were included on the various committees during the tender evaluation and assessment process. In its entirety, the committees comprised of the Rural and Urban Works Engineers, Rural and Urban Works Supervisors, Bridge Supervisor, Parks Coordinator, Tree Officer and Water and Wastewater Systems Supervisor.

Tenders were invited and assessed on a schedule of rates basis. The tender documents (Clause B7), defined five (5) areas by which each tender would be assessed as outlined below for the provision of materials and services:

1. Total Cost
2. Capability and Experience
3. Quality and Safety
4. Environment and Community
5. Local Content

The supply of each individual material and service was assessed and is detailed below.

## Tender Item 1 – Supply of Soil, Sand and Metal Dust

Tender documents were received from a total of three (3) companies by the close of tender. These companies were:

- S & L Sand and Gravel Pty Ltd
- Holmes Pty Ltd (Clovass Quarry)
- Richmond Sand Gravel & Landscaping

Only two of these suppliers submitted tendered rates for the supply of soil. Richmond Sand Gravel & Landscaping tendered the lowest price for the supply of soil and ranked the highest tenderer based on the evaluation criteria.

It is therefore recommended that the following priority order be followed for the **supply of soil**:

1. Richmond Sand Gravel & Landscaping
2. S & L Sand & Gravel Pty Ltd

For the supply of sand and metal dust, the rates tendered by Holmes Pty Ltd (Clovass Quarry) resulted in the lowest costs for the supply of these products. Furthermore, considering the remaining evaluation criteria specified in the tender, Holmes Pty Ltd (Clovass Quarry) was also the highest ranked tenderer.

Council supplies metal dust through its own quarry operations and this would be the first source of metal dust where available. The nominated suppliers will only be requested to supply metal dust should Council's own quarries be unable to meet the required demand.

It is therefore recommended that the following priority order be followed for the **supply of sand and metal dust**:

1. Holmes Pty Ltd (Clovass Quarry)
2. S & L Sand Gravel Pty Ltd
3. Richmond Sand Gravel & Landscaping

## Tender Item 2 – Supply of Ready Mixed Concrete

Tender documents were received from a total of two (2) companies by the close of tender, these being:

- Hanson Construction Materials Pty Ltd
- Holcim Australia Pty Ltd

Due to the varying quantities of concrete used and separate locations of work sites, a comparison of the rates received was made for two typical projects and costs evaluated.

The rates tendered by Holcim Australia Pty Ltd resulted in the lowest cost for the supply of ready mixed concrete. Furthermore, Holcim Australia Pty Ltd scored highest on the evaluation criteria.

It is therefore recommended that the following priority order be followed for the **supply of ready mixed concrete**:

1. Holcim Australia Pty Ltd
2. Hanson Construction Materials Pty Ltd

## Tender Item 3 – Supply of Traffic Control Personnel and Traffic Management Solutions

Tender documents were received from a total of four (4) companies by the close of tender. These companies were:

- Traffic Control Services Pty Ltd
- BFC Traffic Management Pty Ltd
- JHA Recruitment & Staff @ Work
- Workforce Road Services Pty Ltd

To enable a comparison of the rates received, two typical projects for Council were selected and costs calculated on tendered rates.

The rates tendered by JHA Recruitment & Staff @ Work resulted in the lowest cost for the supply of traffic control services. However, based on the evaluation criteria assessment, Workforce Road Services Pty Ltd ranked the highest.

It is therefore recommended that the following priority order be followed for the **supply of traffic control personnel and traffic management solutions**:

1. Workforce Road Services Pty Ltd
2. JHA Recruitment & Staff @ Work
3. BFC Traffic Management Pty Ltd
4. Traffic Control Services Pty Ltd

## Tender Item 4 – Material Testing

Tender documents were received from one (1) company by the close of tender. This company was:

- Australian Soil & Concrete Testing Pty Ltd

Material testing is a specialised field, therefore only a limited number of companies are capable of carrying out the works. Australian Soil & Concrete Testing Pty Ltd is the only local company that has the capability, experience and appropriate accreditation to undertake material testing as per requirements of this tender.

Council has previously utilised Australian Soil & Concrete Testing Pty Ltd for its material testing with the services being undertaken to a satisfactory standard. It is therefore recommended that Council continues to engage Australian Soil & Concrete Testing Pty Ltd for its **material testing requirements**.

## Tender Item 5 – Vegetation Services

Tender documents were received from a total of five (5) companies by the close of tender. These companies were:

- North Coast Tree Services
- Lismore Tree Services Pty Ltd
- S & W Lopping
- PowerClear Pty Ltd
- Byron Bay Tree Services

Due to the varying nature of works on trees and vegetation in the urban and rural environment including trimming, felling, mulching and grinding, a comparison of the rates received was made for a typical Council project with associated costs evaluated.

The rates tendered by North Coast Tree Services resulted in the lowest cost for the supply of vegetation services. Following the evaluation criteria assessment however, Lismore Tree Services Pty Ltd scored highest.

It is therefore recommended that the following priority order be followed for the **supply of vegetation services**:

1. Lismore Tree Services Pty Ltd
2. PowerClear Pty Ltd
3. Byron Bay Tree Services
4. North Coast Tree Services
5. S & W Lopping

## Tender Item 6 – Supply of Turf

Tender documents were received from a total of two (2) companies by the close of tender, these being:

- Richmond Sand Gravel & Landscaping
- PowerClear Pty Ltd

Due to the varying quantities of turf used by different sections of Council, a comparison of the rates received was made for a typical Council project with associated costs evaluated.

The rates tendered by Richmond Sand Gravel and Landscaping resulted in the lowest cost for the supply of turf. Furthermore, Richmond Sand Gravel and Landscaping scored highest on the evaluation criteria.

It is therefore recommended that the following priority order be followed for the **supply of turf**:

1. Richmond Sand Gravel & Landscaping
2. PowerClear Pty Ltd

## Tender Item 7 – Kerb and Gutter Extrusion

Tender documents were received from one (1) company by the close of tender, this company being:

- Tweed Summerland Kerbing

Council has utilised Tweed Summerland Kerbing for all of its kerb and gutter extrusion for the past eight (8) years. There are no other companies locally with the correct machinery to carry out these works.

Tweed Summerland Kerbing has always carried out the works in a very professional manner and to a high standard. It is therefore recommended that Council continue the use of their services for the provision of **kerb and gutter extrusion**.

## Tender Item 8 – Supply of Chemicals

Tender documents were received from a total of four (4) companies by the close of tender. These companies were:

- GE Water & Process Technologies (Elite Chemicals)
- Redox Pty Ltd
- Orica Chemicals
- Omega Chemicals

Council requires the delivery of various chemicals to its treatment plants located around the local government area. Due to the specialised nature of this service, not all of the companies that submitted tender documents are able to supply all of the chemicals required by Council.

For the supply of Caustic Soda 50%, all companies listed above are able to supply Council. The rate tendered by Orica Chemicals resulted in the lowest cost for the supply of Caustic Soda 50%. Furthermore, it also ranked highest in the evaluation criteria.

For the supply of Liquid Aluminium Sulphate TIF (Filtration Grade), all companies bar Elite Chemicals provided Council with rates for its supply. Orica Chemicals tendered the lowest rate for the supply of Liquid Aluminium Sulphate. Furthermore, the company also ranked the highest in the evaluation criteria.

For the supply of Sodium Hypochlorite 13%, all companies bar Omega Chemicals provided Council with rates for its supply. Elite Chemicals tendered the lowest rate for the supply of Sodium Hypochlorite 13%. Furthermore, the company ranked the highest in the evaluation criteria.

It is therefore recommended that for the **supply of various chemicals, the following priority order be followed:**

### *Liquid Caustic Soda 50%*

1. Orica Chemicals
2. Omega Chemicals
3. Redox Pty Ltd
4. Elite Chemicals

### *Liquid Aluminium Sulphate TIF (Filtration Grade)*

1. Orica Chemicals
2. Omega Chemicals
3. Rodox Pty Ltd

### *Sodium Hypochlorite 13%*

1. Elite Chemicals
2. Orica Chemicals
3. Redox Pty Ltd

## Sustainability Assessment

### Sustainable Economic Growth and Development

The use of this tender will have a positive impact on the local and surrounding community through the procurement of various materials and services.

## Social Inclusion and Participation

This tender does not have any direct impact on the social inclusion and participation of the community.

## Protect, Conserve and Enhance the Environment and Biodiversity

As part of this tender evaluation process, all suppliers have been assessed and scored appropriately on their environmental and sustainability considerations.

## Best-Practice Corporate Governance

This tender has been advertised through an open tender process and once in use will ensure the most efficient procurement method of various materials and services for Council staff.

## Comments

### Finance

A tender process which encompasses a priority listing outcome is likely to result in the best value for Council for the materials and services tendered. As such, the recommendation is supported.

## Other staff comments

### Manager - Works

The use of a priority listing system for the procurement of materials and services for Council provides the most cost effective and efficient manner in sourcing the various items across all disciplines within the Works area of Council.

Accordingly the recommendations are endorsed.

## Public consultation

Nil

## Conclusion

The supply of various materials and services has been assessed and ranked according to the evaluation criteria as set out in the tender document. As a result, this document will enable Council staff to use a supplier from the priority list based on availability to supply the material or service.

## Attachment/s

1. Tender T2012-04 Raw Score Sheet - Supply of Soil, Sand and Metal Dust
2. Tender T2012-04 Raw Score Sheet - Supply of Ready Mixed Concrete
3. Tender T2012-04 Raw Score Sheet - Supply of Traffic Control Services
4. Tender T2012-04 Raw Score Sheet - Vegetation Services
5. Tender T2012-04 Raw Score Sheet - Supply of Turf
6. Tender T2012-04 Raw Score Sheet - Supply of Chemicals

## Recommendation

That Council adopts the order of priority for the provision of various materials as per the recommendations in the body of this report.

## T2012-04 Quote Raw Score Sheet - Supply of Chemicals

Supply of Liquid Caustic Soda			Orica	Redox	Elite	Omega				
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated			
1	Total Price (out of 10)	60%	7.79	4.67	6.39	3.83	5.66	3.40	7.35	4.41
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50	5	0.50
		100%		7.67		6.83		6.50		7.51
<b>Total 100% or 100</b>				<b>76.74</b>		<b>68.34</b>		<b>64.96</b>		<b>75.10</b>

## T2012-04 Quote Raw Score Sheet

Supply of Aluminium Sulphate			Orica	Redox	Omega			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	60%	8.43	5.06	5.99	3.59	5.97	3.58
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		8.06		6.59		6.68
<b>Total 100% or 100</b>				<b>80.58</b>		<b>65.94</b>		<b>66.82</b>

## T2012-04 Quote Raw Score Sheet

Supply of Hypochlorite 13%			Orica	Redox	Elite			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	60%	8.01	4.81	4.32	2.59	8.07	4.84
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		7.81		5.59		7.94
<b>Total 100% or 100</b>				<b>78.06</b>		<b>55.92</b>		<b>79.42</b>

## T2012-04 Quote Raw Score Sheet - Supply of Chemicals

Supply of Liquid Caustic Soda			Orica	Redox	Elite	Omega				
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated			
1	Total Price (out of 10)	80%	7.79	4.67	6.39	3.83	5.66	3.40	7.35	4.41
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50	5	0.50
		100%		7.67		6.83		6.50		7.51
<b>Total 100% or 100</b>				<b>76.74</b>		<b>68.34</b>		<b>64.96</b>		<b>75.10</b>

## T2012-04 Quote Raw Score Sheet

Supply of Aluminium Sulphate			Orica	Redox	Omega			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.43	5.06	5.99	3.59	5.97	3.58
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		8.06		6.59		6.68
<b>Total 100% or 100</b>				<b>80.58</b>		<b>65.94</b>		<b>66.82</b>

## T2012-04 Quote Raw Score Sheet

Supply of Hypochlorite 13%			Orica	Redox	Elite			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.01	4.81	4.32	2.59	8.07	4.84
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		7.81		5.59		7.94
<b>Total 100% or 100</b>				<b>78.06</b>		<b>55.92</b>		<b>79.42</b>

## T2012-04 Quote Raw Score Sheet - Supply of Chemicals

Supply of Liquid Caustic Soda			Orica	Redox	Elite	Omega				
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated			
1	Total Price (out of 10)	80%	7.79	4.67	6.39	3.83	5.66	3.40	7.35	4.41
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50	5	0.50
		100%		7.67		6.83		6.50		7.51
<b>Total 100% or 100</b>				<b>76.74</b>		<b>68.34</b>		<b>64.96</b>		<b>75.10</b>

## T2012-04 Quote Raw Score Sheet

Supply of Aluminium Sulphate			Orica	Redox	Omega			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.43	5.06	5.99	3.59	5.97	3.58
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		8.06		6.59		6.68
<b>Total 100% or 100</b>				<b>80.58</b>		<b>65.94</b>		<b>66.82</b>

## T2012-04 Quote Raw Score Sheet

Supply of Hypochlorite 13%			Orica	Redox	Elite			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.01	4.81	4.32	2.59	8.07	4.84
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		7.81		5.59		7.94
<b>Total 100% or 100</b>				<b>78.06</b>		<b>55.92</b>		<b>79.42</b>

## T2012-04 Quote Raw Score Sheet

## Various Materials - Vegetation Services

Criteria	Weighting	PowerClear Pty Ltd	Byron Bay Tree Services	S & W Lopping	Lismore Tree Services	North Coast Tree Services						
		Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated					
1	Total Price (out of 10)	80%	6.73	4.04	6.42	3.85	6.72	4.03	7.03	4.22	7.1	4.26
2	Capability and Experience (out of 10)	10%	9	0.90	7	0.70	4	0.40	9	0.90	7	0.70
3	Quality and Safety (out of 10)	10%	10	1.00	10	1.00	1	0.10	8	0.80	8	0.80
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	4	0.40	7	0.70	1	0.10
5	Local Content Minimum 10% (Out of 10)	10%	8	0.80	7	0.70	10	1.00	10	1.00	9	0.90
		100%		7.54		7.05		5.93		7.62		6.76
<b>Total 100% or 100</b>				<b>75.38</b>		<b>70.52</b>		<b>59.32</b>		<b>76.18</b>		<b>67.60</b>

## T2012-04 Quote Raw Score Sheet - Supply of Chemicals

Supply of Liquid Caustic Soda			Orica	Redox	Elite	Omega				
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated			
1	Total Price (out of 10)	80%	7.79	4.67	6.39	3.83	5.66	3.40	7.35	4.41
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50	5	0.50
		100%		7.67		6.83		6.50		7.51
<b>Total 100% or 100</b>				<b>76.74</b>		<b>68.34</b>		<b>64.96</b>		<b>75.10</b>

## T2012-04 Quote Raw Score Sheet

Supply of Aluminium Sulphate			Orica	Redox	Omega			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.43	5.06	5.99	3.59	5.97	3.58
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		8.06		6.59		6.68
<b>Total 100% or 100</b>				<b>80.58</b>		<b>65.94</b>		<b>66.82</b>

## T2012-04 Quote Raw Score Sheet

Supply of Hypochlorite 13%			Orica	Redox	Elite			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	80%	8.01	4.81	4.32	2.59	8.07	4.84
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		7.81		5.59		7.94
<b>Total 100% or 100</b>				<b>78.06</b>		<b>55.92</b>		<b>79.42</b>

## T2012-04 Quote Raw Score Sheet - Supply of Chemicals

Supply of Liquid Caustic Soda			Orica	Redox	Elite	Omega				
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated			
1	Total Price (out of 10)	60%	7.79	4.67	6.39	3.83	5.66	3.40	7.35	4.41
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50	5	0.50
		100%		7.67		6.83		6.50		7.51
<b>Total 100% or 100</b>				<b>76.74</b>		<b>68.34</b>		<b>64.96</b>		<b>75.10</b>

## T2012-04 Quote Raw Score Sheet

Supply of Aluminium Sulphate			Orica	Redox	Omega			
Criteria	Weighting	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	
1	Total Price (out of 10)	60%	8.43	5.06	5.99	3.59	5.97	3.58
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	9	0.90
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	9	0.90
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		8.06		6.59		6.68
<b>Total 100% or 100</b>				<b>80.58</b>		<b>65.94</b>		<b>66.82</b>

## T2012-04 Quote Raw Score Sheet

Supply of Hypochlorite 13%			Orica	Redox	Elite			
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1	Total Price (out of 10)	60%	8.01	4.81	4.32	2.59	8.07	4.84
2	Capability and Experience (out of 10)	10%	8	0.80	8	0.80	8	0.80
3	Quality and Safety (out of 10)	10%	9	0.90	9	0.90	10	1.00
4	Environment and Community (out of 10)	10%	8	0.80	8	0.80	8	0.80
5	Local Content Minimum 10% (Out of 10)	10%	5	0.50	5	0.50	5	0.50
		100%		7.81		5.59		7.94
<b>Total 100% or 100</b>				<b>78.06</b>		<b>55.92</b>		<b>79.42</b>

# Report

<b>Subject</b>	<b>Tender T2012-09 - Design, Supply and Installation of Wire Rope Safety Barriers - Various Locations</b>
<b>TRIM Record No</b>	BP11/957:T12/9
<b>Prepared by</b>	Special Projects Engineer
<b>Reason</b>	To inform Council of tenders received for the provision of wire rope safety barriers at various locations within the Lismore local government area.
<b>Community Strategic Plan Link</b>	Improve Roads, Cycleways and Footpaths

## Overview of Report

This report details the evaluation of tenders received in relation to the design, supply and installation of wire rope safety barriers and a recommendation to award the tender.

## Background

A tender for the design, supply and installation of wire rope safety barriers at various locations within the Lismore local government area (LGA) was recently called. The installation of wire rope safety barriers at various locations were identified as elements of a package of works designed to reduce the road toll within the Lismore LGA. Council was successful in receiving grant funding from the Roads & Maritime Services (formally the Roads and Traffic Authority) to complete these works.

The request for tender was advertised in the 'Weekend Star', the 'Echo City News' and the 'Sydney Morning Herald', as well as "Tenderlink" through Lismore City Council's web page.

Tender documents were received from three (3) companies by the close of tender on 2.00pm, Thursday, 17 November 2011.

### **Tenderers:**

1. Protection Barriers Pty Ltd
2. Civil Works NSW Pty Ltd
3. Associated Services Enterprises Pty Ltd.

## Tender Examination

An evaluation panel comprising the Rural Works Engineer, Rural Works Supervisor and Special Projects Engineer undertook the assessment of tenders.

Tenders were invited on a Schedule of Rates basis for the design, supply and installation of wire rope safety barriers.

The tender documents (Clause B7), defined five (5) areas by which each tender would be assessed:

## 1. Total Price

A price comparison was undertaken on each tenderer for the total package of works. The totals for each tenderer are as follows:

- |   |              |               |
|---|--------------|---------------|
| ○ Protection Barriers Pty Ltd             | \$221,760.00 | Inclusive GST |
| ○ Civil Works NSW Pty Ltd                 | \$444,345.00 | Inclusive GST |
| ○ Associated Services Enterprises Pty Ltd | \$220,099.00 | Inclusive GST |

## 2. Capability and Experience

Protection Barriers Pty Ltd has detailed extensive experience in the supply and installation of wire rope safety barriers. Most recently with the Kempsey Bypass, Oxley Highway upgrade and the Monaro Highway safety upgrades. These works have a combined value in excess \$740,000. The RTA (Roads and Maritime Services) were the client for these works. Further to this, Protection Barriers has undertaken the installation of guardrail/ wire rope for Clarence Valley Council throughout 2011/12.

Civil Works NSW submitted a list of previous projects that were generally more of civil construction in nature such as streetscapes, boat ramps, retaining walls and a seawall remediation. No specific installation of wire rope safety barriers was included within the submission.

Associated Services Enterprises provided two recent projects that included the installation of road safety barriers. The first on the Steve Irwin Way in 2011 and the other within the Clem7 tunnel in 2009.

## 3. Quality and Safety

Protection Barriers Pty Ltd has provided documentation on which its safety systems are based, including hazard reporting and risk assessment procedures, Safe Work Method Statements, training requirements, plant assessment checklists, PPE and toolbox meetings. Protection Barriers Pty Ltd is not third party accredited for safety or quality management systems.

Civil Works NSW submitted very thorough documentation for both quality and safety management systems. Civil Works NSW is not third party accredited for safety or quality management systems.

Associated Services Enterprises submitted thorough documentation for its OHS systems and some information regarding its construction quality checklist. Associated Services Enterprises is not third party accredited for safety or quality management systems.

## 4. Environment and Community

A review of environmental factors (REF) has been completed by Council for all the various sites within the Lismore LGA. This information was provided to the tenderers and will form the basis for the Environmental Management Plan for each individual site, including details on how environmental impacts will be minimised/ avoided during the performance of the contract.

Limited information regarding their environmental management procedures were submitted by Protection Barriers and Associated Services Enterprises.

Civil Works NSW provided a sufficiently detailed Environmental Management Plan. The company noted construction experience in environmentally sensitive locations.

None of the three tenderers have third party accreditation for their environmental management systems.

## 5. Local Content

Protection Barriers Pty Ltd submitted no details in reference to local content. It is noted that its business offices are located south of Grafton at Lanitza, NSW.

Civil Works NSW listed the local companies that it would utilise for the supply of various materials, traffic control and labour during the construction works. Civil Works NSW is based in North Croydon, NSW.

Associated Services Enterprises listed some locally based services that it would utilise during the construction works. Associated Services Enterprises is based in Yatala, QLD.

## Summary

The rates tendered by Protection Barriers Pty Ltd resulted in the second lowest costs for the project works by a difference of some \$1,700 compared to the lowest tenderer (Associated Services Enterprises). Civil Works NSW submitted total project costs of approximately double that of Tenderers 1 and 3 (namely Protection Barriers and Associated Services Enterprises respectively).

Considering the remaining evaluation criteria specified within the tender (Capability and Experience, Quality and Safety, Environment and Community, and Local Content), Protection Barriers Pty Ltd is the highest ranked tenderer (refer Attachment 1).

## Reference Check

Reference checks with the Road and Maritime Services (Contract Administrator), confirmed that Protection Barriers Pty Ltd is one of three contractors listed on the RMS panel contract for installation and repairs of various road safety barriers. The company has met all the RMS requirements in terms of safety and quality standards.

Additionally, the Works Supervisor for RMS confirmed that Protection Barriers Pty Ltd complies with the relevant OHS, Quality and Environmental standards. Protection Barriers Pty Ltd has consistently met construction timeframes and has the capacity, experience and resources to complete the works.

## Sustainability Assessment

### Sustainable Economic Growth and Development

This proposal will enhance the amenity of the community by providing a safer and improved road network.

### Social Inclusion and Participation

The Lismore City Council Road Safety Strategic Plan identifies the importance of providing a safe and effective road network for the Lismore local government area. The installation of road safety barriers will provide a safer and improved road network.

### Protect, Conserve and Enhance the Environment and Biodiversity

A review of environmental factors (REF) has been undertaken by Council's Environmental and Heritage Contractor for the barrier installation works. This document identifies existing site vegetation that may be affected during the construction works.

All construction works shall be undertaken in accordance with the safeguards identified within the REF document.

## Best-Practice Corporate Governance

Works will be undertaken in accordance with industry guidelines for safety barrier construction, including adherence to the relevant Australian and NSW Roads and Maritime Services authority standards.

## Comments

### Finance

An open tender process is likely to achieve the best value for Council in this situation. As such, the recommendations are supported.

It is noted that funding for this installation of wire ropes safety barriers is from grant funding received from the Roads & Maritime Services (formally the Roads and Traffic Authority).

### Manager - Works

The recommendation to engage Protection Barriers Pty Ltd to undertake the design, supply and installation of the wire rope safety barriers at various locations throughout the Lismore LGA is supported. This company has extensive experience in undertaking works of this scope.

## Other staff comments

Not required.

## Public consultation

Not applicable.

## Conclusion

Protection Barriers Pty Ltd has submitted the second lowest tendered price by less than 1%. Furthermore when assessed against the remaining non-price attributes, the company is the highest ranked tenderer.

Protection Barriers Pty Ltd has demonstrated experience with the design, supply and installation of wire rope safety barriers to meet Australian and NSW Roads & Maritime Services requirements.

## Attachment/s

1. Tender T2012-09 Raw Score Sheet - Design, Supply and Installation of Wire Rope Safety Barriers

## Recommendation

That:

1. Council accept the tender and award the contract for Tender T2012-09 Design, Supply and Installation of Wire Rope Safety Barriers – Various Locations to Protection Barriers Pty Ltd and accept the Schedule of Rates provided in its submission.
2. The General Manager finalise details and proceed to execute a contract under seal of Council.

**Tender T2012-09 Design, Supply & Installation of Wire Rope Safety Barriers**

	Criteria	Weighting from Tender Docs	Protection Barriers Pty Ltd		Civil Works NSW		Associated Services Enterprises	
			Raw Score	Weighted & calculated	Raw Score	Weighted & calculated	Raw Score	Weighted & calculated
1	Total Price (out of 10; against average)	35%	7.6	2.66	5.2	1.82	7.6	2.67
2	Capability and Experience (out of 10)	30%	8	2.40	4	1.20	5	1.50
3	Quality and Safety (out of 10)	15%	4	0.60	8	1.20	6	0.90
4	Environment and Community (out of 10)	10%	5	0.50	7	0.70	4	0.40
5	Local Content Minimum 10% (Out of 10)	10%	3	0.30	7	0.70	6	0.60
		100%		6.46		5.62		6.07
	<b>Overall score out of 100</b>			64.59		56.15		60.66

# Report

<b>Subject</b>	<b>Community Strategic Plan - Community Engagement Strategy</b>
<b>TRIM Record No</b>	BP11/975:EF11/543
<b>Prepared by</b>	Manager - Corporate Services
<b>Reason</b>	To gain support from Council for the Community Strategic Plan Community Engagement Strategy
<b>Community Strategic Plan Link</b>	Engage with the Community

## Overview of Report

This report introduces the Community Strategic Plan – Community Engagement Strategy.

## Background

This report presents the Community Strategic Plan – Community Engagement Strategy for adoption by Council. This plan outlines how the Community will be engaged in the creation of the Community Strategic Plan.

The engagement strategy has two main stages. The first stage which will occur in the first half of 2012 is an information gathering exercise designed to understand the community's vision for the future and start to explore how this vision can be obtained. This information will be processed and provided to the new Council in October 2012. The new Council will use the information to produce draft strategies and these will form the basis for Stage 2.

The second stage will occur in the first half of 2013 and will present the draft strategies to the community or their feedback. Council will collaborate with the community to decide the inclusion and priority of the strategies. Council will also collaborate with the community to produce the 2012 – 2016 Delivery Plan.

It should be noted that the Community Strategic Plan – Community Engagement Strategy is a living document and will be modified to meet the challenges and opportunities encountered during the process. The document does not represent an exact scope or schedule of the community engagement, just the general overall strategy.

The cost of the implementation of the plan will be \$97,000 plus already budgeted staff resources. This cost is contained within the Delivery Plan and reserves for the Community Survey.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Through the improvement of corporate planning and the increased involvement of the community this initiative will improve all aspects of sustainability.

### Social Inclusion and Participation

The in-depth community engagement process recommended in this report will ensure that all parts of the community are involved in Council business. This should improve social inclusion and participation.

## Protect, Conserve and Enhance the Environment and Biodiversity

Through the improvement of corporate planning and the increased involvement of the community this initiative will improve all aspects of sustainability.

## Best-Practice Corporate Governance

The improvements to Council's IP&R reform implementation not only ensure Council's continued compliance with the legislation but also improve management through more holistic corporate planning.

## Comments

### Finance

The Delivery Plan 2010-2014 Amended 2011 includes the Community Strategic Plan project. Funding of \$97,000 is available from both 2011/12 Reserves and 2012/13 Financial Year. To accommodate the timeframe associated with the Community Engagement Strategy, the funding from 2012/13 will be brought forward if required.

## Conclusion

The Community Strategic Plan – Community Engagement Strategy provides a clear outline of how the community will be engaged in the production of the Community Strategic Plan. The engagement will start in January 2012 and conclude by June 2013. The project will cost \$97,000 which is in accordance with the budget.

## Attachment/s

1. Community Strategic Plan Community Engagement Strategy

## Recommendation

That Council endorse the attached Community Strategic Plan – Community Engagement Strategy.

## Draft Community Strategic Plan - Community Engagement Strategy

### **Introduction**

This document outlines how Lismore City Council will engage Lismore's community in the production of the Community Strategic Plan (CSP). The strategy outlines the principles that will be used to ensure that the process is open, fair and produces an outcome which is based on a full understanding of the community's aspirations for the future. It goes on to outline the objectives of the engagement, identifies the stakeholders and the engagement methods for each group. The strategy concludes with a description of Stage 1 and 2 of the community wide engagement strategy.

### **Principles**

- The CSP is owned by the community not the Council. The Council facilitates the compilation and implementation of the CSP.
- Lismore City Council will always ensure social equity in its engagement.
- Lismore City Council is committed to honest open and fair community engagement.
- The engagement will be based on Council's 'Community Engagement Practical Guide'.

### **Objectives**

The objectives of the community engagement are as follows:

#### **Stage 1**

- To understand how the community currently feels about the Council's activities.
- To understand the community's vision for Lismore in ten years.
- To understand what the community wants from Council's service provision in the implementation of its vision of the future.
- To develop innovative solutions and strategies.

#### **Stage 2**

- Gain feedback on the solutions and strategies developed.
- Fine tune the draft CSP and Delivery Plan (DP).
- Build support for the CSP and DP within the community.

### **Strategy Overview**

Using the methodology within the Council's 'Community Engagement Practical Guide' the following conclusions are drawn.

- The community's expectation for engagement is very high.
- The Council's ability to engage is also very high.
- The CSP will have an impact across the whole LGA.

These conclusions mean that the level of engagement as defined by the IAP2 framework is *Collaborate*. The IAP2 framework defines collaborate as:

*To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution(s), and leads to the promise to the community:*

*We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.*

### **Stakeholder Identification and Engagement**

The following stakeholder groups have been specified because of Council's commitment to social justice. It is likely that these groups would find it difficult to engage in the CSP process. The inclusion on this list means that Council will make a particular effort to ensure that the people in these groups get a strong voice in the process.

<b>Stakeholder</b>	<b>Engagement Strategy</b>
Lismore's whole community	Community wide engagement strategy.
Lismore business owners	The business community has recently been consulted through the Business Retention and Expansion survey. Rather than generate the same information again, the results of the BRE will be used in Stage 1. A workshop with the business community will be held as part of Stage 2.
Chamber of Commerce	The Chamber of Commerce has recently been consulted through the Business Retention and Expansion survey. Rather than generate the same information again, the results of the BRE will be used in Stage 1. A workshop with the Chamber of Commerce will be held as part of Stage 2.
Lismore's youth	Workshops at three Lismore and the Nimbin high school and four selected LGA primary schools. Workshops in partnership with Youth Connections, NRSDC and the SCU Centre for Children and Young People.
Lismore's elderly residents	Workshops will be held with each of Lismore's pensioners and superannuants and U3A. These workshops will occur in both Stage 1 and 2.
The Aboriginal Community	Workshops with the Nimbin Aboriginal Community, the Aboriginal Interagency Meeting and the LCC Aboriginal Interagency Group will be held in Stage 1 and 2. A workshop will be held with the Bundjalung Elders Council, Aboriginal Corporation. The CSP will be on the standing agenda for the LCC Aboriginal Reference Group.

The following stakeholders have been specified because the partnerships that are formed with these organisations will be critical to the implementation of the CSP.

<b>Stakeholder</b>	<b>Engagement Strategy</b>
People living with a disability	Workshops will be held with Council's Access committee, and people with disability both in Stage 1 and 2.
State and federal departments	The key government departments are represented in the Lismore Leaders Forum and this forum will be used to engage these stakeholders. In addition a partnership will be developed with the NSW Department of Premier and Cabinet through their local representative Julie Byers. The RDA will also heavily consulted and engaged.

Local MPs	Janelle Saffin, Don Page and Thomas George will be kept informed of the progress of the Community Strategic Plan and be invited to attend some of the community forums.
Southern Cross University	Representatives from SCU will be invited to attend the public meetings and will be kept informed of the process. SCU will also be involved in the strategy deliberations and as important community partners. The SCU are also represented at the Lismore Leaders Forum.
Northern Rivers Social Development Council	Representatives from NRSDC will be invited to attend the public meetings and will be kept informed of the process. NRSDC will also be involved in the strategy deliberations and as important community partners. The NRSDC are also represented at the Lismore Leaders Forum.
Member of village and local communities	A place based public forum will be held in each of the population centres and major suburbs. The Nimbin Advisory Group will be consulted to ascertain the best way to engage with the Nimbin community.
Lismore Leaders Group	The Lismore Leaders Group represent senior member of Lismore's key institutions. Workshops will be held with this group in Stage 2 as these leaders will be critical the partnership that the community will need to implement the CSP.
NOROC Councils	NOROC Councils will be closely consulted in Stage 2 to identify resource sharing opportunities.
Rous Water, Richmond Valley and North Coast Weeds County Councils.	Rous Water, Richmond Valley and North Coast Weeds County Councils will be closely consulted in Stage 2 to identify resource sharing opportunities.

## ***Community Wide Engagement Strategy***

### **Stage 1**

Stage 1 is the information gathering stage. It runs from January – July 2012. The overall objective is to provide the new Council with a full and accurate understanding of the community's needs and aspirations. This knowledge will allow the Council to develop a draft CSP.

#### ***Informing the Community***

The first stage of the community engagement strategy is to provide information to the public. This information will include an explanation of the Community Strategic Plan as well as all the information that the community needs to have a fully informed discussion on the future of Lismore and the role that Council will play in that future. The information package will include:

- A snap shot of the local government sector, its history and challenges.
- The international move from representative democracy to community governance.
- How Council works and its complexity, challenges, constraints and opportunities.
- What improvements we have made to our own business and what improvements we are currently making.

A media and communication campaign will be developed. This will be used to disseminate the information above to the community.

#### ***Community Survey***

The survey has three major objectives. Firstly it needs to ascertain the community's satisfaction with Council's service provision. Secondly it needs to gain a broad understanding of the community's

priorities and aspirations for the future. Thirdly the survey will provide an indication of how the community wants Council to allocate its resources across its services.

The survey will be a demographically representative randomised telephone survey (preferably landline and mobile phones) of at least 500 residents. At the same time Council will recruit 500 demographically representative survey participants to an online forum.

### ***Online Community Forum***

The CSP project represents an ideal opportunity to leverage a demographically representative group of people from the LGA who have been comprehensively informed about the realistic parameters that Lismore City Council works within, into an online environment where they can continue to participate in community discussions - both now and into the future.

This project represents a rare opportunity for LCC to enter the online space alongside a community of people who are well-informed about operational opportunities and restraints. The timing and management of the online integration will be carefully considered so that it occurs in alignment with the objectives of the Community Strategic Plan as well as the LCC Communication Strategy objectives.

The forum/(s) will develop on the themes of the survey. Ideas for the future and for Council's service provision will be explored and honed. It is hoped that through a strong and ongoing discussion some degree of consensus will be reached on the overall vision for Lismore and the role the Council needs to play in that vision.

The online community forum will be in two parts. Firstly there will be the online forum that is made up of the demographically representative community members that are recruited during the survey. Secondly there is the possibility to open a forum to the public. The public forum will only be considered if there are proper safeguards in place to ensure that it promotes a positive environment for the whole community. The final decision on whether this forum will be used will rest with the project steering committee.

Both these forum/(s) will have very clear terms of reference and carefully constructed conversations. The forum/(s) will be for the community to provide constructive and respectful views and suggestions to Councils and will be strongly moderated to ensure that these standards are maintained. The forums will not allow for anonymous comment.

The online community forums will remain ongoing through the development of the CSP. The selected forum will remain ongoing indefinitely with new members being recruited to replace those that wish to leave. This will form an ongoing resource to gain fast, effective and representative information on public opinion and gain ideas for the continuing implementation of the CSP as well as the Council's response to emerging issues.

### ***Placed Based Community Forums***

It is important to recognise that the LGA is a construct. What people actually perceive of their community is not governed by Lismore's boundaries. It is critical therefore that this strategy allows for the engagement with more natural geographical communities. To address this Council will conduct the following community based forums:

- Goonellabah
- North/South Lismore
- East Lismore/Lismore Heights etc.
- Nimbin
- Clunes
- Dunoon
- Modanville

- The Channon
- Tregeagle
- Wyrallah
- Goolmangar

These meetings will not be the traditional town hall type meetings. They will be facilitated, interactive workshops. The workshops will be concerned only with the needs of the particular community where they are being held. The participants in the workshop will be restricted to the residents of the community. Other people will be welcome to attend but only as observers.

### ***Deliberative Forum***

The final part of the consultation will be a deliberative forum. The membership of this forum will be demographically representative, randomly selected members of the community. At this forum which is likely to run over two days, the participants will be provided with an in depth information about the Council, the community and the results of the community engagement thus far. The forum will be asked to make sense of the information and provide Council with a number of draft strategies. To complete the loop this information will be fed back to the Online Forum to enable wider public comment.

After the consultation has been completed, the information will be collated and processed. This will form the bases for the education package that will be provided to the newly elected Council in September 2012. This will mark the start of the final development of the CSP.

## **Stage 2**

After stage 1 is complete the information will be provided to the new Council. The new Council will work with Council staff to use this information to produce a draft CSP and Draft Delivery Program. The objective of Stage 2 is to test this draft CSP with the community. Once the stage 2 is completed the Council will use the information gained to finalise the CSP and DP.

### ***Online Community Forum***

Both the selective and public online forums will remain in operation throughout the development of the CSP. In Stage 2 the forums will be used to test the draft CSP and DP. The forum participants will be asked to consider the proposed strategies, alternatives and provide ideas for Delivery Plan projects that support the CSP.

### ***Placed Based Community Forums***

To provide the community with the results of their input we will revisit all of the community forums. The community forums will have the opportunity to provide feedback to the proposed strategies and make additional suggestions. The forums will also be asked to provide ideas for Delivery Plan projects that support the implementation of the CSP.

Stage 2 of the consultation will be completed by the end of April 2013. This will allow for two months for Council to complete and endorse the CSP, Delivery Plan and Operational Plan.

# Report

<b>Subject</b>	<b>Update to Councillor Expenses and Facilities Policy</b>
<b>TRIM Record No</b>	BP11/978:EF09/1920
<b>Prepared by</b>	Corporate Compliance Coordinator
<b>Reason</b>	To ensure compliance with the Local Government Act and the intent of the appropriate Guidelines
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

The report details changes to the financial arrangements associated with the private use provision of the Mayoral motor vehicle.

## Background

In August this year, a report was presented to Council on the annual review of Councillors Expenses and Facilities policy. The report recommended no changes to the existing policy and this was adopted by Council. The existing policy has for all intents and purposes undergone very little change over the past two terms of Council.

One of the clauses (4.1 a), relates to the provision to the Mayor of a motor vehicle with full private use rights. The policy is however silent on the issue of the reimbursement of private use by the Mayor and it was always assumed that such a benefit accrued to the office of Mayor.

The Division of Local Government has been contacted to clarify this position and they have advised inter alia as follows:

*Clause 1.6.4 of the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW (p5) provides that councillors should not obtain other than incidental benefit from the provision of council equipment and facilities.*

*Clause 2.4.2 of the Guidelines (p22) further clarifies this matter in relation to the provision of a council motor vehicle for the sole use of the mayor.*

*Where substantial private use of a council facility (such as a vehicle) occurs, the Act provides that a council's policy may provide a process for payment by the councillor to cover the cost of the private use, for example, via a reduction in a councillor's annual fees (section 252(2)).*

*It is suggested that Lismore City Council review its policy in relation to the provision of a vehicle to the mayor in accordance with the legislation and the Guidelines.*

In accordance with this advice it is proposed to amend the Policy to provide that payment for substantial private use be paid for by the Mayor at the cents per kilometre rate applicable to the vehicle used. The cents per kilometre rate is to be consistent with that provided by the Local Government & Shires Association of NSW. Effectively, the Mayor will lodge with Council a monthly statement of private use and the value calculated will be deducted from the monthly Mayoral Allowance payment.

## Sustainability Assessment

### Best-Practice Corporate Governance

The suggested changes to the policy reflect advice from the Division of Local Government

### Comments

#### Finance

Not required.

#### Other staff comments

Not required.

#### Public consultation

The change to the policy is deemed to be less than substantial and does not require public exhibition

### Attachment/s

There are no attachments for this report.

## Recommendation

That the Clause 4.1a of the Councillors and Expenses Policy be amended to read:

*A motor vehicle with full private use. Substantial private use of the vehicle is to be paid for via a deduction from the Mayoral Allowance. The deduction is to be calculated by the cents per kilometre rate applicable to the vehicle multiplied by the private use. The cents per kilometre rate is to be consistent with the current rate for that vehicle provided by the Local Government & Shires Association of NSW. The Mayor to lodge a monthly statement of substantial private use to allow the calculation of this amount.*

# Report

<b>Subject</b>	<b>Investments - November 2011</b>
<b>TRIM Record No</b>	BP11/847:EF09/2216
<b>Prepared by</b>	Management Accountant
<b>Reason</b>	Required by Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy
<b>Community Strategic Plan Link</b>	Best-Practice Corporate Governance

## Overview of Report

Investments as at 30 November 2011 are estimated to be \$38,897,729 subject to final market valuations typically provided after month end.

The interest rate reported for November 2011 is estimated to be 5.42% which is above the Bank Bill Swap Rate for the period of 4.65%. The final interest return may vary due to actual returns achieved on investments advised after month end.

## Background

The Local Government Act 1993 (Section 625), Local Government (General) Regulations 2005 (Regulation 212) and Council's Investment Policy requires a monthly report be submitted to Council on investments. The report is to include the source and amount of funds invested, investment portfolio performance for the period and a statement of compliance in relation to the requirements of the Local Government Act 1993.

## Report on Investments

- |  |              |
|--|--------------|
| • <i>Confirmation of Investments – at Market Value – 31 October 2011</i> | \$37,500,028 |
| • <i>Estimated Investments – at Market Value – 30 November 2011</i>      | \$38,897,729 |

The current rate of return on investments for November 2011 is estimated to be 5.42% which is above the Bank Bill Swap Rate for the period of 4.65%. The rate of return reported has been calculated using actual returns where available and estimates based on the previous period balance and interest rates. The methodology used to calculate estimates appears reasonable in light of discussion with the portfolio advisor.

There are a number of investments not paying coupons. These include investments in the Blackrock Care & Maintenance Fund, Longreach – Series 25, Corsair (Torquay) and five other Lehman Brothers related investments that are terminating. These investments are shown on the 'Estimated Interest' attachment with an estimated interest rate and weighted interest for the period of zero.

In regards to the Blackrock Care & Maintenance Fund, as this fund is being independently managed with a view to its ultimate termination, the payment of a coupon is dependent on funds being available net of costs. A coupon payment has not been recognised as a return on investment this month.

The estimated interest earned to November 2011 is still favourable compared to the pro rata Budget. This will be monitored as financial markets are factoring in a further slowing of the economy and further drops in the prevailing interest rates. When a variance is certain, it will be reported to Council as part of the quarterly budget reporting process.

The balance in the CBA Business On Line Account is currently higher than would normally be anticipated. This is mainly due to rates payments being received leading up to the time of this report. Once future cashflows have been considered, some of these funds will be transferred to term deposits.

## **PMI Group**

The PMI Group, a name widely referenced in CDO's, filed for bankruptcy protection during November 2011. The declaration of a credit event triggered by this bankruptcy has not yet been made, but will be a formality. Once this declaration has been made, some CDO's held within Council's portfolio will be negatively affected. It is expected that Scarborough, currently valued at \$18,220 will lose 100% of its capital, and Torquay, currently in the portfolio at \$63,250 could lose approximately 90-99% of capital invested. Also Esperance II may suffer a partial capital loss.

As further information becomes available, the value of these CDO's in Council's investment portfolio will be adjusted accordingly.

## **Changes to the Government Guarantee**

There have been some important changes announced in relation to the Financial Claims Scheme (FSC), known as the \$1m Deposit Guarantee. Deposits now fall into 3 categories:-

- Deposits placed prior to 12 September 2011 will be guaranteed up to \$1m until 31 December 2012,
- Deposits placed post 12 September 2011 with a maturity date prior to 1 February 2012 will be guaranteed to \$1m, and
- Deposits placed after 12 September 2011 with maturity dates past 1 February 2012 will have their funds guaranteed up to \$250,000 past that date, with \$1m only guaranteed until 31 January 2012.

It is believed that the FCS will become a permanent feature of the banking landscape, but the door has been left open to adjust the cap in the future if need be. There is no expiry date currently set for the new cap.

As a result of the change in the FCS, Council's Investment Policy will be updated to ensure the required flexibility can be maintained within the investment portfolio while taking into account the changes to the FSC. A revised Investment Policy is to be submitted to Council in March 2012.

## **Quarterly Investment Report**

Each quarter Council's independent investment advisors, CPG Research and Advisory, prepare a Quarterly Investment Report on the investment holdings compared to the Target Credit Quality, Counterparty Exposure, Target Asset Allocation and Target Maturity Profile. The report for the September 2011 Quarter indicates strong compliance to the Investment Policy targets after the lack of liquidity of some investments is taken into consideration. Councillors have been provided with a copy of this report with a brief summary of the contents.

## Sustainability Assessment

### Sustainable Economic Growth and Development

Council's main objective in investing funds is to preserve the capital, i.e. prevent any loss to the amount invested, while gaining the most advantageous rate of return with minimum risk.

### Best-Practice Corporate Governance

The Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy require Council's investments to be reported monthly.

## Comments

### Manager - Finance (Responsible Accounting Officer)

All investments with various financial institutions have been made in accordance with the Local Government Act 1993, Local Government (General) Regulation 2005 and Council's Investment Policy.

Relevant comments have been included in the report where required and the recommendation supported.

In regards to the expected capital loss as a result of the PMI default, this is likely to be more than offset by capital gains in other investments during 2011/12.

## Conclusion

A report on investments is required to be submitted to Council monthly. This report meets that requirement. As at 30 November 2011, investments are estimated to total \$38,897,729 and the annualised rate of return is estimated at 5.42%.

## Attachment/s

1. Capital Value movement including name of institution, lodgement date and maturity date
2. Estimated Interest showing interest rate and estimated interest earned for the year
3. Total Investment Portfolio held by month with last year comparison - graphical
4. Weighted Average Interest Rate with bank bill swap rate and last year comparison - graphical
5. Investment by Type - Graphical
6. Investment by Institution as a percentage of total portfolio - graphical

## Recommendation

That the report be received and noted.

Capital Value Movements  
Summary of Investments held as at  
30 November 2011

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)	
<b>Cash Based Returns</b>									
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated (Note 7)	High	15/10/2008	N/A	30/06/2011	\$ 1,852,577	\$ 2,078,366	Note 3
CBA Business On Line Banking A/C	Cash Management Account	Cash	High	N/A	N/A	29/11/2011	\$ 4,490,500	\$ 4,490,500	
Macquarie Cash Management Trust	Cash Management Account	Cash	High	1/9/2006	N/A	29/11/2011	\$ 270,105	\$ 270,105	
UBS Cash Management Trust	Cash Management Account	Cash	High	N/A	N/A	29/11/2011	\$ 458,670	\$ 458,670	
AMP Easysaver Account	Cash Management Account	Cash	High	N/A	N/A	29/11/2011	\$ 2,009,568	\$ 2,009,568	
Local Government Financial Services	Cash Management Account	Cash	High	N/A	N/A	31/10/2011	\$ 228,760	\$ 228,760	
Bank of Cypress (Australia) Ltd	Term Deposit	Not Rated (Note 7)	High	6/9/2011	6/12/2011	6/09/2011	\$ 2,000,000	\$ 2,000,000	
National Australia Bank	Term Deposit	A1+	High	7/12/2010	7/12/2011	7/12/2010	\$ 2,000,000	\$ 2,000,000	
Bank of Queensland	Term Deposit	A-2	High	8/9/2011	7/12/2011	8/09/2011	\$ 2,000,000	\$ 2,000,000	
ME Bank	Term Deposit	A-2	High	6/7/2011	4/1/2012	6/07/2011	\$ 2,000,000	\$ 2,000,000	
Southern Cross Credit Union	Term Deposit	Not Rated (Note 7)	High	13/7/2011	9/1/2012	13/07/2011	\$ 2,000,000	\$ 2,000,000	
Heritage Building Society Ltd	Term Deposit	A-2	High	14/7/2011	10/1/2012	14/07/2011	\$ 1,000,000	\$ 1,000,000	
Summerland Credit Union	Term Deposit	A-2	High	17/1/2011	17/1/2012	17/01/2011	\$ 1,000,000	\$ 1,000,000	
Newcastle Permanent	Term Deposit	A-2	High	17/11/2011	15/2/2012	17/11/2011	\$ 2,000,000	\$ 2,000,000	
Magnolia (Flinders)	Floating Rate CDO	BB-	Low	1/9/2006	20/3/2012	30/06/2011	\$ 261,570	\$ 261,570	Note 5
Wide Bay Australia Ltd	Term Deposit	A3	High	26/9/2011	26/3/2012	26/09/2011	\$ 2,000,000	\$ 2,000,000	
ING Bank Australia Limited	Term Deposit	A1+	High	5/4/2011	4/4/2012	5/04/2011	\$ 2,000,000	\$ 2,000,000	
IMB Banking & Financial Services	Term Deposit	A-2	High	14/10/2011	11/4/2012	14/10/2011	\$ 2,000,000	\$ 2,000,000	
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	High	12/4/2011	12/4/2012	12/04/2011	\$ 1,000,000	\$ 1,000,000	
Australian Defence Credit Union	Term Deposit	Not Rated (Note 7)	High	7/6/2011	6/6/2012	7/06/2011	\$ 1,000,000	\$ 1,000,000	
Omega (Henley)	Floating Rate CDO	CCC	Low	1/9/2006	22/6/2012	30/06/2011	\$ 352,000	\$ 352,000	Note 5
Commonwealth Bank of Australia	Term Deposit	A1+	High	30/11/2009	29/11/2012	30/11/2009	\$ 400,000	\$ 400,000	
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2013	30/06/2011	\$ -	\$ -	Note 5
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	High	8/6/2011	6/6/2013	8/06/2011	\$ 1,000,000	\$ 1,000,000	
Investec Bank (Australia)	Term Deposit	A2	High	20/6/2011	19/6/2013	20/06/2011	\$ 1,000,000	\$ 1,000,000	
Queensland Teachers' Credit Union Ltd	Term Deposit	Not Rated (Note 7)	High	20/6/2011	19/6/2013	20/06/2011	\$ 1,000,000	\$ 1,000,000	
Corsair (Torquay)	Floating Rate CDO	CCC-	Low	1/9/2006	20/6/2013	30/06/2011	\$ 63,250	\$ 63,250	Note 5
Zircon (Merimbula)	Floating Rate Note	Early Termination	Low	1/9/2006	20/6/2013	30/06/2011	\$ -	\$ -	Note 5
Queensland Teachers' Credit Union Ltd	Term Deposit	Not Rated (Note 7)	High	14/7/2011	15/7/2013	14/07/2011	\$ 1,000,000	\$ 1,000,000	
Corsair (Kakadu)	Floating Rate CDO	CCC-	Low	1/9/2006	20/3/2014	30/06/2011	\$ 198,300	\$ 198,300	Note 5
Longreach - Series 25	Equity Linked Investment	A+	High	2/4/2007	4/4/2014	30/06/2011	\$ 846,420	\$ 846,420	Note 2

**Capital Value Movements  
Summary of Investments held as at  
30 November 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Assessment of return of Capital	Purchase Date	Maturity Date	Last Date Confirmed Valuation Available	Balance Sheet Valuation (Note 1)	Current Market Value (Note 4)
Investec Bank (Australia)	Term Deposit	A2	High	12/5/2011	12/5/2014	12/05/2011	\$ 1,000,000	\$ 1,000,000
Helium (Scarborough)	Floating Rate CDO	CCC-	Low	1/9/2006	23/6/2014	30/06/2011	\$ 18,220	\$ 18,220
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	Low	1/9/2006	20/9/2014	30/06/2011	\$ -	\$ -
Zircon (Coolangatta)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/9/2014	30/06/2011	\$ -	\$ -
Aphex (Glenelg)	Floating Rate CDO	CCC-	Low	1/9/2006	22/12/2014	30/06/2011	\$ 222,000	\$ 222,000
Zircon (Miami)	Floating Rate CDO	Early Termination	Low	1/9/2006	20/3/2017	30/06/2011	\$ -	\$ -
<b>Investment on Hand</b>							<b>\$ 38,671,940</b>	<b>\$ 38,897,729</b>

Note 5  
Note 5  
Note 5  
Note 5  
Note 5

**Investments Redeemed during period (Note 6)**

Bankwest	Term Deposit	AA	High	6/9/2011	7/11/2011	6/09/2011	\$ 2,000,000	\$ 2,000,000
Newcastle Permanent	Term Deposit	A-2	High	19/8/2011	17/11/2011	19/08/2011	\$ 2,000,000	\$ 2,000,000

**\$ 42,671,940    \$ 42,897,729**

Note 1: Balance Sheet Valuation is the value reported in Council's Financial Report as at 30 June 2011 or the purchase price for investments purchased post 30/06/11  
 Note 2: Capital Guaranteed note if held to maturity  
 Note 3: The Balance Sheet Valuation is the Market Value as at 30/6/11 less redemptions during the year.  
 Note 4: Latest estimates based on information provided by investment managers and prior period performance.  
 Note 5: Market Value is the Capital Value of the Investment and any accrual of income.  
 Note 6: These investments were redeemed during the period and impact on the interest return for the period. They are not part of the Balance of Investments Held.  
 Note 7: These Counterparties & Products are authorised under the Minister's Investment Order and require no minimum credit rating.

**"Indicative" Source of Funds**

Externally Restricted	31,269,884
Internally Restricted	<u>7,627,845</u>
	<u>\$ 38,897,729</u>

Estimated Interest  
Summary of Investments held as at  
30 November 2011

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value (Note 6)	Estimated Interest for Period	Weighted Interest for Period
<b>Cash Based Returns</b>						
Blackrock Care & Maintenance Fund	Managed Fund	Not Rated	0.00%	\$ 2,078,366	\$ -	0.00%
CBA Business On Line Banking A/C	Cash Management Account	Cash	4.10%	\$ 4,490,500	\$ 15,132	0.47%
Macquarie Cash Management Trust	Cash Management Account	Cash	4.75%	\$ 270,105	\$ 1,055	0.03%
UBS Cash Management Trust	Cash Management Account	Cash	3.68%	\$ 458,670	\$ 1,387	0.04%
AMP Easysaver Account	Cash Management Account	Cash	5.35%	\$ 2,009,568	\$ 8,837	0.27%
Local Government Financial Services	Cash Management Account	Cash	4.65%	\$ 228,760	\$ 874	0.03%
Bank of Cypress (Australia) Ltd	Term Deposit	Not Rated (Note 7)	6.05%	\$ 2,000,000	\$ 9,945	0.31%
National Australia Bank	Term Deposit	A1+	6.60%	\$ 2,000,000	\$ 10,849	0.34%
Bank of Queensland	Term Deposit	A-2	5.85%	\$ 2,000,000	\$ 9,616	0.30%
ME Bank	Term Deposit	A-2	6.15%	\$ 2,000,000	\$ 10,110	0.31%
Southern Cross Credit Union	Term Deposit	Not Rated	6.30%	\$ 2,000,000	\$ 10,356	0.32%
Heritage Building Society Ltd	Term Deposit	A-2	6.10%	\$ 1,000,000	\$ 5,014	0.15%
Summerland Credit Union	Term Deposit	A-2	6.35%	\$ 1,000,000	\$ 5,219	0.16%
Newcastle Permanent	Term Deposit	A-2	5.59%	\$ 2,000,000	\$ 3,982	0.12%
Magnolia (Flinders)	Floating Rate CDO	BB-	6.21%	\$ 261,570	\$ 1,531	0.04%
Wide Bay Australia Ltd	Term Deposit	A3	5.75%	\$ 2,000,000	\$ 9,452	0.29%
ING Bank Australia Limited	Term Deposit	A1+	6.31%	\$ 2,000,000	\$ 10,373	0.32%
IMB Banking & Financial Services	Term Deposit	A-2	5.90%	\$ 2,000,000	\$ 9,699	0.30%
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	6.60%	\$ 1,000,000	\$ 5,425	0.17%
Australian Defence Credit Union	Term Deposit	Not Rated	6.55%	\$ 1,000,000	\$ 5,384	0.17%
Omega (Henley)	Floating Rate CDO	CCC	5.55%	\$ 352,000	\$ 1,825	0.05%
Commonwealth Bank of Australia	Term Deposit	A1+	7.00%	\$ 400,000	\$ 2,301	0.07%
Beryl (Esperance 2)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
RaboDirect (Rabobank Australia Ltd)	Term Deposit	A1+	6.70%	\$ 1,000,000	\$ 5,507	0.17%
Investec Bank (Australia)	Term Deposit	A2	6.52%	\$ 1,000,000	\$ 5,359	0.17%
Queensland Teachers' Credit Union Ltd	Term Deposit	Not Rated	6.40%	\$ 1,000,000	\$ 5,260	0.16%
Corsair (Torquay)	Floating Rate CDO	CCC-	0.00%	\$ 63,250	\$ -	0.00%
Zircon (Merimbula)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Queensland Teachers' Credit Union Ltd	Term Deposit	Not Rated	6.40%	\$ 1,000,000	\$ 5,260	0.16%
Corsair (Kakadu)	Floating Rate CDO	CCC-	6.11%	\$ 198,300	\$ 2,511	0.03%
Longreach - Series 25	Equity Linked Investment	A+	0.00%	\$ 846,420	\$ -	0.00%

Note 1,3

Note 2,5

**Estimated Interest  
Summary of Investments held as at  
30 November 2011**

Name of Investment / & Counterparty	Type of Investment	Rating	Annualised Coupon / Interest Rate	Current market Value (Note 6)	Estimated Interest for Period	Weighted Interest for Period
Investec Bank (Australia)	Term Deposit	A2	7.49%	\$ 1,000,000	\$ 6,156	0.19%
Helium (Scarborough)	Floating Rate CDO	CCC	6.56%	\$ 18,220	\$ 1,078	0.00%
Beryl (Global Bank Note)	Floating Rate Note	Early Termination	0.00%	\$ -	\$ -	0.00%
Zircon (Cooangatta)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
Aphex (Glennelg)	Floating Rate CDO	CCC-	6.45%	\$ 222,000	\$ 2,651	0.04%
Zircon (Miami)	Floating Rate CDO	Early Termination	0.00%	\$ -	\$ -	0.00%
<b>Investment on Hand</b>				<b>\$ 38,897,729</b>	<b>\$ 172,148</b>	<b>5.19%</b>

Note 4

**Investments Redeemed during period**

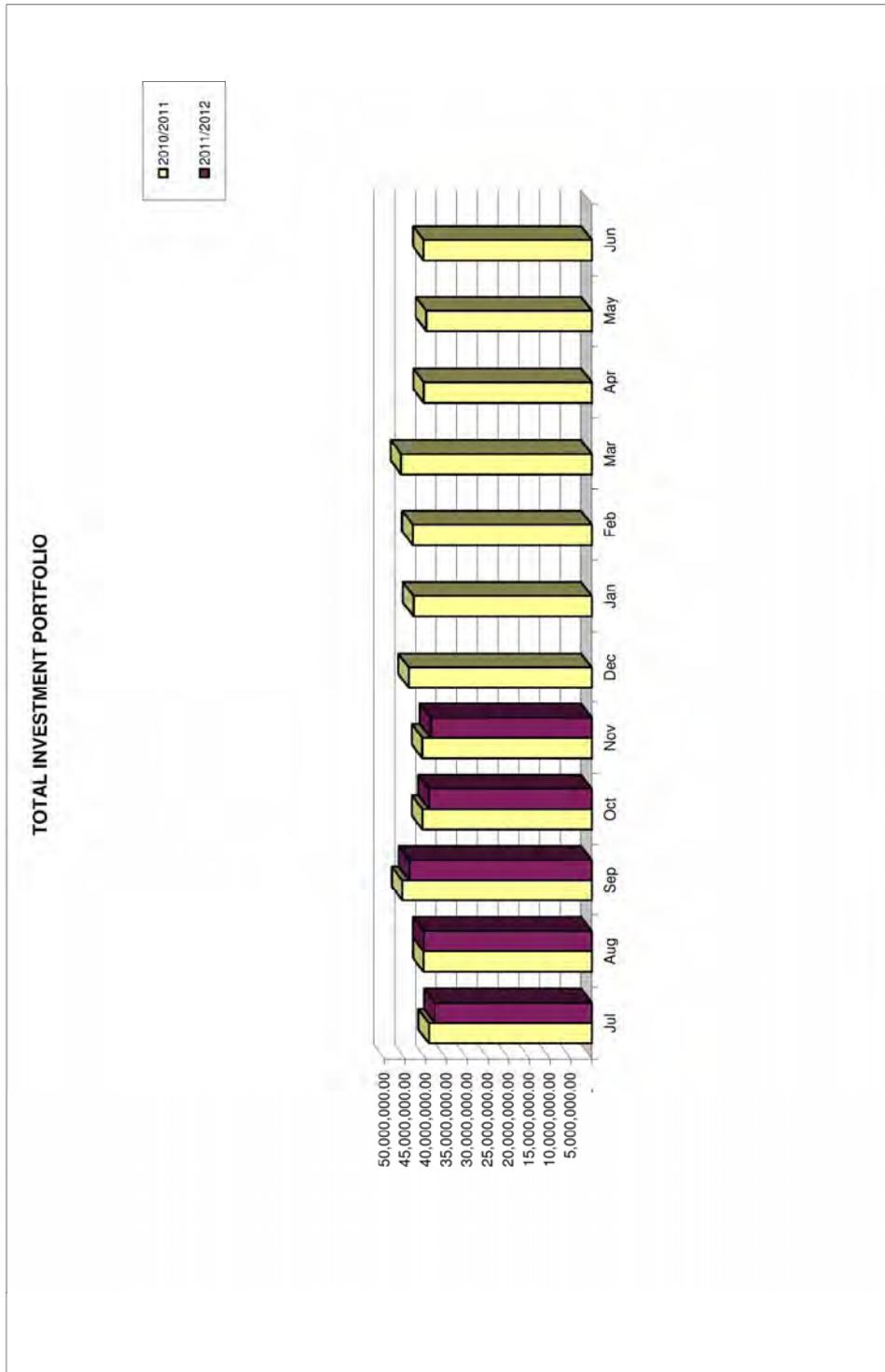
Bankwest	Term Deposit	AA	5.65%	\$ 2,000,000	\$ 2,167	0.07%
Newcastle Permanent	Term Deposit	A-2	5.86%	\$ 2,000,000	\$ 5,459	0.17%

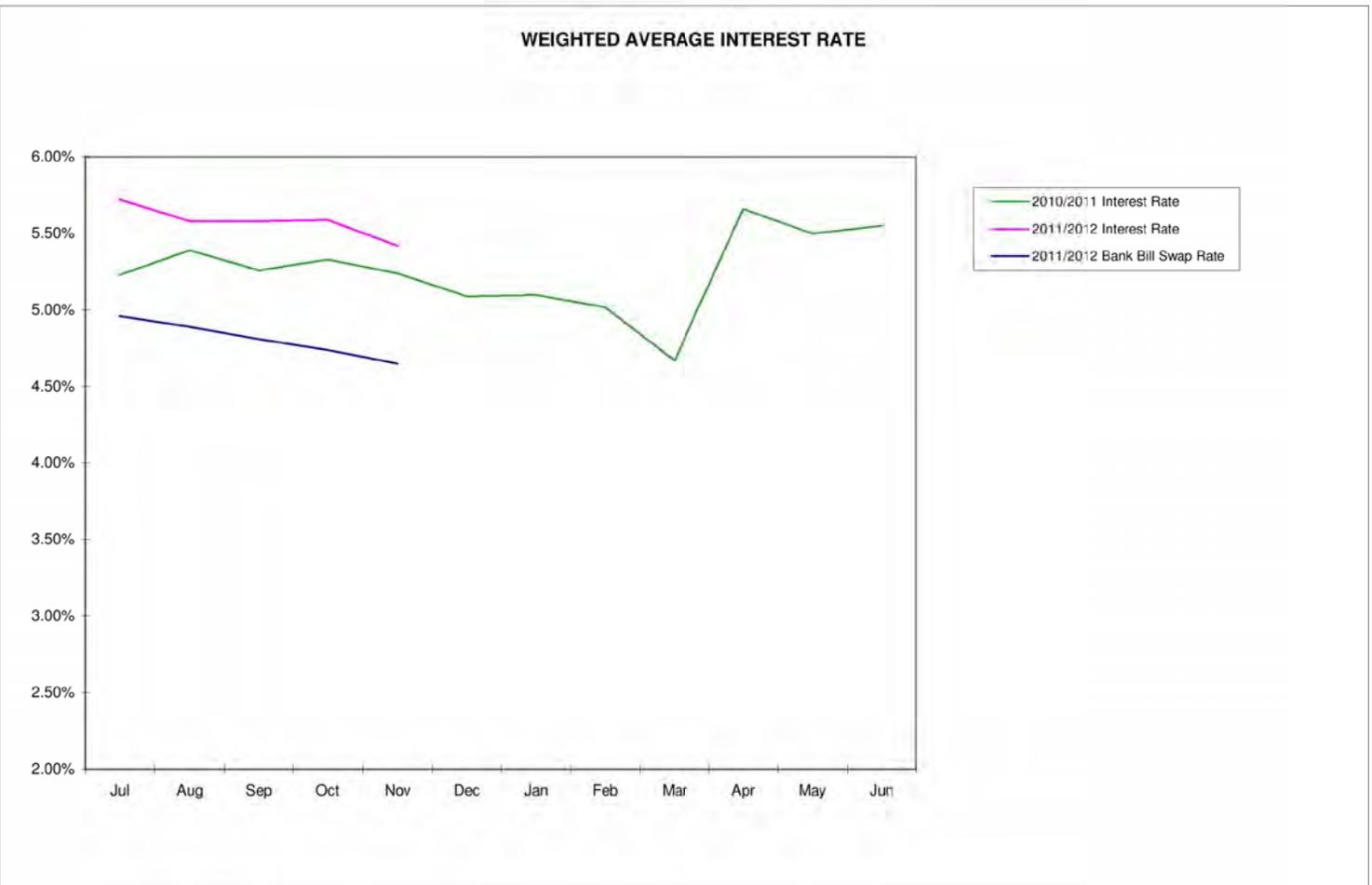
30/11/2011	5.42%
\$ 42,897,729	\$ 179,773

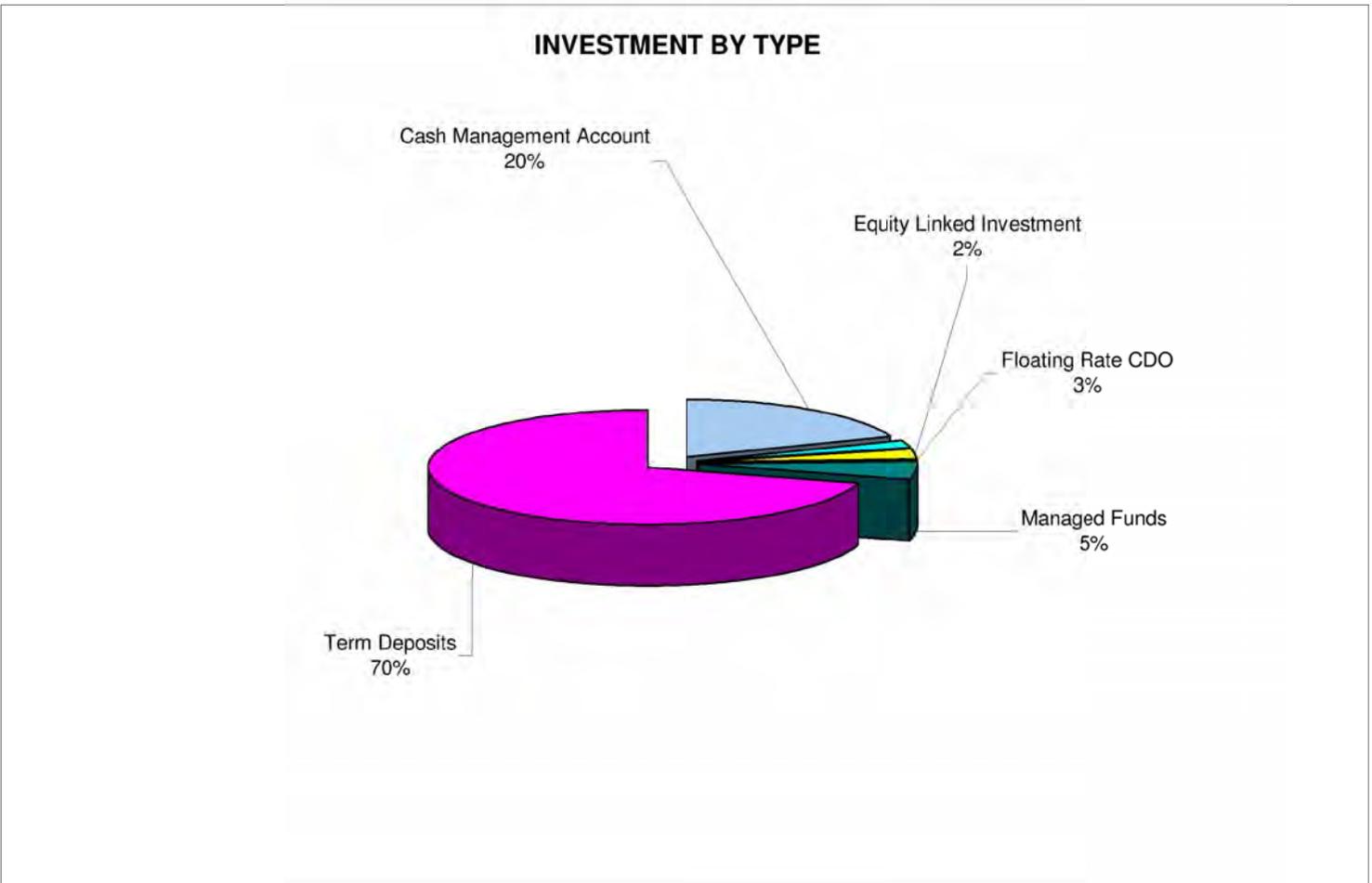
**Investment Income Earned vs. Budget Year to Date**

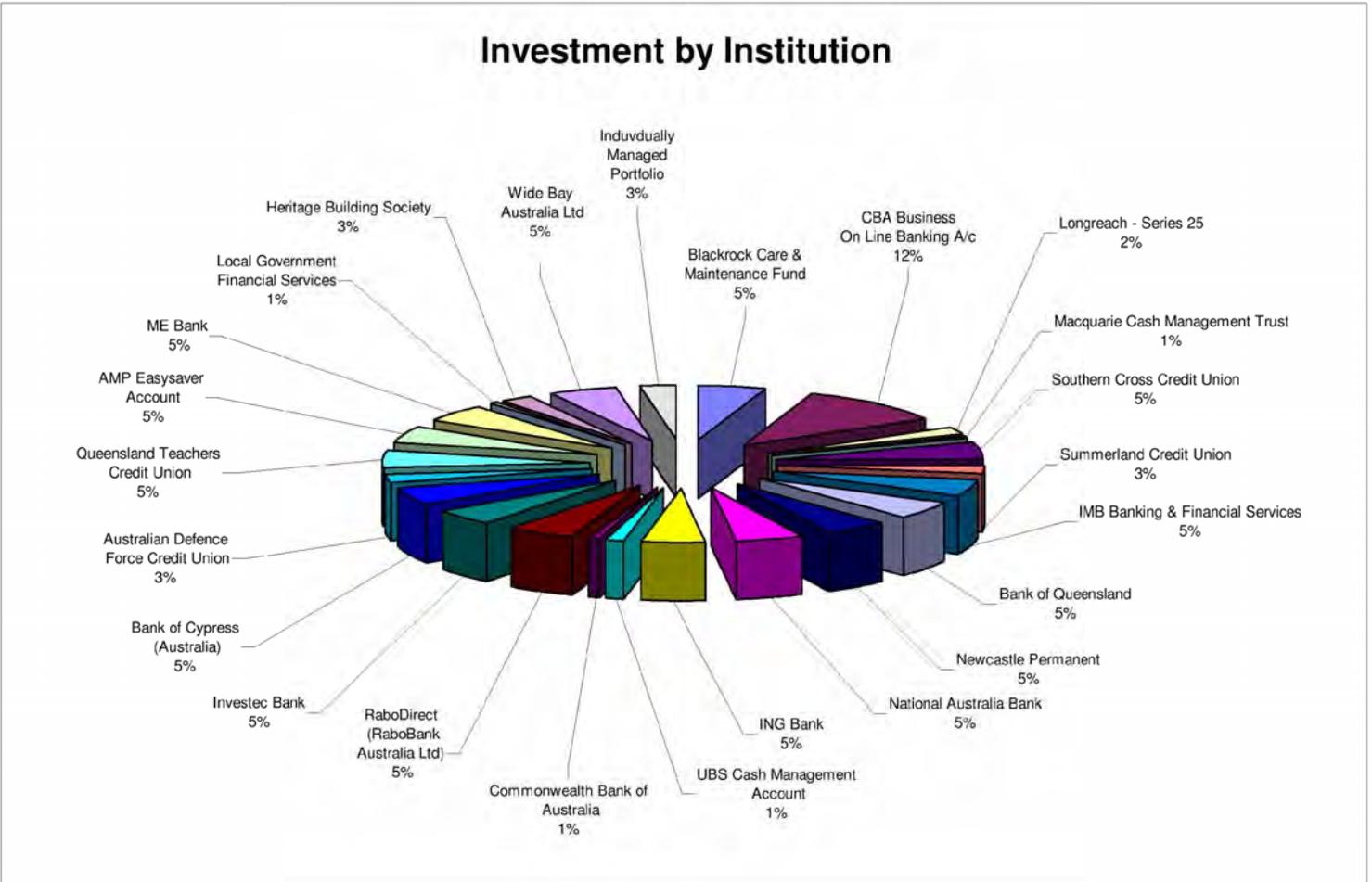
Estimated interest earned to date	\$ 946,166
Pro Rata annual budget	\$ 651,167

- Note 1: Interest return is calculated on (actual interest + accrued interest + realised gains - losses on disposal - expenses) / principal value
- Note 2: Capital Guaranteed note if held to maturity
- Note 3: Blackrock Care & Maintenance Fund interest rate is shown as zero as regular distributions are not being received. When a distribution is received the interest rate is adjusted for that month accordingly.
- Note 4: Estimated Interest for Period is calculated by multiplying the annualised rate by the purchase price and reflects both interest accrued and received.
- Note 5: No coupon currently payable under terms of the investment.
- Note 6: Latest estimates based on information provided by investment managers and prior period performance.









# Committee Recommendations

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## Committee Recommendations

Traffic Advisory Committee

### Attachment/s

1. Traffic Advisory Committee Minutes - 16 November 2011

### Recommendation

That the minutes be received and adopted and the recommendations contained therein be adopted.

**MINUTES OF THE TRAFFIC ADVISORY COMMITTEE MEETING HELD IN THE CBD CENTRE, 55 MAGELLAN STREET, LISMORE, ON WEDNESDAY, 16 NOVEMBER 2011 AT 10.00AM.****Present**

Councillor Jenny Dowell (*Chairperson*), Bronwyn Mitchell on behalf of Thomas George MP (*Member for Lismore*), Frank Smallman and Gail Webb (*Roads & Maritime Services*), Snr. Const Rob Clark (*Lismore Police*).

**In Attendance**

Lisa Marshall (*Road Safety Officer*) and Bill MacDonald (*Traffic & Emergency Services Co-ordinator*).

John Willey and Mick Lacey (*Development Engineers*) were in attendance for Items TAC103/11, TAC104/11 and TAC105/11).

**Apologies**

**TAC96/11** Thomas George MP (*Member for Lismore*) and Garry Hemsworth (*Executive Director-Infrastructure Services*).

**Confirmation of Minutes**

**TAC97/11** The Committee was advised that the minutes of the Traffic Advisory Committee meeting held on 21 September 2011 were confirmed by Council on 11 October, subject to it being noted that Councillor Dowell declared an interest in Item TAC89/11 – DA11/223 The Siddhartha School, 273 Lindendale Road.

**Disclosure of Interest**

Councillor Dowell declared a non-significant interest in DA11/401 Asia Pacific Football Institute due to her association with Southern Cross University.

**Part 'A' – Committee Recommendations****Newton Denny Chapelle – B-Double Access to 22 Cook Street, South Lismore**

Enquiring on behalf of a client whether B-Double access would be approved for the proposed development of a transport depot (freight business) at 22 Cook Street.

(C111/29108:R6911)

The proposed development site is on the southern side of Cook Street opposite Fantastic Furniture. Heavy vehicle movements would be from SH16 Union Street down Cook Street past existing industrial development and onto the site and exit via the same route. It is proposed that all B-Double movements onto and off the site would be in a forward movement with all manoeuvring completed on the property.

The applicant has further advised that an additional site at 1 Cook Street (old Readings building on the northern side of Cook Street closer to Union Street), is also being considered and has requested this site be included for consideration.

**Newton Denny Chapelle – B-Double Access to 22 Cook Street (Cont'd)**

As well as the large shed structure this site has a large off road vacant area that would suffice to accommodate B-double movements and also allow entry and exit in a forward movement.

**TAC98/11 Recommended:**

1. That subject to obtaining consent for the proposed transport depot, road widths are adequate to meet current guidelines and adequate provisions being in place for B-Double movements within the site at 22 Cook Street, the Committee recommend to Council that approval be granted for the B-double route as proposed.
2. Further, that the alternative site at 1 Cook Street be approved as suitable for B-double access subject to an onsite demonstration that it meets the above requirements.

**Proposed Roundabout at Intersection of Keen and Orion Streets**

A preliminary design plan was provided for comment by the Committee.

(ED11/34114:R7313)

This matter had been referred to Council's Design Services Section for investigation of options to improve safety for motorists negotiating this intersection. A significant accident history is building and the existing Give Way controls on Keen Street and Brunswick Street do not appear to be adequate. A plan showing a proposal for a roundabout has been prepared and is submitted for further consideration.

Mr Smallman suggested that signage in the middle of the roundabout include a raised chevron marker that could be seen by motorists approaching along Orion Street from Molesworth Street to improve sight of the facility.

- TAC99/11 Recommended** that Council support the proposal for a roundabout at the intersection of Orion, Keen and Brunswick Streets, including the additional signage indicated above, with the intention that it be referred to Council's Works Section once approved by Council to explore funding options that would see the project proceed.

**Accessible Parking Bay in Woodlark Street, Lismore CBD**

Concerns were raised by a member of the Access Committee regarding the difficulty being experienced by those who use the existing accessible parking bay on the northern side of Woodlark Street in front of the Commonwealth Bank. (R7329)

It would appear that many of the larger vans that transport people with mobility problems and have chair access to and from the rear of the van cannot use the existing bay due to its length. Many of the existing accessible parking bays within the CBD are the same, however due to the location and popularity of this particular bay it is suggested that modifications be carried out to increase the length of the accessible parking bay and to introduce a 5-minute parking bay adjacent.

These two bays would replace the last three bays east of the mid block crossing in Woodlark Street. The five minute parking bay would assist in gaining access to the significant number of Banks and ATM along this section of Woodlark Street and would assist in a quicker turnover of parking in the immediate area.

**TAC100/11 Accessible Parking Bay in Woodlark Street (Cont'd)****Recommended:**

1. That the last three bays on the northern side of Woodlark Street immediately east of the mid block crossing be upgraded to include a longer accessible parking bay to accommodate larger vehicles and the introduction of a 5-minute parking bay.
2. Further, that the proposal be included in Council's newsletter outlining the reasons prior to its implementation.

**Snr Const Rob Clark – Intersection of Basil Road and Anderson Road, Nimbin**

Outlining circumstances of a recent accident at this intersection and requesting action be taken to clarify controls and who has right of way. (R2124)

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Anderson Road is a sealed road up to its intersection with Basil Road and gravel formation beyond. The gravel leg of Anderson Road is currently controlled by a Give Way sign. Basil Road is a sealed road off Anderson Road and while both roads are 'dead end' roads, Basil Road services considerably more residences.

To enhance safety at the intersection and remove any confusion, it is suggested that an additional Give Way sign be installed on the other leg of Anderson Road.

**TAC101/11 Recommended** that a Give Way sign and associated line marking be installed on the sealed leg of Anderson Road at its intersection with Basil Road.

**Public Car Park adjacent to Trinity College off Dawson Street – Drop off Zone**

Concerns that current signage within the car park are not working as intended.(R6017)

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Concerns have been raised that current signage within the car park at the designated 'drop off/pick up zone' is not working as intended as several parents are parking in the zone for extended periods rendering it inaccessible to others wishing to pick up students.

To enhance the safety and efficiency of the facility, it is suggested that 'No Parking 2 min' signs be erected both ends of the existing drop off area.

**TAC102/11 Recommended** that 'No Parking 2 Min' signs be erected both sides of the existing drop off zone within the public car park adjacent to Trinity College off Dawson Street.

**Part 'B' – Determined by Committee****DA11/323 – Rural Tourist Facility – 53 Fox Road, Rosebank**

Requesting the Committee comment on any relevant traffic issues before determination of the application. (CI11/30064:DA11/323)

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Fox Road is a typical rural gravel formation road currently servicing approximately 40 residences. The proposed retreat is located approximately 800m along Fox Road from its intersection with Rosebank Road. The main entry to the retreat will consist of a nominally 4m sealed road with 1m shoulders. Initially the first stage of the development intends to have capacity for up to 30 students attending a single 10-day retreat per month.

**DA11/323 – Rural Tourist Facility – 53 Fox Road, Rosebank (Cont'd)**

As students are accommodated onsite it is not anticipated there will be significant increases in traffic volumes on Fox Road in between arrival and departure times. Increases in traffic volumes associated with the development would not appear to have a significant impact on demands on Fox Road. Vegetation either side of the intersection of Repentance Creek Road and Fox Road and along the road verges either side of the proposed accesses would need to be cleared to optimise sight distance of oncoming vehicles. Line marking on Repentance Creek Road at its intersection with Fox Road should also be repainted.

Mr Willey advised the meeting that further representations had been made by the developers in relation to the location of the main entrance. It would appear that it will be relocated further to the north of the proposed access location and will have significantly better sight distance. It is also now proposed to provide an additional entrance to the site from Dunoon Road, however no additional information was available on either of these new options.

**TAC103/11 It was agreed:**

1. That the Committee offer no objection to the development in principle subject to accesses being constructed in accordance with the relevant standard and vegetation clearing is undertaken where required to afford maximum sight distance available.
2. Further, that line marking along Repentance Creek Road in the vicinity of Fox Road intersection be repainted.

**DA11/395 – Additions and Alterations to Existing Norco Site**

Requesting the Committee comment on any relevant traffic issues before determination of the application. (C111/30494:DA11/395)

A staged development is proposed for an upgrade of the Norco facilities on the north-east corner of SH16 Union Street and Elliott Road. Currently the loading/ dispatch area for the freezers is located within the south-west corner of the development site with access from Union Street.

Stage 1 includes a significant expansion of the freezers and it is proposed to relocate the truck load-out docks to the opposite side of the site closer to the river with access being from the roundabout at Union Street/Elliott Road and down beside the Ballina Road Bridge. Heavy vehicles will drive onto and off the site in a forward movement. Exit from the loading docks area will be under the bridge and out through Foleys Road.

It was suggested that a letter box drop should be carried out in Foleys Road to advise residents of the proposed increase in truck movements. It was noted that Foleys Road is an approved B-double access route. All light vehicle access will be via Norco Lane to the north of the development.

Thirteen truck movements per day will be relocated from Union Street to the new freezer docks location accessed from beside the Ballina Road Bridge. There will be an additional four delivery vehicle movements per day to the same location as a result of the expanded Norco business.

**DA11/395 – Additions and Alterations to Existing Norco Site (Cont'd)**

There will be potentially a slight increase in staff car movements, with a possible volume of 10 per day via Norco Lane. Overall anticipated increases in movements to and from the site as proposed are manageable within the existing road network, however it would appear that a problem does exist in that the southern boundary of the site traverses the existing paved area on the access road to the north of the Ballina Road Bridge even though the road has been opened to and accessed by the public for many years to gain access under the bridge and to the southern side residences.

While there is no mention in the development application of public access via the access road being modified or restricted, it should be clarified with the developer that the status quo will remain at least in the short term. It was suggested that the developer be approached with a view to allowing a boundary adjustment that would provide sufficient road width to retain existing one-way traffic movements. An upgrade of existing one-way traffic movement signage would also be required that would include additional 'No Entry' and 'One Way' on the southern side of the bridge to prohibit northbound traffic under the bridge.

Mr Smallman advised that the RMS would provide a separate submission to the proposed development application.

**TAC104/11** **It was agreed** that the Committee offer no objection to the development as proposed subject to the following:

1. That a letter box drop be carried out in Foleys Road to advise residents of the proposed traffic alterations.
2. That Council clarify with the developers that they do not intend to fence the southern boundary across the existing paved entrance area on the northern side of the bridge.
3. That discussions be held with the developers with a view to allowing a boundary adjustment that would provide sufficient road width to retain existing one-way traffic movements.
4. That in lieu of the above the issue of retaining public access via the road to the north of the bridge be referred to Council's Design Services Section to investigate road widening requirements and preparation of a plan and estimate for works to ensure public access is retained.
5. Any further requirements imposed as a result of feedback from the RMS.

**DA11/401 – Proposed Asia Pacific Football Institute**

Requesting comment from the Committee on any relevant traffic issues prior to determination. (DA11/401)

**The Mayor declared a non-significant interest in this matter.**

A development application has already been approved for the bulk earthworks associated with the proposed development. These works are currently being undertaken.

This proposed development application will include and be serviced by a new access road off Skyline Road slightly to the east, and including part of the Military Road Crown Reserve. The proposed access road will eventually form part of Council's strategic link road network and meet with the formed section of Military Road subject to the development of the 'Crawford' land north of the Institute in the future.

**DA11/401 – Proposed Asia Pacific Football Institute (Cont'd)**

No major sporting events involving major sporting teams undertaking competitive games for public viewing are proposed as part of this application and hence traffic volumes and

associated parking requirements are relatively low. A 14m long single span bridge is to be constructed over Monaltrie Creek and will include 2 x 3.5m lanes and a 2.5m wide shared pathway. It is also proposed to upgrade the new intersection with Skyline Road to ensure sufficient width to cater for turning traffic.

**TAC105/11** It was agreed that the Committee offer no objection to the development as proposed.

**Roads & Maritime Services (RMS) – Extracts from TTM Study – Roundabout Upgrade Intersection SH16 Union Street/ Elliott Road, South Lismore**

Forwarding extracts from TTM Report and movement summary for the intersection for discussion by the Committee. (CI11/30559:EF09/1393)

The RTA has requested that Council consider the potential for detouring some of the traffic currently using the roundabout, especially northbound traffic on SH16 Union Street wanting to turn left onto Elliott Road.

Mr Smallman tabled two plans, one showing details of a signage proposal that would see northbound Highway traffic heading to Kyogle being diverted west along Three Chain Road and Wilson Street and then onto MR544 Casino Street and alternatively signage that would see northbound Highway traffic heading to Kyogle being diverted west along Newbridge Street and Wilson Street and then onto MR544 Casino Street.

The second plan showed a proposal to prohibit left turns into Elliott Road from northbound traffic on SH16 Union Street, to modify lane arrows at the other three approaches to convert the left lane to left turn only, and modifications to existing median markings within the roundabout to further enhance its use in accordance with the left turn only arrows.

It was considered that compliance to prohibiting left turns into Elliott Road would be low and would encourage motorists to carry out a U-turn on the roundabout to achieve the same result; hence this proposal was not supported. Similarly diverting Highway traffic down Newbridge Street and Wilson Street into what is a predominately residential area was also not supported. The use of Three Chain Road and Caniaba Street was also not supported in principle subject to any further proposal from the RMS to provide substantial ongoing maintenance funding to cater for any additional traffic using these local roads.

It was noted that properties on the south-east corner of SH16 Union Street and Elliott Road were currently for sale and it was suggested that this information be relayed to the RMS.

Council has been pursuing a resolution to current unsustainable, nearing capacity conditions at both at Hollingworth Creek Bridge and the roundabout at the intersection of SH16 Union Street and Elliott Road for many years and the current proposals were generally not seen as addressing either of these concerns.

**Roads & Maritime Services (RMS) – Extracts from TTM Study – Roundabout Upgrade Intersection Union Street/ Elliott Road (Cont'd)**

**TAC106/11 It was agreed:**

1. That Council advise the RMS that it does not support diverting Kyogle bound traffic onto Newbridge and Wilson Streets or prohibiting left turn movements into Elliott Road for the reasons outlined above.
2. That Council advise the RMS that it does not support diverting Kyogle bound traffic onto Three Chain Road and Caniaba Street in principle subject to any further proposal from the RMS to provide substantial ongoing maintenance funding to cater for any additional traffic using these local roads.
3. That the plan showing modifications to turn arrows and painted median extensions be referred back to the RMS for further consideration on the impact the retention of left turns into Elliott Road will have on the overall efficiency of the facility.
4. That Council advise the RMS that two properties on the south-eastern corner of SH16 Union Street and Elliott Road are currently for sale.
5. That Council confirm with the RMS its concerns that current congestion problems will not be addressed by the above measures and a more permanent solution needs to be found to resolve capacity and flow issues both at Hollingworth Creek Bridge and the roundabout at the intersection of SH16 Union Street and Elliott Road.

**Toni Watson- Request for Mirror and Signage on MR65 Bangalow Road at Lagoon Grass**

Drawing attention to a vision problem from her driveway at No. 448 and her neighbour's driveway at No. 424 Bangalow Road and requesting Concealed Driveway signs be erected on both sides of the corner and a fish eye mirror. (C111/28415:R4101)

The two driveways in question are located either side of a left hand bend MR65 Bangalow Road heading north of Lagoon Grass Road.

Maximising vision of oncoming traffic from either driveway is largely dependant on the removal of vegetation. The installation of convex safety mirrors is not supported given the high speed environment and the distorted view they offer the user of oncoming traffic. Bamboo likely planted by the property owners who access 424 Bangalow Road contributes significantly to restricting vision of oncoming traffic and should be removed.

Sealing of the driveways between Bangalow Road and property lines would provide the ability for vehicles to exit the driveways and merge with other traffic quicker than would be the case at present due to loose gravel formation, however, this would be at the property owners' expense. The addition of Concealed Driveway symbol warning signs would also assist in warning motorists on Bangalow Road of the driveways' existence.

**TAC107/11 It was agreed:**

1. That the writer be advised that the installation of a convex safety mirror is not supported and it be suggested that steps be taken to remove vegetation, particularly north of the driveway to No. 424 Bangalow Road to improve sight distance.
2. Further that Concealed Driveway symbol warning signs be erected either side of the driveways to Nos. 424 and 448 Bangalow Road and it be suggested that the property owners consider sealing at least the section of their driveways between MR65 Bangalow Road and property boundaries.

**Cheryl Bullock - Traffic Hazard at Intersection of MR142 Nimbin Road and Shipway Road**

Advising of the hazard of turning right into her driveway at No. 2309 Nimbin Road when coming from Nimbin due to it being just prior to a crest; also referring to a dangerous curve in the road about 150m towards Lismore and requesting measures to remedy both these hazards. (CI11/28546:R2801)

The right turn referred to is from a dedicated right turn bay and whilst a crest does exist south of the turn lane, there is sufficient sight distance of oncoming vehicles provided due care is taken by motorists when turning. A safety mirror could not be located in such a position that would assist in increasing the view of oncoming traffic. Warning signs to indicate the existence of an intersection ahead already exist for Nimbin bound traffic.

The curve 150m south has been referred to Council's Works Section for investigation and potential for blackspot funding for any proposed upgrades as a result.

**TAC108/11** It was agreed that the writer be advised that the installation of a mirror would not assist in improving current conditions and that concerns relating to the bend have been referred to Council's Works Section for investigation.

**Abby Turner and Petition to use Trikes on Footpaths**

Requesting permission for people with disabilities to ride their trikes on footpaths in Lismore. (CI11/27218:EF09/1789)

It would appear that under current legislation trikes are not permitted to travel on footpaths, however it is unlikely that Abby Turner would be subject to any enforcement action given her circumstances. Council is not in a position to grant specific approval. Accordingly the only avenue open seems to be to change legislation. It is suggested that this matter be referred to the Local Member to take up with the relevant Minister seeking clarification of changes necessary to remedy current concerns.

Mrs Mitchell advised the meeting that Mr George had already raised these concerns with the Minister and advised Abby Turner accordingly.

**TAC109/11** It was agreed that the Committee note Mr George's actions and his advice to Abby Turner.

**Roads & Maritime Services (RMS) - Camera Location Review - Fixed Speed Camera at Clunes**

Email advising decommissioning of the camera at Clunes is being reviewed and requesting comments by 4 November 2011. (CI11/30067:EF09/2163)

A workshop was held on 24 October 2011 at Clunes Old School Site which was attended by Councillor Yarnall together with a number of community members contacted by the RMS prior to the meeting.

It would appear that the community was extremely keen to retain the speed camera and they were encouraged to submit their comments to the Authority that would be considered as part of the review. The ultimate decision rests with the RMS.

**Roads & Maritime Services (RMS) - Camera Location Review - Fixed Speed  
Camera at Clunes** *(Cont'd)*

Councillor Dowell advised the meeting that Council at its last meeting had resolved to write to the Minister for Roads, the Hon Duncan Gay, MP to lodge a submission to the Camera Location Review requesting the reinstatement of the Clunes 50kph speed camera as a commissioned camera with capacity to issue speeding infringement notices.

**TAC110/11** It was agreed that the Committee note Council's resolution in relation to this issue.

## Closure

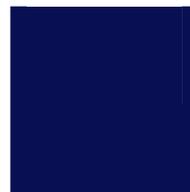
This concluded the business and the meeting terminated at 11.25 am.

## Next Meeting

It was agreed that the next meeting will be held on Wednesday, 14 December 2011.

# Documents for Signing and Sealing

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## Document for Signing and Sealing

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

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

### Recommendation

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

#### **Lamb DN & MJ 2/101 Union Street, South Lismore**

Creation of an Easement to Drain Water 2 wide over Council land 103 Union Street

The water and sewerage department were approached with a request for the creation of a drainage easement over their property at 103 Union Street. Approval for the easement was granted to DN & MJ Lamb on the agreement that it would be at no cost to Council.

#### **Outdoor Dining Licence – Leo’s Food Bar – 54 Magellan Street, Lismore (P6305)**

Licence for outdoor dining comprising an area of 15m<sup>2</sup> over the footpath adjacent to the premises at 54 Magellan Street, Lismore. The licence is in accordance with Lismore City Council Outdoor Dining Policy. The term of the licence is 14 November 2011 - 31 December 2012 and is fee-free in accordance with the Policy.

#### **Outdoor Dining Licence – Juice It Up – 13 Woodlark Street, Lismore (P28875)**

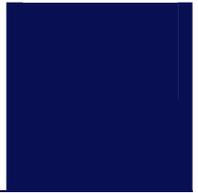
Licence for outdoor dining comprising an area of 9.58m<sup>2</sup> over the footpath adjacent to the premises at 13 Woodlark Street, Lismore. The licence is in accordance with Lismore City Council Outdoor Dining Policy. The term of the licence is 14 November 2011 - 31 December 2012 and is fee-free in accordance with the Policy.

#### **Removal of Restriction on the Use of Land – 15A Invercauld Road, Goonellabah (P27009)**

The owners of 15A Invercauld Road, Goonellabah, have requested that Council consent to the removal from their title deed of a restriction on building over designated sites 28m wide. This restriction was created as a result of development consent for subdivision in 2000 on the basis that it was considered at that time that the area was required for future road network. Council officers have now determined that this property will not be affected by future road proposals.

# Financial Assistance - Section 356

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## Financial Assistance – Section 356

**a) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)**

Budget Approved: \$21,400      Spent to date: \$14,021

**Lismore Community College** is requesting Council discount the hire fees (\$100 per session) for the use of the City Hall at various times during 2012 to hold cooking classes for a wide range of people in the community. An entrance fee is charged.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 20% of the hire fees applies for each session during 2012.

**\$20.00**

**St Johns College, Woodlawn** is requesting Council discount the hire fees (\$9,006.25) for use of the City Hall in October/ November 2011 to hold the 2011 HSC Exams.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fees applies.

**\$2,251.57**

**William Kutana on behalf of the TAFE Fashion Awards** is requesting Council discount the hire fees (\$199.50) for the use of the City Hall on 25 November to hold a Fashion Showcase of final year student designs.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fees applies.

**\$49.87**

**Northern Rivers Arts Health and Wellbeing** is requesting Council discount the hire fees (\$133) for the use of the City Hall on 24 November for the public launch of this new organisation which aims to connect creativity and wellbeing in the community.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fees applies.

**\$33.25**

**Lismore Soup Kitchen** is requesting Council waive the hire fees (\$237) for the use of the City Hall on 25 December for the annual lunch.

**Recommendation:** In accordance with Clause 5 of the policy and previous year's, a donation of 100% of the hire fees applies.

**\$237.00**

**Lismore Neighbourhood Club Inc.** is requesting Council discount the hire fees (\$158 per session) for the use of the City Hall during 2012 for the Club to meet on Fridays.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fees applies for each session during 2012.

**\$39.50**

## Financial Assistance – Section 356

**RED Inc.** is requesting Council discount the hire fees (\$25 per hour) for the use of the City Hall during 2012 so a variety of activities can be held to support young adults with disabilities in accessing their community and developing independent living skills.

**Recommendation:** In accordance with Clause 5 of the policy, a donation of 25% of the hire fees applies for each hour during 2012.

**\$6.25**

*In accordance with policy.*

### Recommendation

In accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

Confidential Business

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## Confidential Matters–Closed Council Meeting

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

Section 10A(2) – Local Government Act 1993:

- a) personnel matters concerning particular individuals;
- b) the personal hardship of any resident or ratepayer;
- c) information that would, if disclosed, confer a commercial advantage of a person with whom the Council is conducting (or proposes to conduct) business;
- d) commercial information of a confidential nature that would, if disclosed:
  - i) prejudice the commercial position of the person who supplied it, or
  - ii) confer a commercial advantage on a competitor of the Council, or
  - iii) reveal a trade secret;
- e) information that would, if disclosed, prejudice the maintenance of law;
- f) matters affecting security of the Council, Councillors, Council staff or Council property;
- g) advice concerning litigation, or advice, that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
- h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

### Clause 34 of Council Code of Meeting Practice

Representations from the public as to whether part of the meeting should be closed to the public can be made after the motion to close the meeting has been moved and seconded for a period of 10 minutes.

### Recommendation

That the Council exclude members of the press and public from the meeting and move into Closed Council Meeting to consider the following matters:

<b>Item</b>	<b>17.1 Sale of Airport Hanger</b>
<b>Grounds for Closure</b>	Section 10A(2) (c):
<b>Public Interest</b>	Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to: information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN COUNCIL CHAMBERS ON TUESDAY, 8 NOVEMBER 2011 AT 6.00PM.**

## Present

Mayor, Councillor Dowell; Councillors Houston, Battista, Meineke, Clough, Chant, Graham, Yarnall, Ekins, Marks, and Smith, together with the General Manager, Executive Director-Infrastructure Services, Manager-Arts, Tourism and Leisure, Manager-Integrated Planning, Manager-Finance, Manager-Information Services, Manager-GSAC/Memorial Baths, Coordinator-Environmental Strategies, Environmental Strategy Officer, Coordinator Community Services, Community Services Officer (Sport and Recreation), Media and Community Relations Coordinator, Corporate Compliance Coordinator, and General Manager's Personal Assistant.

## Apologies and Leave of Absence

503/11 **RESOLVED** that an apology and leave of absence be granted for:

Councillor Clough from 9 -15 November 2011; and  
Councillor Meineke from 16 – 24 November 2011.

(Councillors Marks/Battista)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Confirmation of Minutes

504/11 **RESOLVED** that the minutes of the Lismore City Council meeting held on 11 October 2011 be confirmed.

(Councillors Clough/Chant)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

505/11

**RESOLVED** that the minutes of the Lismore City Council Extra Ordinary meeting held on 27 October 2011 be confirmed.

(Councillors Chant/Clough)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Disclosure of Interest

Councillor Battista declared a significant conflict of interest in the following item:

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### **Report – 12.2 Request of Donation – ‘Our House’ – Hunter Street, Lismore**

**Nature of Interest:** My wife is a director of Our House. I will leave the Chamber and not participate in the vote.

Councillor Battista declared a significant conflict of interest in the following item:

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### **15.1 Financial Assistance – Section 356 Report (Waive fees for Our House for the use of City Hall)**

**Nature of Interest:** My wife is a director of Our House. I will leave the Chamber and not participate in the vote.

Councillor Clough declared a non- significant conflict of interest in the following item:

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### **Report – 12.2 Request of Donation – ‘Our House’ – Hunter Street, Lismore**

**Nature of Interest:** I am a friend of Dr Ingall but I consider it non-significant and intend to stay in the Chamber and participate in the vote.

Councillor Smith declared a non- significant conflict of interest in the following item:

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### **Report – 12.2 Request of Donation – ‘Our House’ – Hunter Street, Lismore**

**Nature of Interest:** I have done some work for Our House in the past. I am no longer working for them and as such consider it non-significant and intend to stay in the Chamber and participate in the vote.

## Public Access Session

Prior to dealing with the circulated reports and associated information, a Public Access Session was held at which Council was addressed by the following:

### **John Taylor - Lismore Lake Pool**

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Mr Taylor outlined the historical development of the lake pool, the wide range of usage it attracted for Lismore residents and visitors. He disputed the costings associated with repairing the pool and urged Council to reassess the situation to keep the pool open.

At this juncture Councillor Gianpiero Battista left the meeting.

### **Chris Ingall - Request for Donation - 'Our House' - Hunter Street, Lismore**

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Dr Ingall spoke to the need and the development history of the accommodation. He spoke of the benefits to patients, families and the City of Lismore that would accrue from the development. He asked for Council's financial support to meet a funding shortfall and to recognise the benefits to Lismore of the development.

At this juncture Councillor Gianpiero Battista returned to the meeting.

### **Rick Stewart - Adoption of the Draft Comprehensive Koala Plan of Management for south-east Lismore for public exhibition**

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Mr Stewart claimed the plan was a balanced plan that met the needs of developers and farmers. He referred to Federal legislation that would compliment this plan. He spoke to tourism benefits of a sustainable Koala colony that this plan would support.

## Condolence

### **Catherine 'Annette' Potts (Cr Jenny Dowell) - EF10/363**

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#### **23 July 1936 – 30 October 2011**

Catherine Annette Potts, known as Annette, died in Lismore Base Hospital on Sunday October 30, 2011.

Annette was born in Lismore on July 23, 1936, the third child of Isabelle and Ewin Dowd. She attended East Lismore PS and Lismore HS and began work with Pan Am airlines in Sydney in 1954. Four years later she left on a world trip and began work with the International Finance Corporation in Washington DC. It was here she met Daniel Potts in 1959 through their interest in amateur theatre. They married at the Methodist (now Uniting) Church in Lismore in January 1960.

Later that year they moved to Oxford where Daniel was doing his PhD and Annette worked as an assistant to the Reader in Human Nutrition. Daniel then started teaching at Monash Uni and Annette worked with an antiquarian bookseller in Melbourne.

It was on their return to the NR in 1990 that Annette became active in the RRHS serving as Honorary Secretary 1993-2011, Vice-President 2001-2011 and Bulletin Editor 1993 until her death.

Annette served on heritage advisory bodies under the auspices of Lismore City Council where she strove to have the fountain commemorating the Record Reign of Queen Victoria, originally unveiled in 1898, restored and relocated and to preserve trees and buildings of heritage significance. Annette also represented the RRHS in the production with Council of a walking tour guide to heritage sites in central Lismore.

As well as a large number of journal articles, Annette co-wrote several books in the 70s and 80s including two with Daniel - both with an American-Australian theme. In the 1990s, she also co-compiled a *Guide to local and family history* and *Royal Celebrations in Lismore and district* for the RRHS.

Annette had her own publishing house, Karma Press, and her final three books, were published under this imprint. Her last book, *Richmond River Raga* in 2006, reflected the interest Annette shared with Daniel in the history and culture of the Indian sub-continent and its peoples.

Annette died on 30<sup>th</sup> October 2011 after a massive stroke and her funeral was held at Lennox Head on 3<sup>rd</sup> November 2011.

On behalf of this Council and the community, I extend condolences to Annette's husband Daniel and her extended family that includes in a sense the RRHS members.

506/11

**RESOLVED** that the Mayor MOVED that Council's expression of sympathy be conveyed to the family of Annette and the MOTION was APPROVED with members standing and observing the customary moments silence.

(Councillors Dowell)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Mayoral Minutes

### 8.1 Clunes Speed Camera

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507/11

RESOLVED that Council write to the NSW Minister for Roads, Duncan Gay, to lodge a submission to the Camera Location Review requesting the reinstatement of the Clunes 50kph speed camera as a commissioned camera with capacity to issue speeding infringement notices.

(Councillors Dowell/Yarnall) (BP11/870)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Notice of Motions

### 10.1 Business Rates

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A MOTION was MOVED that Council:

1. Conduct a briefing on the reasons for the Business Rate in the Lismore Local Government Area (LGA) and in particular for the CBD area being the highest in the Northern Rivers.
2. Include in the briefing staff response on measures designed to reduce this high level of business rate (in the whole LGA and in particular the CBD) in order to make Lismore more competitive in respect to other neighbourhood Councils.
3. Request any submissions from CBD businesses on this matter before the briefing in February or March 2012.

(Councillors Battista/Clough) (BP11/846)

On submission to the meeting the MOTION was DEFEATED.

**Voting for:** Councillors Clough and Battista

**Voting against:** Councillors Houston, Meineke, Chant, Dowell, Graham, Yarnall, Ekins, Marks and Smith

## Reports

### 12.1 Lismore Lake Pool

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#### PROCEDURAL MOTION

508/11 **RESOLVED** that Council consider this matter in three sections being, open or close the pool, alternative swimming options if the pool is closed and alternative use of the site if the pool is closed.

(Councillors Dowell/Graham)

**Voting for:** Councillors Houston, Graham, Chant, Dowell, Yarnall, Ekins, Marks, Smith, Clough and Meineke

**Voting against:** Councillor Battista

A MOTION WAS MOVED that Council implement the recommendations from the RLSSA safety assessment and open the pool for the 2011 summer season.

(Councillors Ekins/Yarnall) (BP11/769)

On submission to the meeting the MOTION was DEFEATED.

**Voting for:** Councillor Ekins

**Voting against:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Battista, Marks and Smith

A FORESHADOWED MOTION WAS MOVED that the Lismore Lake Pool does not open in 2011/2012, and remains closed.

(Councillors Smith/Graham) (BP11/769)

509/11 **RESOLVED** that the Lismore Lake Pool does not open in 2011/2012, and remains closed.

(Councillors Smith/Graham) (BP11/769)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Battista, Marks and Smith

**Voting against:** Councillor Ekins

A MOTION WAS MOVED that:

1. Council provides more affordable access to the Lismore Memorial Baths and GSAC in December 2011, January and February 2012 including:

- a. One dollar entry per person from 12pm for the months of December 2011, January and February 2012.
  - b. Promoting two Family Fun Day per month in December, January and February, one at GSAC and the other at the Memorial Bath with one dollar entry per person.
  - c. A Family Swim Pass to the value of \$64.00 is made available from 17 December 2011 – 29 February 2012.
2. The financial impact of decisions in respect of (2) above be reported through the quarterly budget review statement.

(Councillors Battista/Meineke) (BP11/769)

AN AMENDMENT WAS MOVED that:

1. Council provide more affordable access to the Lismore Memorial Baths in December 2011 and January/February 2012 the following be implemented:
  - a. One dollar entry per person on Saturday afternoons and all day Sunday for the months of December 2011 and January/February 2012.
  - b. Promoting one Family Fun Day per month in December, January and February, one dollar entry per person.
  - c. A Family Swim Pass to the value of \$64.00 is made available from 17 December 2011 – 29 February 2012.

(Councillors Graham/Marks) (BP11/769)

510/11 **RESOLVED** that the MOTION be PUT.

(Councillor Meineke)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Marks and Smith

**Voting against:** Councillor Battista

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

**Voting for:** Councillors Houston, Meineke, Chant, Dowell, Graham, Marks and Smith

**Voting against:** Councillors Clough, Yarnall, Ekins and Battista

511/11 **RESOLVED** that: Council provide more affordable access to the Lismore Memorial Baths in December 2011 and January/February 2012 the following be implemented:

- a. One dollar entry per person on Saturday afternoons and all day Sunday for the months of December 2011 and January/February 2012.
- b. Promoting one Family Fun Day per month in December, January and February, one dollar entry per person.
- c. A Family Swim Pass to the value of \$64.00 is made available from 17 December 2011 – 29 February 2012.

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Marks and Smith

**Voting against:** Councillors Yarnall, Ekins and Battista

A MOTION WAS MOVED that staff develop a plan for dismantling the existing facility and limited redevelopment of the site to facilitate an ongoing community recreation space and meeting place through the Community Strategic Plan.

(Councillors Yarnall/Clough) (BP11/769)

At the request of the mover the MOTION was WITHDRAWN.

A MOTION was MOVED that:

1. Demolition of the Lismore Lake Pool to be postponed for at least 1 year with the decision to be reviewed and approved at a Council meeting.
2. Council's staff prepare a report (to be presented at a workshop) on measures designed to improve the 'social aspect' of the facilities at Memorial Baths or identify other locations that could work as a meeting place (including provision of water park facilities) for residents displaced by the closure of the Lismore Lake Pool

(Councillors Battista/Ekins) (BP11/769)

An AMENDMENT WAS MOVED that staff develop a plan for the redevelopment of the site to facilitate an ongoing community recreation space and meeting place through the Community Strategic Plan.

(Councillors Graham/Smith) (BP11/769)

512/11 **RESOLVED** that the MOTION be PUT.  
(Councillor Marks)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

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

**Voting for:** Councillors Houston, Chant, Dowell, Graham, Marks and Smith

**Voting against:** Councillors Meineke, Clough, Yarnall, Ekins and Battista

513/11

**RESOLVED** that staff develop a plan for the redevelopment of the site to facilitate an ongoing community recreation space and meeting place through the Community Strategic Plan.

(Councillors Graham/Smith) (BP11/769)

**Voting for:** Councillors Houston, Meineke, Chant, Dowell, Graham, Ekins, Marks and Smith

**Voting against:** Councillors Clough, Yarnall and Battista

At this juncture Councillor Gianpiero Battista left the meeting.

### **12.2 Request for Donation - 'Our House' - Hunter Street, Lismore**

---

A MOTION WAS MOVED that:

1. Council provide 'in principle' support to making a donation of \$68,378 towards the "Our House" project to be undertaken in Hunter Street, Lismore.
2. Council does not apply Council Policy 1.5.10 Reserves (Internally Restricted Assets) with respect to the full allocation of interest to reserves held as at 30 June 2012. Instead, the full allocation is to be reduced by \$68,378 to fund the "Our House" project donation.
3. The proposed donation of \$68,378.00 towards the "Our House" project is to be advertised for 28 days seeking public submission and a report be submitted with any submissions received to Council's 13 December 2011 meeting for final consideration.
4. Staff prepare a report on the cost of repairing Sheppard Lane for consideration of Council.

(Councillors Clough/Chant) (BP11/845)

AN AMENDMENT WAS MOVED that consideration of this matter be deferred and considered in conjunction with the 2012/13 budget process.

(Councillors Ekins/Yarnall) (BP11/845)

On submission to the meeting the AMENDMENT was DEFEATED.

**Voting for:** Councillors Yarnall and Ekins

**Voting against:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Marks and Smith

514/11

**RESOLVED** that:

1. Council provide 'in principle' support to making a donation of \$68,378 towards the "Our House" project to be undertaken in Hunter Street, Lismore.
2. Council does not apply Council Policy 1.5.10 Reserves (Internally Restricted Assets) with respect to the full allocation of interest to reserves held as at 30 June 2012. Instead, the full allocation is to be reduced by \$68,378 to fund the "Our House" project donation.
3. The proposed donation of \$68,378.00 towards the "Our House" project is to be advertised for 28 days seeking public submission and a report be submitted with any submissions received to Council's 13 December 2011 meeting for final consideration.
4. Staff prepare a report on the cost of repairing Sheppard Lane for consideration of Council.

(Councillors Clough/Chant) (BP11/845)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Marks and Smith

**Voting against:** Councillors Yarnall and Ekins

At this juncture Councillor Gianpiero Battista returned to the meeting.

**12.3 Adoption of the Draft Comprehensive Koala Plan of Management for south-east Lismore for public exhibition**

---

A MOTION WAS MOVED that the Draft Comprehensive Koala Plan of Management for South East Lismore be placed on public exhibition from 14 November 2011 to 3 February 2012.

(Councillors Clough/Smith) (BP11/872)

AN AMENDMENT WAS MOVED that the Draft Comprehensive Koala Plan of Management for South East Lismore be placed on public exhibition from 14 November 2011 to 3 February 2012, subject to the removal of the second paragraph on page 7.

(Councillors Battista/Meineke) (BP11/872)

On submission to the meeting the AMENDMENT was DEFEATED.

**Voting for:** Councillors Chant, Dowell, Battista and Smith

**Voting against:** Councillors Houston, Meineke, Clough, Graham, Yarnall, Ekins and Marks

515/11 **RESOLVED** that the Draft Comprehensive Koala Plan of Management for South East Lismore be placed on public exhibition from 14 November 2011 to 3 February 2012.  
(Councillors Clough/Smith) (BP11/872)

**Voting for:** Councillors Houston, Clough, Chant, Dowell, Yarnall, Ekins, Battista and Smith

**Voting against:** Councillors Meineke, Graham and Marks

#### **12.4 September 2011 Quarterly Capital Works Program Update for Roads, Parks and Water Infrastructure**

---

516/11 **RESOLVED** that the September 2011 quarter capital works progress report be received and noted.

(Councillors Graham/Smith) (BP11/830)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

#### **12.5 Urban and Rural Sports Fund 2011**

---

517/11 **RESOLVED** that Council endorse the funding disbursement of **\$172,340** for the Urban Sports Facilities Fund and the Rural Sports Facilities Fund as outlined below:

**1.0 Urban Applications**

**1.1 Lismore and District Netball Association**

That an amount of **\$20,000** be granted to the Lismore and District Netball Association to assist with the resurfacing of three of their courts.

**1.2 Goonellabah Tennis Club**

That an amount of **\$3,700** be granted to the Goonellabah Tennis Club for the construction of a practice tennis wall within their court complex at Goonellabah.

**1.3 Lismore Access Committee**

That an amount of **\$7,000** be granted to the Lismore Access Committee to assist with the costs associated with developing a master plan for Nesbitt Park which will allow it to become a destination "all abilities" Park.

**1.4 Lismore K9 Sports Club Inc**

That an amount of **\$5,000** be granted to the Lismore K9 Sports Club to help improve storage at their training ground.

**1.5 Lismore Old Boys Rugby League Football Club Inc**

That an amount of **\$19,720** be granted to the Lismore Old Boys Rugby League Club to assist with further improving the lighting for training at Heaps Oval.

**1.6 Lismore Tennis Club**

That an amount of **\$19,800** be granted to the Lismore Tennis Club to commence the staged process of replacing their perimeter fencing.

**1.7 Lismore Workers Football Club**

That an amount of **\$15,000** be granted to the Lismore Workers Football Club to assist with the development of Richards Oval into a year round football facility.

**1.8 Marist Brothers Cricket Club**

That an amount of **\$26,550** be granted to the Marist Brothers Cricket Club to commence the process of developing a turf wicket and related facilities at Mortimer Oval.

**1.9 Lismore Little Athletics**

That an amount of **\$3,570** be granted to the Lismore Little Athletics Centre to assist with further improvement to the precinct surrounding the canteen facilities at Riverview Park for the club and other user groups.

**1.10 Northern United Junior Rugby League**

That an amount of **\$10,000** be granted to the Northern United Junior Rugby League Club to assist with the development of a Master Plan for Clifford Park as recommended in the Lismore Sport and Recreation Plan.

**1.11 Goonellabah Workers Cricket Club**

That an amount of **\$27,000** be granted to the Goonellabah Workers Cricket Club to assist with the first stage of developing a practice cricket facility in the south eastern corner of Hepburn Park.

**1.12 Great Eastern Archery Club**

That an amount of **\$15,000** be granted to the Great Eastern Archery Club to assist with improvements to the Archery facility at Arthur Park

**1.13 Northern United Cricket Club**

That the submission from the Northern United Cricket Club not be supported at this time pending the approval of a Master Plan for Clifford Park.

**1.14 Ineligible Submissions**

That the submissions from the Northern Rivers Kart Club, Far North Coast Softball and Far North Coast Baseball not be supported at this time on the grounds that these organisations do not meet the current advertised eligibility guidelines.

**2.0 Rural Applications**

**2.1 Nimbin Headers Sports Club**

That the submission from the Nimbin Headers Sports Club not be supported at this time on the grounds that the Club does not meet the current advertised eligibility guidelines.

**2.2 Rural Sports Facilities Fund**

That the Rural Sports Facilities Fund be readvertised using the recently adopted eligibility guidelines for 2012/2013 as part of the criteria.

(Councillors Marks/Chant) (BP11/833)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.6 Rural Fire Service Zone Liaison Committee Representative**

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518/11 **RESOLVED** that Council nominate Councillor Yarnall and Councillor Graham as representatives to sit on the NSW Rural Fire Service Zone Liaison Committee.

(Councillors Graham/Chant) (BP11/834)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.7 Tender No. T2012-08 - Water Main Replacement - Various Locations in Lismore**

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519/11 **RESOLVED** that:

1. Council accepts the tender and awards the contract for T2012-08 Water Main Replacement to JB Operations Pty Ltd based on the rates submitted (the estimated price of the works being \$709,810.00 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.

(Councillors Clough/Meineke) (BP11/835)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.8 Regional Digital Economic Strategy**

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520/11

**RESOLVED** that Council:

1. Support the development of a Regional Digital Economic Strategy as outlined in this report; and
2. Seek funding from NOROC for the cost of developing the Strategy plus any other funding from the State and Federal Government.

(Councillors Smith/Clough) (BP11/841)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.9 September 2011 Quarterly Budget Review Statement**

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521/11

**RESOLVED** that :

1. Council adopt the September 2011 Quarterly Budget Review Statement for General, Water and Wastewater Funds and the attachments.
2. Council approves the recommended changes to the 2011/12 Budget as reported.
3. This report is forwarded to Council's Auditor for information.

(Councillors Clough/Marks) (BP11/842)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Marks and Smith

**Voting against:** Councillor Battista

**12.10 2010/11 Financial Reports**

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522/11

**RESOLVED** that Council, having formed an opinion on the audited 2010/11 Financial Reports and having presented them to the public, formally adopts the 2010/11 Financial Reports.

(Councillors Clough/Smith) (BP11/843)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Marks and Smith

**Voting against:** Councillor Battista

**12.11 Acquisition of Part of 138 Oliver Avenue, Goonellabah**

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A MOTION WAS MOVED that :

1. Council proceed with the acquisition of a portion of land at 138 Oliver Avenue in accordance with the terms of development consent 08/202.
2. After Council acquires the land referred to in Recommendation 1, the matter of the zoning of a portion of the remaining land at 138 Oliver Avenue as 6(a) Recreation Zone be addressed at the earliest opportunity through an amendment to Council's Local Environmental Plan.
3. The land referred to in Recommendation 2 be rezoned to 2(a) Residential Zone to match that of the remainder of the lot.
4. That the General Manager and Mayor be authorised to sign and affix the Council Seal to land transfer documents and plans of survey or any other documents deemed necessary to complete this resolution.

(Councillors Graham/Meineke) (BP11/720)

AN AMENDMENT WAS MOVED that:

1. Council proceed with the acquisition of a portion of land at 138 Oliver Avenue in accordance with the terms of development consent 08/202.
2. That the General Manager and Mayor be authorised to sign and affix the Council Seal to land transfer documents and plans of survey or any other documents deemed necessary to complete this resolution.

(Councillors Ekins/Clough) (BP11/720)

At the request of the MOVER and the SECONDER the AMENDMENT was WITHDRAWN.

523/11

**RESOLVED** that:

1. Council proceed with the acquisition of a portion of land at 138 Oliver Avenue in accordance with the terms of development consent 08/202.
2. After Council acquires the land referred to in Recommendation 1, the matter of the zoning of a portion of the remaining land at 138 Oliver Avenue as 6(a) Recreation Zone be addressed at the earliest opportunity through an amendment to Council's Local Environmental Plan.
3. The land referred to in Recommendation 2 be rezoned to 2(a) Residential Zone to match that of the remainder of the lot.
4. That the General Manager and Mayor be authorised to sign and affix the Council Seal to land transfer documents and plans of survey or any other documents deemed necessary to complete this resolution.

(Councillors Graham/Meineke) (BP11/720)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

#### **12.12 Conduct of 2012 Local Government Election**

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524/11

**RESOLVED** that:

1. Council engage the NSW Electoral Commission to conduct the 2012 Local Government Election.
2. Discussions commence with the NSW Electoral Commission in respect to the establishment of a Regional Counting Centre on the North Coast.

(Councillors Graham/Marks) (BP11/787)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.13 Council Meetings and Public Forums for 2012**

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525/11

**RESOLVED** that:

1. The first ordinary meeting of Council be held on Tuesday, 14 February 2012 at 6.00pm and the second Tuesday of the month thereafter for 2012.
2. The Rural Contact Forums be held at the following locations and dates:

Bexhill	19 March
Keerong	16 April
Repentance Creek	21 May
South Gundurimba	20 August
Tullera	22 October
Nimbin School of Arts	19 November

(Councillors Graham/Smith) (BP11/856)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.14 Local Public Holiday - 2012 Lismore Cup Day**

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526/11

**RESOLVED** that Council request the Division of Industrial Relations to gazette a half day holiday for Thursday, 27 September 2012 to coincide with the Lismore Cup Day races

(Councillors Battista/Marks) (BP11/832)

**Voting for:** Councillors Meineke, Chant, Dowell, Graham, Yarnall, Battista, Marks and Smith

**Voting against:** Councillors Houston, Clough and Ekins

**12.15 Traffic Advisory Committee Recommendations**

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527/11

**RESOLVED** that Council adopt the following recommendations:

**1. F & J Wagner – Tregeagle Road Speed Limit**

- A. That a 'concealed driveway' symbol warning sign be erected south of the crest near 769 Tregeagle Road
- B. That the proposal to extend the existing 80kph speed limit a further 400m south be referred to the RTA for consideration
- C. That the proposal for an assessment of the balance of Tregeagle Road to ensure the speed limit is appropriate be referred to the RTA for consideration.

**2. Judith Cripps Clark – Request for No Parking Signs Adjacent to Baseball Fields**

That No Stopping signs be erected on the eastern side of Keen Street between Bernstein Street and the driveway to the Basketball Stadium. Further that No Stopping signs be erected on the western side of Keen Street between the 'entry' and 'exit' driveways.

**3. Beaumont Buses – Cameron Road and Boatharbour Road**

That Council support the introduction of Option 2 as outlined below on a six month trial basis with a continuation should no issues arise.

**Option 2:** In the morning the upgraded 57 seater bus would continue to drive along Boatharbour Road for 2.2km past Cameron Road before turning around at McKinnon Road and continuing back along Boatharbour Road and turning into Cameron Road. In the afternoon the upgraded bus would make a single turn to the right into Boatharbour Road from Cameron Road.

(Councillors Marks/Clough) (BP11/837)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

**12.16 Investments - October 2011**

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528/11

**RESOLVED** that the report be received and noted.

(Councillors Meineke/Chant) (BP11/480)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Documents for Signing and Sealing

### 14.1 Documents for Signing and Sealing

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529/11 **RESOLVED** that the following documents be executed under the Common Seal of the Council:

**Assignment of Lease at Lismore Airport (P29428)**

The current lease of the café in the airport terminal building is to Caddies Coffee Company Pty Ltd for a period of three years from 1 July 2010 with a five year option. Caddies Coffee Company has requested Council to consent to an assignment of this Lease to Rainbow Regional Aviation Pty Ltd.

(Councillors Smith/Marks) (BP11/875)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

At this juncture Councillor Gianpiero Battista left the meeting.

## Financial Assistance – Section 356

### S.1 Financial Assistance – Section 356 Report

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530/11 **RESOLVED** that in accordance with Section 356(1) of the Local Government Act 1993, the assistance to persons as listed above is hereby approved.

**a) City Hall Reductions in Rental – Policy 8.4.2 (GL390.125.15)**

Budget Approved: \$21,400      Spent to date: \$14,021

**RugRats Rummage** is requesting Council discount the hire fees (\$133) for the use of the City Hall on 15 October 2011 for a not-for-profit swap day to gain awareness and embrace sustainable consumption as part of 'Buy Nothing New Month'.

**Recommendation:** In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

**\$33.25**

**Our Kids** is requesting Council waive **all** the hire fees (\$1,473.75) for use of the City Hall on 9 July 2011 to hold the Our Kids Ball to celebrate and thank the community for their support in helping to purchase nearly \$1 million worth of equipment for our local hospital to help keep our kids local when needing medical care.

**Recommendation:** In accordance with Clause 5 of the policy, a donation 20% of the hire fees applies.

**\$294.75**

**Lismore Neighbourhood Centre Inc.** is requesting Council discount the hire fees (\$133) for the use of the City Hall on 10 October 2011 for a community forum organised by Helping Hands Indigenous Housing Support Service to raise awareness around the issue of domestic violence and homelessness in the region.

**Recommendation:** In accordance with Clause 5 of the policy, a donation 25% of the hire fees applies.

**\$33.25**

*In accordance with policy.*

**b) Council Contributions to Charitable Organisations**

**Waste Facility – Policy 5.6.1 (GL390.965.15)**

Budget: \$15,000                      Spent to date: \$1,655.39

September 2011

Multitask \$343.63  
Nimbin Aquarius Landcare Group \$53.39  
Five Loaves \$227.63  
Friends of the Koala \$65.02  
Lismore Soup Kitchen \$108.00  
Westpac Life Saver Helicopter \$59.99

**Total                      \$857.66**

October 2011

Caroona Opportunity Shop \$34.93  
Multitask \$214.62  
Nimbin Aquarius Landcare Group \$10.20  
Five Loaves \$201.71  
Friends of the Koala \$59.44  
Lismore Soup Kitchen \$13.79  
Lifeline \$192.12  
Westpac Life Saver Helicopter \$50.90

**Total                      \$777.71**

*In accordance with policy.*

**c) Mayor's Discretionary Fund (GL390.485.15)**

Budget: \$3,000                      Spent to date: \$900

**The Ngulingah Local Aboriginal Land Council** is seeking a donation towards the Aboriginal families and community Christmas Party at Cubawee on 2 December 2011 (CI11/29631).

**\$100**

**The Hearing Voices Choir** is seeking a donation towards recording a CD (ED11/34118).

**\$100**

(Councillors Graham/Chant) (BP11/884)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Marks and Smith

**Voting against:** Nil

At this juncture Councillor Gianpiero Battista returned to the meeting.

## Matter of Urgency – Coal Seam Gas Mining on Council Land

531/11 **RESOLVED** that in relation to Coal Seam Gas Mining on Council land, this matter be considered as a matter of urgency.

(Councillors Dowell/Clough)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

### **Coal Seam Gas Mining on Council Land**

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532/11 **RESOLVED** that pending further guidelines from State and Federal Government an application made to Council for testing or exploration for Coal Seam Gas or minerals on Council owned or administered land be reported to Council.

(Councillors Dowell/Clough)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Councillor Graham

## Confidential Matters – Closed Council Meeting

533/11 **RESOLVED** that Council now exclude the press and public and meet in Closed Council to consider the following matters;

**Item** 17.1 Section 339 Senior Staff

**Grounds for Closure** Section 10A(2) (a):

**Public Interest** Discussion of this matter in an open meeting would on balance be contrary to the public interest because it relates to personnel matters concerning particular individuals (other than councillors).

(Councillors Marks/Yarnall)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Resumption of Open Council

When the Council had resumed its former sitting, the General Manager reported that Council, meeting in Closed Council, had RECOMMENDED:

### 17.1 Section 339 Senior Staff

That the General Manager's report of Council meeting in Closed Council be received and adopted.

534/11 **RESOLVED** that Council note the contents of this report and acknowledge compliance with the requirements of Section 339 of the Local Government Act.

(Councillors Clough/Houston)

**Voting for:** Councillors Houston, Meineke, Clough, Chant, Dowell, Graham, Yarnall, Ekins, Battista, Marks and Smith

**Voting against:** Nil

## Closure

This concluded the business and the meeting terminated at 10.30pm.

CONFIRMED this THIRTEENTH DAY of DECEMBER 2011 at which meeting the signature herein was subscribed.

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**MAYOR**

**MINUTES OF THE EXTRA ORDINARY MEETING OF THE COUNCIL OF THE CITY OF LISMORE HELD IN COUNCIL CHAMBERS, 43 OLIVER AVENUE, GOONELLABAH ON THURSDAY, 10 NOVEMBER 2011 AT 6.00PM.**

## Present

Mayor, Councillor Dowell; Councillors Houston, Battista, Meineke, Graham, Yarnall, Ekins, Marks, and Smith, together with the General Manager, Executive Director-Sustainable Development, Executive Director-Infrastructure Services, Manager-Finance, Manager-Integrated Planning, Manager-Corporate Services, Coordinator Strategic Planning, Strategic Planner, Media and Community Relations Coordinator and General Manager's Personal Assistant.

## Apologies and Leave of Absence

535/11 **RESOLVED** that:

An apology and leave of absence is requested for non-attendance on behalf of Councillor Chant; and

An apology for non-attendance on behalf of Councillor Clough was received and accepted and leave of absence granted at the Ordinary Council meeting on 8 November 2011.

(Councillors Smith/Yarnall)

**Voting for:** Councillors Houston, Dowell, Graham, Yarnall, Ekins, Battista, Marks, Smith and Meineke

**Voting against:** Nil

## Disclosure of Interest

Councillor Dowell declared a non-significant conflict of interest in the following item:

**Report – Lismore Draft Local Environmental Plan – Recommendation 28/29 p.37 – Urban Land Release Areas**

**Nature of Interest:** Items 28 and 29 relate to Crawford Land owned by Southern Cross University (SCU). My husband is a contract employee and sits on the SCU Council. I believe these matters have been dealt with by SCU and I will remain in the Chamber and participate in the vote. However, I will leave if the land is discussed in detail.

Councillor Battista declared a significant conflict of interest in the following item:

**Report – Report – Lismore Draft Local Environmental Plan – Recommendation 29 p.37**

**Nature of Interest:** I am employed by Southern Cross University, School of Tourism.

Councillor Ekins declared a non-significant conflict of interest in the following item:

**Report – Report – Lismore Draft Local Environmental Plan**

**Nature of Interest:** I have an association with people who have made submissions.

Councillor Meineke declared a non-significant conflict of interest in the following item:

**Report – Report – Lismore Draft Local Environmental Plan**

**Nature of Interest:** I have made a submission to the LEP as a Planning Consultant on items A27, A36, A40, A43 and A46 in attachment A to the Business Paper.

## Public Access Session

Prior to dealing with the circulated reports and associated information, a Public Access Session was held at which Council was addressed by the following people:

Angela Albertini; Greg Bennett; Alicia Carter; Kristin Den Exter; Steve Fowler; Mal Fox; Kel Graham; Sandra Heuston; Stan Heywood; Mike Kena; Jennifer Kirton; Kath Robb; Valerie Thompson; Lorraine Vass.

## Reports

**12.1 Lismore Draft Local Environmental Plan 2010 - Recommended Amendments (site specific rezoning requests and lot sizes)**

536/11

**RESOLVED** that:

1. Council endorse the recommendations for amendments to the exhibited Draft Lismore Local Environmental Plan 2010 as listed in sections 3.0 and 4.0 of this report and numbered 1 to 14, including a new 15 in the highlighted text boxes.
  - a) Amend the relevant Land Zoning map to change land at Trevans Road from RU1 Primary Production to IN2 Light Industrial.
2. The requests for specific sites to be included in the R1 General Residential, RU5 Village, R5 Large Lot Residential and IN1 General Industrial Zones be considered during the preparation of the Growth Management Strategy.
3. The requests for reductions in minimum lot size in the Large Lot Residential and Village zones be considered during the preparation of the Growth Management Strategy.

4. Council endorse the inclusion of the submitters' details for the sites listed in Attachments A and B in the Interested Persons Lists for the Housing Strategy and Growth Management Strategy.

(Councillors Smith/Houston) (BP11/869)

**Voting for:** Councillors Houston, Dowell, Graham, Yarnall, Ekins, Battista, Marks, Smith and Meineke

**Voting against:** Nil

## **12.2 Lismore Draft Local Environmental Plan 2010 - Recommended Amendments and Re-Exhibition (the balance of the subjects)**

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A MOTION WAS MOVED that Council:

1. Amend the Draft Lismore Local Environmental Plan 2010 (Draft LEP2010) as exhibited:
  - (a) Incorporating the recommended Draft LEP2010 amendments listed in Sections 5.1 to 5.9 and Section 6.0 of this report and associated consequential adjustments to descriptions, numbering and plan formatting;
  - (b) Incorporating the recommended amendments with respect to the Standard Instrument (Local Environmental Plans) Amendment Order 2011 as set out in Table 5 Section 4.0 of this report, excluding optional sub-clause (9) in clause 5.9;
  - (c) Replacing item 8 as follows: 'Amend the Draft LEP Instrument to delete clause 4.1(3a) regarding rural boundary adjustments';
  - (d) Excluding item 17 in section 5.2.7 of the report;
  - (e) Amending the Draft LEP Instrument Land Use Table for the IN1 General Industrial and IN2 Light Industrial zones to make '*place of public worship*' permitted with consent";
  - (f) Amending the relevant land zoning map for 150 Terania Street, North Lismore to change RU2 Rural Landscape to IN2 Light Industrial; and
  - (g) Removing clause 7.8, Riparian land and waterways.
2. Publicly exhibit the amended Draft Lismore Local Environmental Plan 2011 (incorporating the above amendments and those from the previous report) in accordance with the terms of the *Environmental Planning and Assessment Act 1979* for a period until 30 January 2012.
3. Receive a further report in relation to the public exhibition of the amended Draft Lismore Local Environmental Plan 2011 prior to finalisation of the Plan for submission to the Department of Planning and Infrastructure.
4. Adopt the recommendations outlined in the report entitled: non-Draft Local Environmental Plan 2010 recommendations which reflect actions that do not involve specific amendments to the Draft LEP2010.

(Councillors Graham and Marks)

An AMENDMENT was MOVED that Council:

1. Amend the Draft Lismore Local Environmental Plan 2010 (Draft LEP2010) as exhibited:
  - (a) Incorporating the recommended Draft LEP2010 amendments listed in Sections 5.1 to 5.9 and Section 6.0 of this report and associated consequential adjustments to descriptions, numbering and plan formatting;
  - (b) Incorporating the recommended amendments with respect to the Standard Instrument (Local Environmental Plans) Amendment Order 2011 as set out in Table 5 Section 4.0 of this report, excluding optional sub-clause (9) in clause 5.9;
  - (c) Replacing item 8 as follows: 'Amend the Draft LEP Instrument to delete clause 4.1(3a) regarding rural boundary adjustments';
  - (d) Amending the Draft LEP Instrument Land Use Table for the IN1 General Industrial and IN2 Light Industrial zones to make '*place of public worship*' permitted with consent"; and
  - (e) Amending the relevant land zoning map for 150 Terania Street, North Lismore to change RU2 Rural Landscape to IN2 Light Industrial.
2. Publicly exhibit the amended Draft Lismore Local Environmental Plan 2011 (incorporating the above amendments and those from the previous report) in accordance with the terms of the *Environmental Planning and Assessment Act 1979* for a period until the 30 January 2012.
3. Receive a further report in relation to the public exhibition of the amended Draft Lismore Local Environmental Plan 2011 prior to finalisation of the Plan for submission to the Department of Planning and Infrastructure.
4. Adopt the recommendations outlined in the report entitled: non-Draft Local Environmental Plan 2010 recommendations which reflect actions that do not involve specific amendments to the Draft LEP2010.

(Councillors Ekins and Smith)

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

**Voting for:** Councillors Houston, Dowell, Ekins and Smith

**Voting against:** Councillors Graham, Yarnall, Battista, Marks and Meineke

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**RESOLVED** that:

1. Amend the Draft Lismore Local Environmental Plan 2010 (Draft LEP2010) as exhibited:
  - (a) Incorporating the recommended Draft LEP2010 amendments listed in Sections 5.1 to 5.9 and Section 6.0 of this report and associated consequential adjustments to descriptions, numbering and plan formatting;
  - (b) Incorporating the recommended amendments with respect to the Standard Instrument (Local Environmental Plans) Amendment Order 2011 as set out in Table 5 Section 4.0 of this report, excluding optional sub-clause (9) in clause 5.9;
  - (c) Replacing item 8 as follows: 'Amend the Draft LEP Instrument to delete clause 4.1(3a) regarding rural boundary adjustments';
  - (d) Excluding item 17 in section 5.2.7 of the report;
  - (e) Amending the Draft LEP Instrument Land Use Table for the IN1 General Industrial and IN2 Light Industrial zones to make '*place of public worship*' permitted with consent";
  - (f) Amending the relevant land zoning map for 150 Terania Street, North Lismore to change RU2 Rural Landscape to IN2 Light Industrial; and
  - (g) Removing clause 7.8, Riparian land and waterways.
2. Publicly exhibit the amended Draft Lismore Local Environmental Plan 2011 (incorporating the above amendments and those from the previous report) in accordance with the terms of the *Environmental Planning and Assessment Act 1979* for a period until 30 January 2012.
3. Receive a further report in relation to the public exhibition of the amended Draft Lismore Local Environmental Plan 2011 prior to finalisation of the Plan for submission to the Department of Planning and Infrastructure.
4. Adopt the recommendations outlined in the report entitled: non-Draft Local Environmental Plan 2010 recommendations which reflect actions that do not involve specific amendments to the Draft LEP2010.

(Councillors Graham/Marks) (BP11/871)

**Voting for:** Councillors Houston, Dowell, Graham, Yarnall, Battista, Marks and Meineke

**Voting against:** Councillors Ekins and Smith

## Closure

This concluded the business and the meeting terminated at 7.35pm.

CONFIRMED this THIRTEENTH DAY of DECEMBER 2010 at which meeting the signature herein was subscribed.

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**MAYOR**